

Report to the Secretary of State

on the Review of Elective Home Education in England

by Graham Badman

June 2009

A critique

Introduction

In January 2009 the last government commissioned Graham Badman to conduct a review into Home Education in England. Graham Badman was previously Managing Director of the Children, Families and Education Directorate for Kent County Council. He has worked as a school-teacher, headteacher, schools inspector and chief education officer in a local authority. He was a Board Member of BECTA, British Educational Communications and Technology Agency, before it was abolished by the current government in its cull of wasteful quangos. ¹ Mr Badman's CV while worthy hardly suggests he was likely to be a big supporter of Home Education. ² The choice of someone with Mr Badman's background to carry out the review does indicate that the last government was looking for a certain outcome. It was no surprise that when the review was submitted to Ministers in June 2009 Ed Balls at the 'Department for Children, Schools and Families' enthusiastically accepted all the proposals relating to 'safeguards' for home educated children. These included the proposals to require home educating parents to register not only their children but also an educational plan with their local authority and in effect to have to obtain permission to home educate - which permission would only be granted on the local authority's terms.

The recommendations relating to the creation of a registration and monitoring scheme were translated into proposed legislation as Schedule 1 of the Children, Schools and Families Bill, with some modifications; notably the recommendation that the authority be allowed to demand access to the young person without the parents present was modified by giving home educators the right to refuse such a request, though, in a typically New Labour twist the young person and the parent were given equal rights to refuse such a request. ³ Of course in a system where the authority can arbitrarily refuse or revoke 'permission' to home educate on very general grounds about concern for the welfare of the young person, as the legislation also provided for, the right to refuse is perhaps a trap rather than anything else. Both the Conservatives and the Liberal Democrats opposed Schedule 1 and it did not make it through the 'wash-up' period at the close of the last parliament. In a sense this makes this essay, a response to Badman's report, entirely redundant. Apart from a desire not to waste some effort there are two possible justifications for releasing it now. Firstly, New Labour were certainly not destroyed at the last election and could easily be back at the next one in which case there is no reason to think that they will not pick up from where they left off. Secondly, I would hope that in analysing Badman's report I carry out an exercise in analysing power and how it operates, in particular as far as local authorities are concerned.

The terms of reference for the inquiry asked Mr Badman to consider how 'effective' the current arrangements are for Home Education with particular attention to be paid to the 'safety' of the child and whether they are receiving a suitable education and whether any changes need to be made to the current regime to "to support the work of parents, local authorities and other partners in ensuring all children achieve the Every Child Matters outcomes." This last point references the 2004 Children Act where it is made a duty on local authorities to work to implement the 5 aims of Every Child Matters. Every Child Matters is a programme instituted by the last government to co-ordinate its various policies towards young people and in particular to impose a uniform framework of values on all situations where the state is or would like to be directly involved with childcare and raising children. Every Child Matters was launched in 2003 with the legislation arriving in the 2004 Children Act. It started as purely a 'Safeguarding' response to the death by abuse of a young girl, but rapidly evolved into a set of 'universal' values for education and bring up children in general. This was a good example of how tragic but edge case 'Safeguarding' incidents are used to justify policies which have a much wider remit. The values of Every Child Matters are secular and largely asinine though there is an element of New Age concern for 'emotional well-being' running through them. The 5 aims are: be healthy, stay safe, enjoy and achieve, make a positive contribution, and 'achieve economic well-being'. The legislation states that local authorities must make arrangements to co-operate "with such other persons or bodies as the authority consider appropriate, being persons or bodies of any nature who exercise functions or are engaged in activities in relation to children in the authority's area " in pursuit of implementing Every Child Matters. ⁴ Parents are not directly mentioned in the legislation; however Badman was tasked with seeing how parents could be 'supported' to deliver the Every Child Matters agenda to their

children. The review then was loaded, as we would expect, with existing government concerns – in particular a concern to see its Every Child Matters agenda extended to this new and as yet untouched area. The problem perhaps with Every Child Matters lies not so much in the values themselves, largely uncontroversial, but in the notion that government should mandate the values which govern the upbringing of young people rather than parents, different communities, traditions etc. The programme thus breaks all sorts of relationships - between the present and the past, between people and their specific cultural or religious traditions, between youth and community workers and the communities they work with and now between children and their parents. Every Child Matters is an attempt to create unity (and a given one at that) out of diversity rather than tolerating diversity with some agreed basic protections.

The terms of reference did not invite Mr Badman to consider the legal basis of Home Education, nonetheless, as we shall see, he proposed a review of the current legal basis on which Home Education is carried out and gave some definite steers to the direction that review should take. As we shall see he attempts to argue that his proposed changes are implied by European Human Rights legislation and the United Nations Convention on the Rights of the Child. Graham Badman is concerned to present his attempt to give local authorities new powers as simply a tightening up of existing legislation. As we shall see neither his arguments nor his evidence stack up.

Badman's review 'methodology' included a questionnaire to local authorities of which only 60% replied, interviews with home educating parents, a call for public submissions and a 'review of the literature'. (In his initial response to the review then Minister of State Ed Balls spins this rather unconvincing 60% as 'more than 90 local authorities'). Badman's main new recommendations were:

- i) That home educating parents should have to register with the local authority annually. This must be done in person at a centre. Badman without any apparent irony specifically suggested a school would be one suitable place. (Recommendation 1)
- ii) That the home educating parents should submit at the time of registration a plan for the education for the year ahead.
- iii) That at any time with a period of notice the authority should be able to visit the family home and require the child 'exhibit' what they have learned – in terms of the plan.
- iv) That this visit will “provide an opportunity” for the local authority to satisfy themselves that the child is safe and well. They may require to speak to the child alone.
- v) That the local authority can refuse or revoke registration on grounds of 'Safeguarding concerns'. (Recommendation 24). This recommendation made it into the proposed legislation as allowing local authorities to revoke or refuse registration for home education if they believed it would be “harmful to the child’s welfare”.
- vi) “That the DCSF review the current statutory definition of what constitutes a 'suitable' and efficient education in the light of the Rose review of the primary curriculum, and other changes to curriculum assessment and definition throughout statutory school age. Such a review should take account of the five Every Child Matters outcomes determined by the 2004 Children Act, should not be overly prescriptive but be sufficiently defined to secure a broad, balanced, relevant and differentiated curriculum that would allow children and young people educated at home to have sufficient information to enable them to expand their talents and make choices about likely career.” That is a curriculum based on government advice be imposed on home educating families. (Recommendation 2). That the whole point of home education would appear to be that you can do it differently than in schools appears to be lost on Mr Badman.

These proposals amounted to a substantial re-aligning of the basis on which home education is possible. The Home Educating community was understandably in a state of uproar. However; it is important to realize that these proposals would not simply have effected Home Educators. At the

moment there is no requirement in law to send your child to a school – any school. People who do send their child to the local state school do so as a matter of choice. Like any choice it may be not entirely 'free'; all our choices are constrained by one factor or another. For example those without the money don't have the choice to send their child to a private school. Nonetheless education, state or private, is a service which we consume with some degree of choice in the matter. Were Badman's proposals to have taken effect this choice would in effect have been abolished for everyone. Badman's proposals in effect amounted to an attempt to extend the package of compulsory curriculum and test based education with its contemporary concomitant emotional training and welfare surveillance systems to everyone, simply abolishing the right of parents to choose what form of education they preferred for their child. The preamble paragraph to his terms of reference stated "Parents have a well established right to educate their children at home and Government respects that right. There are no plans to change that position". Undaunted, Badman simply proposed to bring the school to the home by conditioning home education so that it is an image of schooled education. Because home educating parents would not generally be able to do schooled education as efficiently as schools this was a kind of strangle-hold which would permanently have allowed the local authority to withdraw even this dubious privilege - on the grounds that it wasn't being well done. Home educating parents were being set up to fail. (A typical ploy of the schooled type of education). This effects everyone because the *choice* as to how you educate your children is one which *everyone* enjoys – however they make use of it. Essentially Badman was trying to make schooled education compulsory for all. The millions who are currently at state schools as an act of parental choice would, discretely, have had their status changed to being there purely at the behest of the state. This amounted to a stealth switch to compulsory schooling for everyone.

First we review Badman's sometimes perverse use of legislation to argue his case for these changes.

Badman's use of legislation

UNCRC

Badman opens his assault on the freedom of people to bring up their children as they choose by quoting the United Nations Convention on the Rights of the Child.

He quotes the UNCRC Article 12

Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

He uses this to argue that “Yet under the current legislation and guidance, local authorities have no right of access to the child to determine or ascertain such views. “ However the second part of Article 12, which Badman does not quote, states that

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The main point then is that this Article is about a child having a right, under the convention, to be heard in 'judicial' or 'administrative' hearings. This provision relates to for example a young person's voice being heard in a divorce case or in care proceedings. It is not about education. The provision is simply misused. Leaving that aside, we can still consider Mr Badman's somewhat obtuse point that home educated young people may not have been consulted about whether they want to be home educated. (3.10). In practice it is more likely that school educated children have not been consulted. I think we can be fairly sure the schools would empty very quickly were schooled children to be asked if they want to be there. Indeed there is considerable irony in Badman trying to use an argument about children's rights to promote schooled education. Schools are notorious for not listening to young people. There is something laughable (or would be if it wasn't an expression of absolute power) about the blindness of a law, as was proposed in Schedule 1, which requires local authorities to ascertain what the “wishes and feelings about” home education are of home educated young people when the state schools which they run are stuffed with young people who hate it and who wish wholeheartedly not to be there, but are never consulted. As we shall see this is a one-sided blindness which continues throughout the report; the welfare of home educated young people is put under the spotlight while young people in schools are assumed to be living in a Utopia. But, as we note, the article in the convention is not about education and it seems strange that Badman should try and make it serve this purpose. It is also interesting that having made this claim about the local authority gaining access to homes on the grounds that they need to do so to give young people a voice there was nothing further in the recommendations about listening to young people who are home educated. The concern to give young people a voice seems to have been forgotten once the local authority officers have got over the threshold and gained access to the family home. Once in we note that it is the views of the officers who count not those of the young people.

Badman also references Article 28 of this convention (to which the UK is a signatory). Article 28 does insist on a child's right to education and refers to making primary education compulsory. The article does not insist that education should be carried out in schools. Article 29, which Badman also cites, expands on this by laying out some general principals which should inform this education:

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

United Nations Convention on The Rights of The Child ⁵

Currently, as we shall see, the legislation relating to home education in England requires that it be 'suitable' and 'efficient'. Mr Badman argues that "It could be argued that adherence to Article 29 would demand further definition of the term "efficient". It is true that he 'could' use this to support an argument for a more prescriptive legislative framework for home education, though the article does not say that this should be done. He would find it substantially harder to argue that a concern with "the development of the child's personality, talents and mental and physical abilities to their fullest potential" is somehow implemented and *only* implemented by enforcing some drab government policy like Every Child Matters. The issue is a general one; do we make laws which encapsulate general principals and allow the courts to interpret them or do we mandate in legislation how people should behave down to the last detail? The former position which is the one which traditionally held sway before the advent of New Labour is one which is based in the principal of individual freedom limited by the courts when it exceeds reasonable bounds. The alternative approach is one whereby the details of how people should behave are mandated by prescriptive legislation and people are supervised and often fined or given various kinds of 'Orders' or 'Contracts' by numerous petty officials for missing the mark.

Mr Badman can *make use* of the UNCRC to further his argument. But the convention does not require micro-prescription of behaviour. The UNCRC is a statement of values. Mr Badman elides that statement of values with his preferred method of imposing them.

Current UK law relating to home education

The relevant legislation for home education at the moment is Section 7 of the Education Act 1996 which states 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."

Badman comments “The terms 'efficient' and 'suitable' education are not defined in law, despite the detailed prescription of expectations in schools.” (3.5). As we show later in this essay Badman really only knows one kind of education and he wishes to impose that on home educating families. Here he specifically links the “detailed prescriptions” in schools with what might be a suitable education in a home education scenario. This effectively defines what happens in schools as the norm for education. Badman ends the debate before it starts. The possibility that people might legitimately take their children out of school just because of the (soul-destroying?) “detailed prescription of expectations” in schools is excluded.

Under Section 436 of the 1996 Education Act Local Authorities are required to “as far as it is possible to do so” build a register of all home educated young people. This provision was added by the New Labour government in 2006.⁶ It was not part of the original Act, as Badman acknowledges in a footnote. Badman argues that local authorities have a duty under existing law to check up on home educated young people to see if they are receiving a suitable education but that because there is no register and no “right of access” to the child they cannot do this “robustly”. The legislation states:

“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”.
(Section 437 of the Education Act).

Under the same Act Local Authorities already have the power to issue School Attendance Orders where they believe a young person is not receiving a suitable education. There are then already strong powers of enforcement. The question is one of surveillance; it is the lack of surveillance that Mr Badman laments. When Mr Badman writes “How can local authorities know what they don't know with no means of determining the number of children who are being electively home educated in their area, or the quality of what is provided without rights of access to the child?” he is arguing in fact for a regime of surveillance. He is also appointing local authorities as judges of “the quality of what is provided” (a metaphor from conventional education with its vision of nutritious educational 'food' being 'provided' to the starvelings). The law as it stands is quite clear and does not require local authorities to pro-actively search out wrong-doing. The law does not mandate a regime of permissions, expectations, contracts, tests, penalties and surveillance. Badman distorts the law when he tries to claim that his proposed regime is implied by current legislation.

It is characteristic of those who like to police society that they invent surveillance systems which act as adjuncts to the law but are not in fact judicial, though they like to confuse the the law with surveillance. The Intensive Surveillance and Supervision Programme of the (about to be abolished) Youth Justice Board is an example of a specific extra-judicial programme. It is nowhere mandated in law but has been constructed by cobbling together various sanctions to construct the 'programme'. Regrettably the courts frequently collude with these attempts and helpfully issue the necessary mixed penalties. The law enshrines peoples' rights. A surveillance system to find out wrong-doers is something a little bit different. Proponents of surveillance systems often justify them in terms of the former but they are a parallel system. When a surveillance system is divorced completely from the rule of law you have a police state.⁷

In short; current UK law offers substantial protection to young people in terms of their education and welfare. Young people have the right to be educated and not to be abused and local authorities (and the police) have substantial powers to protect young people and take people before the courts who abuse these rights. (We will remind ourselves of the substantial powers local authorities already have to protect the welfare of young people in the Section on 'Safeguarding'). What Mr Badman finds lacking in home education is a system of surveillance. The system he proposes in his recommendations is like other extra-judicial systems: it gives power to officials not simply to enforce the law but to require that people comply with their demands. The surveillance is justified in terms supporting the existing law but really it is a separate regime of behaviour control by officials parallel to the law.

The European legislation

Badman cites The European Convention on Human Rights (ECHR) Article 2 of Protocol 1:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions.”

Badman comments: “this Article is much quoted by home educators in defence of their rights as parents to educate their children as they see fit. However, case law on the ECHR challenges any claim that home education is a fundamental right.” (3.9). He quotes comments made by judges in two legal cases, the first in Sweden, a country which recently legislated to ban home education and require all schools to follow a government-mandated curriculum, and the second in Germany:

“The second sentence of Article 2 [of Protocol 1] must however be read together with the first which enshrines the right of everyone to education. It is on to this fundamental right that is grafted the right of parents to respect for their religious and philosophical convictions. ...Furthermore, respect is only due to convictions on the part of the parents which do not conflict with the fundamental right of the child to education”

B.N and S.N v Sweden no 17678/91

“The Commission (this was the European Commission of Human Rights which used to take cases to the European Court of Human Rights on behalf of the public) notes that the first sentence of Article 2 of Protocol No 1 enshrines the fundamental right of the child to education. This right by its very nature calls for regulation by the State, regulation which may vary in time and place according to the needs and resources of the community and of individuals.”

Leuffen v Germany no 19844/92

The case references are Badman's. The Swedish example emphasizes that religious convictions should not stand in the way of a young person receiving an education of some kind - which seems reasonable. That, one imagines, would not be contentious for the vast majority of home educators.

The German example calls for regulation by the state. This case law example goes further than the Article in assuming state regulation of education which the Article only allows.

Even taken on its own the suggestion that “home education is not a fundamental right” is an extraordinary one. The implication (give the kind of binary schools v. “progressive education” logic which Mr Badman usually employs) is of course that the state has a 'right' to educate all young people. But, states, do not have rights; individuals have rights. An individual may have a 'right' to an education. But how can a 'right' dictate the manner of its delivery? Someone may have a 'right' to clean water but *how* that is delivered - by a well, by tanker, by pipes is not part of the right. Badman is trying to use the discourse of rights to claim power, but rights accrue to individuals. The state cannot claim to have a right to educate young people; the best he can do is attempt to weaken the claim of parents to be protecting this right. It is a negative argument. The treaties, laws and case law examples he cites do not in fact challenge “the idea that home education is a fundamental right”. One example; from a court judgement, rather than from the law, supports the idea of state *regulation*. Further; it does not, we should note, necessarily support the idea that there should be *more* regulation than there currently is, which is how, in effect, Badman uses it.

But in any event - this argument from case law is curious. Badman's Terms of Reference made no mention of investigating case law on home education. This seems to be Badman's own initiative. Citing case law as if it were an absolute is reification. Laws may be an absolute point of reference to a bureaucrat. To a democrat they are debatable and, in a parliamentary democracy they are

made in parliament after public discussion. It is this debate which Mr Badman is attempting to foreshorten.

Neither the UN Convention on the Rights of the Child nor the The European Convention on Human Rights specify that a child must be educated in a school. Badman has to twist the meaning of these conventions to get them to support an argument for compulsory schooling. Even if they did clearly offer support for schooling over home education they are nonetheless treaty documents made by governments in a democratic context and as such are negotiable, not stone tablets. In a democracy laws can continually be questioned and re-made by people. This is perhaps a point that a home educated young person would more readily understand than a school-educated one who has learned that rules are made by others and must be obeyed unquestioningly regardless of the good or harm that they do.

Badman claims to be championing the rights of the down-pressed home-educated 'children' but the school system he advocates is precisely one in which the views of children are not heard. In schools young people are marched about, finger-printed, put under CCTV surveillance, searched with drugs dogs, made to wear uniforms, punished, required to speak only when spoken to, regimented into groups according to the teacher's preferences, fed a diet of "prescriptive expectations" (Mr Badman's words) over which they have no control, treated institutionally as if they have less rights than the adults, and generally given no voice at all (apart from some token 'school council' which as it has no power serves only to reinforce the power relations in the school). Home educating parents may have many different styles of education; at least some, if not the majority, will have a relationship with their child which is not the kind of prescriptive, managerial and 'professional' one of the detached teacher-deliverer delivering a curriculum package to the student-consumers. It may be warmer.

But the main thrust of Badman's call for a new regime of surveillance focused on 'Safeguarding' rather than the quality of the education 'provided'; something perhaps not part of the European legislation, 'Safeguarding' being largely a British crisis.

Safeguarding (& Every Child Matters)

Badman raises the question of 'Safeguarding'. He claims that "First, on the basis of local authority evidence and case studies presented, even acknowledging the variation between authorities, the number of children known to childrens' social care in some local authorities is disproportionately high relative to the size of their home educating population." (8.12) This claim has been disputed by home educators and the figures used by Badman were described by the Children, Schools and Families Select Committee which was reviewing his review as "less than robust".⁸ Indeed, as the committee pointed out it is difficult to see how this claim can be squared with Badman's assertion that "It is a matter of some concern that despite a number of research studies and reports, it was not possible to identify with any degree of accuracy the number of children and young people currently educated at home." (6.1) How can you claim to know a proportion while at the same time you claim not to know the total on which it is based? We hope this isn't the usual standard of maths in the schools which Mr Badman promotes. The claim is based on a subset of his data set. (8.2) Only 60% of local authorities replied to his questionnaire (2.2) and only some of these reported this finding. That in some local authorities there is a higher than average proportion of home educated children "known to social services" may reflect not an actual increased incidence of harm but an increased perception of harm, or possible harm, on the part of the authorities; i.e. a prejudice against home educating families. Or, it could be something to do with a higher proportion of young people with special needs being home educated who would be "known to social services" anyway. Neither of these possibilities (nor others) are explored in the review report. The evidence is thus without any solidity at all. Not even "less than robust". Mr Badman later cites and dismisses a study which showed home educated young people outperforming school educated young people on various indicators (10.2) on the grounds of its small sample size. This arbitrary treatment of such evidence as there is to support his own point of view indicates Mr Badman's antipathy to home education. This shallow 'evidence' is the *only* piece of statistical 'research' he presented to support his case for a new regime of surveillance. The other support he finds is submissions to his inquiry from various bodies all of whom have a vested interest in developing a new regime of surveillance.

Having cast a general slur over home educating parents Badman backs away from specifically claiming that a higher incidence of child sexual abuse amongst home educating families justifies more intervention. He seems to rest his case on the benefits that schools provide for a child to 'disclose'. He quotes a submission to his report from Her Majesty's Chief Inspector (HMCI) "Schools have an important responsibility to monitor childrens' safety and welfare but this safety net is missing for children educated at home." (8.9) This point of view is echoed by The National Association of Social Workers in Education (NASWE) who argue in their submission that schools provide an opportunity for 'surveillance'. A similar argument is made by the NSPCC. It is the style of Mr Badman's report that he does not evaluate the submissions made to him, for example to detect for bias, but rather cites them and lets them speak for themselves. Nonetheless he accepted the requests of these organizations for more power. The call for more surveillance should be considered carefully given the considerable powers that already exist.

Khyra Ishaq

The first point to note about the call for more surveillance is that this continues and extends the current programme favoured by social workers and childrens' charities to extend a blanket of surveillance and mistrust over all adult-child relations, including those between parents and children. The assumption is that if people are not watched that is a dangerous state of affairs. Unfortunately, there are several recent examples of failings by social services which suggest that a greater concern than the absence of surveillance is the failure of social workers to act robustly on information they do have. The point of failure in the system with say seven year Khyra Ishaq in Birmingham who was killed by her mother and stepfather, or Baby P or the two boys in Doncaster in social services care who beat two others up (very seriously) has not in fact been a lack of surveillance but a failure to act decisively on information already available to the authorities.

Badman says “The foregoing [his 'analysis' of various case reviews and other submissions to his review] would confirm my view that had there been different regulations in place as proposed, they may well have had a mitigating effect without necessarily guaranteeing prevention.” He does not explain what exactly 'mitigation' would have meant to Khyra Ishaq.

The Serious Case Review into the death of seven year old Khyra Ishaq acknowledged that there were “missed opportunities”, which one imagines is social services speak for no one lifted a finger, and that her death was preventable – within the existing framework of legislation. In fact no assessment was carried out even though the school headteacher telephoned social services three times in a 24 hour period and two members of the public also reported their concerns. Currently local authorities can start an investigation under Section 47 of the 1989 Children Act if they believe that a child may be at risk of serious harm. In this case no investigation was started. The attempt by Mr Badman and others to use cases like this to argue for more powers to be granted to social workers looks exploitative when it is clear that a failure to use existing powers was the problem. This is not to vilify social workers who are in the difficult position that when they make mistakes – as other people do in their case the consequences can be horrific and have a huge public resonance. Nonetheless if they have failed to use existing powers there is no reason to believe that giving them more powers is the answer and certainly no evidence that it is. The serious case review into the death of Khyra Ishaq also stated that the case exposed a 'flaw' in the legislation relating to home education; but there is no particular evidence for this. It is an interpretation. The specific evidence - of missed opportunities to see Khyra - points to their first conclusion; that the key failure was that of social workers to carry out an assessment once they'd received information that Khyra was at risk. ⁹

But, evidence aside, warming to their theme the Birmingham Safeguarding Children Board produce the argument that home educated children are at risk because “The lack of any prescribed opportunities for children to formally express their views, or to actively participate within the assessment or decision making process of home education, or to have any independent access to external processes, represents a direct contradiction to the aspirations of safeguarding and human rights legislation and guidance.” This is so absurd it would be laughable if it were not for the fact that people like this are able to base policy around these misleading interpretations. We have commented that the schools in which Badman and no doubt the Birmingham Safeguarding Children Board (by implication) think young people are so safe are not renown for giving children a voice. The whole ethos of schools is that children should fall into line with the “detailed prescription of expectations” laid down by others. (Mr Badman's own words). The idea that home-educated young people “lack prescribed opportunities ... to actively participate within the assessment or decision making process of home education” is a statement wholly disconnected from truth. The fact is that there *may* be home-educating families run on authoritarian lines where the young people do not have any input - but these are probably very very rare. The whole ethos of home education, in this country, appears to be to value young people. Whereas it is the case that for *all* young people educated in state schools they have no meaningful input into what happens to them. It is a strange sight to see the authorities demanding of the public standards which they have absolutely no intention of implementing themselves in areas they control. And especially troubling when it comes in a serious case review into the death of a young person where social workers have been unequivocally demonstrated to have been at fault.

Mr Badman's comments (to the Times on 26 February 2010) with respect to Khyra Ishaq that “It is hard to say it [his registration scheme] would have saved her, but it would certainly have minimized the risk” , a variation and slight improvement on the 'mitigation' theme, are misleading to the point of being dishonest. Even before the results of the Serious Case Review were made known the salient facts were well-known to Mr Badman. Mr Badman acknowledges that “However, any regulation is only as effective as its transaction.” (8.15) but completely fails to explain how if social workers can't administer the existing systems properly giving them new powers is the answer. It would be the same social workers who would have been administering his new scheme. Perhaps it is the very reliance on institutional solutions which hamstring social workers and cripples their ability to act decisively.

Overall the 'Safeguarding' culture should be challenged. There is an important question here: is 'Safeguarding' being used by the authorities to protect young people from sexual abuse or is it being used to control further the lawful activities of people and place them under suspicion and surveillance? One test for whether or not the authorities mean it when they talk about Safeguarding would be whether or not across the board young people in the care of social services or other authorities are being treated with more care and respect than they used to be. This writer's impression both from personal experience and from a plethora of anecdotal evidence in the press is that they are generally not. For example in the context of doing some voluntary work, for which he had of course been vetted for 'Child Protection', he discovered that a young person in foster care had to live with a large hole in his bedroom wall for several months on end. The social worker in charge of the case knew about it and did nothing. This is striking because this kind of neglect is sometimes used to justify taking young people into care. In a recent case reported in the press ¹⁰ a local authority provided a cage made of crowd control barriers for a severely autistic young teenager to play in. Pronouncements from the soon to be abolished General Teaching Council frequently show a completely unreconstructed attitude towards young people. In a case concerning a male teacher who groped a young girl student publicly he was penalized but the young person's statement that she had felt upset and humiliated was publicly thrown out. ¹¹ (How else could she have felt?). Once you start looking into it it quickly becomes apparent that despite all the rhetoric about "Safeguarding" the old negative views towards young people have not really changed one iota. This leads to the inevitable conclusion that Safeguarding is not really about Safeguarding.

Where is safe?

Lacking in Badman's report is any serious consideration of how a register might prevent abuse. Will abusers using Home Education as a cover rush along to the town-hall to sign the register when it is set up? No; it is likely that such people will have to be caught by other means. The people who would have signed the register will be those who are in fact already known to the Local Authorities under the existing system. This likelihood gives the lie to the argument that the register is about catching abusers.

As we have seen Badman cites a number of organizations who extol the way that welfare surveillance is possible in schools. This might come as a surprise to many parents who thought they were sending their children to school to be educated not monitored for "Safeguarding" reasons. However; all this surveillance still does not actually guarantee safety. Clearly, harm can come to children inside the home and indeed at school. Witness the recent case of a teacher smashing metal dumb-bells into a student's head, fracturing his skull and leaving him with a permanent injury. In this case the National Union of Schoolmasters and Association of Women Teachers (NUSAWT) argued, astonishingly, that (despite a criminal conviction for the assault) the teacher should be allowed to retire rather than be sacked – so he could claim his pension immediately. What does a teacher have to do to a young person before the NUSAWT would accept that it might be fair to sack them? This was one of the "qualified teachers" whom the NUSAWT believes to be completely indispensable for a child's education as we shall see shortly. As I write this there is a case in the press about a school lab technician making a young woman go unconscious by smothering her with chloroform. In fact cases abound in the media of quite serious abuse by teachers. It does not seem to be at all clear whether, statistically, a school-educated young person or a home educated one is more likely to come to harm. Indeed; there is a long history of a connection between the authority and power granted to school-teachers and people running care homes, and abuse. Witness all the historic abuse cases where we can see how officially sanctioned authoritarian punishment has led into sexual abuse. The conversion to "Safeguarding" has been a very recent one on the part of social services. Indeed given the appalling catalogue of cases which have emerged from social care institutions dating to the seventies and eighties one could almost call it a volte-face. Badman and the organizations he cites want to harass home education not because there is any evidence it is more dangerous than school, indeed it may be less so, but because they believe that surveillance is a good in its own right and are disturbed that they do not have surveillance mechanisms in place focused on home educating families.

While physical punishment has been outlawed in schools and detention settings the use of physical restraint is enjoying a counter-surge. Recent legislation, in the 2006 Education and Inspections Act, permits teachers to restrain young people in the case that a “pupil” may be “prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise”. This obviously means in virtually any case. The current government is planning a White Paper promising more of the same (largely a headline-grabbing exercise since the substantial powers are already in place). The last government tried and failed to extend the power of restraint in Secure Training Centres to allow for its use to ensure good order and discipline. According to evidence submitted to Lord Carlile of Berriew's 2006 report for the Howard League, into restraint, solitary confinement and strip searching in the “secure estate” restraint is used in Secure Training Centres in particular to gain compliance, illegally. One wonders how much physical restraint is used in home educating homes; quite likely less than in schools.

Extreme cases and the question of restraint aside, schools are by no means necessarily safer than homes despite the increased potential for surveillance. In recent years there have been any number of cases where children taken on school-trips have died in accidents where lack of good sense by teachers, as well, crucially, as large group sizes, certainly seems to have played a part. I would guess that such cases are in fact in a higher proportion in trips run by schools than in trips run by home educating parents (smaller groups, parents caring more than teachers because they are their own children). Even in the simplistic 'abuse' and basic safety terms it is far from clear that young people are safer in the hands of teachers and state agencies generally than in the hands of their parents. This being the case it is difficult to see how anyone can rationally argue that the state, and its agencies, should be the absolute controller of all risk situations.

The question about “abuse” is in fact not the main problem. It is not, of course minor, for anyone who suffers abuse, but in overall terms neither at school nor at home do the majority suffer serious sexual or physical abuse. There are deeper questions here about what schooling does for people than simply noting that schools are not the faultless Utopias their proponents claim.

Ivan Illich - the deeper point about the welfare of children

Ivan Illich wrote *Deschooling Society* in 1971. The work analyses schools both in terms of what they do to their pupils and their role in a society which believes in institutionalized solutions provided by large organizations. Illich sees education as being about the consumption of packages, produced by others at great cost. The training in the consumption of packages at schools is a prelude to accepting a lifetime of dependence on large organizations who meet our needs. We have come to measure the health of a society by the number of hospitals or the quality of social welfare by the number of social workers; but the opposite is the case; these are measures not of health or social well-being but of a nation's dependence on manipulative service industries. In Illich's analysis of education the distributor-teacher delivers the packages designed by technocrats to the consumer-pupils. Illich contrasts the model of passive consumption here and the kind of society it is a training for with one where self-sufficiency would be the norm. He gives the example of a society where tools are produced in such a way as they can be repaired by the individuals who own them – rather than needing to be returned to the manufacturer. Illich's criticism of school is a criticism of the consumerist model of modern societies; a model which the developing nations are trying to force on developing nations. Illich, who worked in South America, is sensitive to how indigenous peasant culture characterized by self-sufficiency is undermined by modern processes based around the consumption of services, which train people to be clients. In terms of school Illich criticizes the system which awards credentials for the successful consumption of educational packages. The packages are continually being re-written and adjusted but the problems they are supposed to address remain - (a point borne out by the endless reports in the press about how many young people leave school with less than hoped for GCSE results). This is much more than simply a racket to produce more textbooks and exam syllabuses; this is a commercial activity mirroring the marketing processes of the persuasion industry. Children are the

(obligatory) recipients of these marketing efforts. They are a captive audience who consume these packages produced (after 'research') by technocrats. In education we see the same myth as drives our mad pursuit of unlimited economic growth; paradise is to be won by never-ending consumption - of what is produced by others. Only what is measured can be credentialed and so imagination is not valued. Being subject to modern schooling leads to people developing a 'futile omnipotence'.

In Illich's analysis the prized "educational success" of the school system is a ritualization of progress; students climb a ladder and can only go onto the next layer by regurgitating the knowledge they have passively consumed at the lower level. The more education you absorb the more you learn the lesson of helplessness. The educational hierarchy has political consequence; only a few can make it to the top and this hierarchical function of schools justifies social and economic hierarchies, especially in developing nations where the effect is more pronounced. The elites manufactured and justified by education in developing nations become the biggest consumers of the service packages which constitute the Western lifestyle. Schooling in all nations is an exercise in learning to be a passive consumer of the services provided by large, manipulative organizations. The school is the archetype of the large manipulative organization. Unlike "progressive education" Illich's criticism is not simply a call for a different, slightly 'free-er' kind of school. He analyses the school in the context of a society which is in the grip of large manipulative institutions. These organizations are ones which manipulate their public into becoming dependent on their goods and services. Machines are built which can only be repaired (if at all) by the companies' repair men, people learn that health is not something they gain by taking care of themselves and consuming less but is something which is "delivered" by a healthcare company whose products and services they need to consume. A plethora of health and safety regulations and licenses make it hard for people to build solutions outside of the system. Indeed when mass national schooling was being instituted in England in the 19th century by religious organizations it was precisely sanitation inspections which closed many small, local, fee-paying "dame" schools favoured by the working class.¹³

Schools sell themselves as developing the abilities of young people but in fact by teaching them that development is only that which can be 'taught', work to destroy the inherent capacities of young people. The process is one which is continually on the attack. Recently some college curricula have included an element of "self-directed study" - trying to give the sense that self-directed study is valid but only when subsumed into the mechanism of the course curriculum and its processes of validation and approval. Thus self-directed study is undermined - by being named and contained within the surveilled educational regime of the school and college. All areas of autonomy where young people may learn that they can learn without it being part of a curriculum package designed by others are eroded. This educational process of building dependency has recently extended to a training in emotional dependency. Schools are increasingly delivering not a knowledge based education but also a training in emotions and in the correct (and asinine) values which the political elites want them to have. The sociologist Frank Furedi has documented the helplessness of the modern undergraduate in his book *Where Have All the Intellectuals Gone*¹², the product of an emotional and therapeutic trend in education. This trend can be seen as the extension of the kind of processes Illich describes directly to the emotions. We consider this new development in the manufacture of dependency, which focuses on the emotions, shortly.

Illich notes that schools treat young people as 'children', a relatively recent construct in the West. "Until the last century, 'children' of middle-class parents were made at home with the help of preceptors and private schools. Only with the advent of industrial society did the mass production of 'childhood' become feasible and come within reach of the masses. The school system is a modern phenomenon as is the childhood it produces".¹⁴ Having identified 'childhood' as a definite stage schools find it easy to treat 'the kids' with less respect than they would adults. There is a considerable irony that in the schools which claim to be inducting young people into democracies their first acquaintance with the authorities is one which reduces their rights and disables their participation. The "detailed prescription of expectations in schools" which Badman recommends are not made in consultation with young people. They are made by adults, and young people are expected to conform, or be punished. Uniforms, the treadmill of timed lessons, the requirements for obedience etc all mark out the pupil as a being with less rights than the adults and work to build

docility. 'Childhood' is a necessary concept to justify the diminished rights young people have in schools. In schools, the teacher acts as a preacher, a therapist and a custodian of society's rituals. It is not simply about knowledge but a training in the values of consumption and dependency. The teacher acts as ring-master as the 'children' jump through the hoops which demonstrate their suitability to mould themselves to the demands of institutions and consume what they are offered without question.

There are two questions here. If Illich is right then we should indeed be deschooling society right away, certainly not be imposing its strictures on home educating families. Even if he is not who is Badman, in a democracy, to say that others are not entitled to accept Illich's ideas (or those of any other reasonable educational thinker) and put them into practice?

The destruction of democracy

That the rights of parents rather than the wishes of the state and those in power should take precedence in the matter of how young people are educated is a clear requirement of freedom and democracy. The idea of democracy is that individuals *choose* their government, that the government is sanctioned by its citizens. But if you cut off areas of life where individuals can think differently from the state, as some or possibly many home educators probably do, then you also take away the power of individuals to give their voluntary consent to the state. That is if you abolish the right to dissent you also abolish the right to consent. What is at stake here is a very serious matter about freedom and what it means to be a human being. In the vision of the New Labour social engineering project power came to stay permanently in the hands of a self-perpetuating oligarchy of social workers and other behaviour managers and political class politicians, who manipulate each generation of children to conform to their ordering of society. In this world no one chooses to belong to society any more; and it is no longer a democracy. Society is ordered in a certain way because it is 'right' not because free-thinking people have consented to it.

Beyond the rather narrow arguments about abuse there are more fundamental questions about what is and is not a healthy way to treat young people. Many home educating parents do not believe that sending their child to school is good for them. It is not just the cases of abuse which happen under the noses of the authorities, (however much surveillance powers they are given), nor indeed the extent of abuse of children perpetrated by teachers, care workers and others who are part of the institutions of care. The more profound point perhaps is that for many home educating parents the very institution of school is damaging to their child. Whether it is because they object to testing, to the large class-sizes, to bullying (a reason why some home educators have taken their child out of school), or to the whole ethos and outlook of schooled education, they feel that their child is better off being educated by them – very often with the help of paid tutors and/or networks of other home educators. One of my correspondents whom I consulted with when researching this article cited the regime of testing in schools precisely as the reason for educating their child at home. "We have always opposed the testing of young children and felt that formal schooling begins too early in the UK, so when my daughter was a toddler we decided to look at what options in education were available and came across home education." In 2003 the UN Rapporteur on the Rights of the Child, Prof. Katarina Tomasevski, criticized the UK government for running a testing regime in schools which was geared around fulfilling government policy objectives rather than meeting childrens' needs, saying this put the UK in breach of Article 29 of the UN Convention on the Rights of the Child, which requires that education be geared towards helping the young person develop their talents and abilities to the fullest level. Most teachers probably really do believe that "the detailed prescription of expectations in schools" is the way to "develop the child's personality, talents and mental and physical abilities to their fullest potential". But it one thing to believe this and another to enforce it as the only permitted approach to education.

Badman is not even being asked to agree with say Ivan illich's analysis or even the much more tepid ideas of say A.S.Neil. He is simply being asked to allow people to think differently. And being able to think differently if you can't act on it is of course not in fact being allowed to think differently at all. Of course there is an argument that the state should step in and prevent abuse - but this

argument is deployed out of all proportion in this case and on very little evidence. Indeed 'Safeguarding' is used by social workers and other 'childcare professionals' in a manner similar to what marketeers call a 'magic bullet'; a simple, easily understood proposition which enables the marketeer to penetrate a new market and once in sell his whole range of goods. Engaged in this somewhat unthinking exercise Badman bypasses the real and interesting questions - about what range of forms education could take in a 'free' society for example. About whether mass consumption of curriculum packages at school really is beneficial to young people for example. About the historicity of mass schooling; is it not something which arose along with mass use of labour in factories and mills in the 19th century? If we envisage a society in the future which is not based around industrialization (and the eventual exhaustion of the fossil fuel supplies is going to lead us there) is it not sensible perhaps to think about forms of education suitable for that society? By doing something other than schooling, home educating parents are allowing these and other debates to take place. If Mr Badman's proposals had gone through and Schedule 1 of the Children Schools and Families Act been made law the possibility of these debates would have been foreclosed. To stifle debate in that manner is the habit of totalitarian regimes.

Badman argues that the state should police parents but he forgets it seems that the state is (allegedly) representative of the people. Reasonable people may accept that the state has some policing functions but it is a matter of concern when it seems to be acting as if its source of power is not the people who are represented in it (allegedly) but some sovereign power outside of and over the people and when it seems to be denying people the ability to think differently.

Every Child Matters

Every Child Matters is a programme brought in by the last government to co-ordinate a national set of values for how children are brought up. The Every Child Matters programme itself is spearheaded by an alleged concern about 'Safeguarding'. It was brought in off the back of another tragic case of abuse - Victoria Climbié, an eight-year who died in 2000. The 5 outcomes of Every Child Matters are enshrined in legislation in the 2004 Children Act (Section 10). The 5 outcomes are: be healthy, stay safe, enjoy and achieve, make a positive contribution and achieve economic well-being. It is the duty of local authorities to implement them for young people. Parents are not mentioned directly but Badman can readily extend the wide-ranging clause in the legislation which references "...such other persons or bodies as the authority consider appropriate" to draft in parents. A close inspection of the aims and outcomes of Every Child Matters shows that they are mostly factors which occur naturally in the course of bringing up a child though they are noticeably secular. There is a strong dose of the New Age therapy language favoured by New Labour; that children should be "mentally and emotionally healthy" for example.

It was part of the terms of reference for the review that Badman should 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". So to be fair to Mr Badman, part of his task was to see how this government programme could be imposed on home educating families. But with this he is taking a leap into a whole new terrain. It is one thing - and questionable enough in its own right - that adults working with young people (youth workers, voluntary workers, nursery staff for example) are told what values and behaviours they should be inculcating in young people rather than being left to use their judgement and good sense; it is another that parents, in their own home, are (were) to be told what values to bring up their children with. This is essentially a communist view of children; that the family relationship is unimportant. (cf. The Communist Manifesto, Marx's more popular work, where he argues for 'social' education against 'home education' and mocks anyone claiming a special relation between parents and their children as bourgeois ¹⁵). Parents are simply another factor, and a minor one at that, alongside social workers and teachers, whose job it is to bring children up to suit the purposes of the state, in line with the official policy. The micro-managing of youth workers, voluntary workers and others as to what values to give to young people shares with school-teaching the notion that people left to their own devices, without being told what to do, are incapable. Such systems reduce people (whether young

people or adults) to the minority status of 'children' - mythical beings who are supposed not to be able to do a thing without being told how to do it by someone who is 'qualified', an 'expert'. (An ideology likely to be favoured by people who make their living out of telling other people what to do). A further point to note is that Every Child Matters was unmistakably New Labour in flavour and linked to that party's electoral strategy - of appearing to be supportive of families. Every Child Matters then *extends* the schooled approach to education with its careful fostering of dependency, to the whole world of values and behaviours. It was wholly characteristic of New Labour to take the social control aspects of communism, in its ossified form of bureaucratic state socialism, while chucking overboard the ideals of social and economic equality won through common ownership. However; this idea of the state managing the upbringing of young people carefully, so as to ensure, buy-in to the existing system is now common across all political parties. It is part of the system.

Every Child Matters, is in fact an asinine collection of manufactured values divorced from tradition or local community. The idea that how people should bring up their children should be a matter of government policy is a new one which seems contrary to accepted practices of tolerance. This is perhaps why the proposed system is justified by the unanswerable 'argument' of Safeguarding. It is not Badman though who forced Every Child Matters through on the grounds of Safeguarding; this is the whole structure of Every Child Matters. The government and other agencies who promote enforcing a uniform value system on the nation's youth overcome the implausibility of this project by elevating what is in fact a small problem – that of child abuse – as if it were the norm. Once all children need to be protected by the government from child abuse, actively, continually, in their every interaction with every adult, you have created a context in which the government can set the whole framework for how children are brought up. The intrusive monitoring inspections proposed by Badman (Recommendation 7) and somewhat modified when drafted into Section 1 of the Children, Schools and Families Bill sow distrust within the family. Badman proposed that the local authority officers be empowered to see the child alone on their visits; the message to the child is that their parents are under suspicion. In the legislation the requirement to see the child alone was modified; it could be refused if *either* the parents *or* the child objected; but this is not a step forward. It was classic New Labour; if you give the child and the parents an equal right in the matter then the authority of the parents is being undermined. The child has “equal rights” with the parents. The overall message is still the same, just put in a more sophisticated and disguised form; your child is answerable primarily to the state. Your job is to act as a stooge for the government's programme in relation to your child – since *you* cannot be trusted. What Badman proposed was to introduce the culture of *routine suspicion* into home education. In a surveillance culture suspicion is the norm. It is the same culture which has already poisoned the atmosphere in voluntary work with young people as young people are trained to suspect all adults who have anything to do with them apart from social workers and other “professionals”.

The argument, which Badman allows to be floated by quoting the NASWE (National Association of Social Workers in Education) rather than making directly, that home educated children do not benefit from Every Child Matters monitoring is insidious. It confuses the actual welfare of children with blind adherence to the government in the form of the latest policy document. There is *nothing* which makes a child not being monitored for the 5 Aims and Outcomes less well cared for than one who is. Unless, that is, you make some bizarre assumption that unless the government is micro-managing the upbringing of children then they are as good as being brought up as *enfants sauvages*. But then of course this is no doubt what the National Union of Schoolmasters and Association of Women Teachers and the National Association of Social Workers in Education do believe. But the fact is that young people throughout history and in other countries are not intrinsically deprived because they do not have Every Child Matters. Indeed the poverty of the vision that really believes that a young person's welfare can be measured by ticking boxes on a form, like a supervisor in a supermarket checking items for freshness and quality, is almost certainly harmful to young people itself.

SEAL

One approach to teaching the “emotional health” enjoined by Every Child Matters is SEAL (Social and Emotional Aspects of Learning). In the SEAL programme 'children' at both primary and

secondary level are taught about “sharing their feelings” in “circle-time sessions” in a culture which borrows heavily from the dubious worlds of counselling and psychotherapy. This infantilizing of the nation's youth had a clear political agenda for New Labour; the infantilized, emotionally vulnerable, 'children' produced by circle-time would naturally be much more willing to be favourable towards a government which offered a high level of management of peoples' lives. Having become used to this treatment at school they will expect it as adults. During the election campaign New Labour spoke directly to these children of their creation in the language of the primary school classroom reminding them that it was a “big choice” election. Now, little ones, remember to vote for safety, vote for the government...

Already we are seeing the fruits of circle-time as more and more students take their parents to their University interviews and need increasing levels of support to get through their increasingly undemanding university courses.¹⁶ A new generation is being bred who are sweet, helpless and above all wholly lacking in any spirit of political criticism. In this world, conflict, especially with authority, is to be treated as a condition and resolved by 'support' and circle-time (or, for those too boisterous to sit in the circle, with medication), not worked out through negotiation and argument. As Illich wrote (in 1971) “The teacher-as-therapist feels authorized to delve into the personal life of his pupil in order to help him grow as a person. When this function is exercised by a custodian and preacher, it usually means that he persuades the pupil to submit to a domestication of his vision of truth and his sense of what is right”.¹⁷

This is a typical example of SEAL material from a government web site: “These will be schools who know that the factors holding back learning in their setting include children's difficulties in understanding and managing their feelings, working co-operatively in groups, motivating themselves and demonstrating resilience in the face of setbacks.”¹⁸ This is the therapeutic language of the diminished self. Authors Ecclestone and Hayes have done a profound analysis of how this culture of emotionalism of which SEAL is just one manifestation, is taking hold in schools, in a book called *The Dangerous Rise of Therapeutic Education*.¹⁹ The authors claim that the psychotherapeutic trend towards seeing students as vulnerable and in need of support has a long history in Further Education but it has been given a new impetus and political dimension in the current climate. From demeaning and effectively compulsory “circle time” in primary schools to “learning power” programmes and peer mentoring in secondary schools to the endless monitoring and self-surveillance techniques (learning logs, learning diaries etc.) in Further Education to the emphasis on vulnerability in the University the authors depict an educational world which has surrendered to therapy 'professionals'. A training in appropriate emotional responses and a cultivation of a passive narcissism has become the norm.

If Badman's recommendation for a review of the legal basis of home education in the light of the “Rose review of the primary curriculum, and other changes to curriculum assessment and definition throughout statutory school age.” (Recommendation 2) were to be carried out by a future government it could become a legal requirement to engage in this kind of training of young people's emotions in all educational contexts - school or home. If the people who plan and administer the school curriculum really do believe that young people need “circle-time” then a home educating family who did not follow this practice could find themselves rapidly served with a School Attendance Order. It was interesting that this proposal to review the legal basis on which home education is conducted did not receive a wholehearted acceptance from Ed Balls in his initial comments on the review recommendations.²⁰ A prescriptive curriculum for home educating families would, of course, be a nightmare to police - something of truly 1984 proportions. Nonetheless the concern is the extent to which Badman failed to accept what is perhaps the most obvious point about home education; that it enables people to do something differently to how it is done in schools. But, Badman's proposals were simply in line with a wider trend in society. This is the trend to move away from, on the one hand, economic explanations and solutions and, on the other, from calls for more authority, to a consensus across the parties (albeit more pronounced in the Labour party) for a vision that social problems are due to dysfunctional individuals who need more therapeutic style interventions. (In this context see the excellent essay by James Parton on the welfare system on Spiked in which he discusses how citizens are increasingly seen as

“psychologically incapacitated and in need of constant therapeutic intervention”).²¹

Again, the doubly worrying matter here is not just that the state is increasingly concerned with managing the emotions of its subjects but that opportunities to do otherwise are being closed down.

Surveillance - what it really means

Badman extols surveillance in the sense of detecting abuse, but surveillance is also present in schools in another sense. A recent from the University of Hull²² has exposed huge levels of surveillance in use in schools: finger-printing technology, cameras pointed at the toilets, staff patrolling the corridors with walkie-talkies. One 15 year boy interviewed for the report said his school was “like a prison”. The recently abolished quango BECTA (British Educational Communications and Technology Agency) of which Badman was a Board member was shameless in its promotion of biometric surveillance technology in schools on the grounds of “efficiency”. Finger-printing technology was welcomed and promoted because it enabled schools to manage large groups of students efficiently and reduced scope for conflict. For a review of the chilling vision outlined by BECTA see the report by this author 'Biometric Surveillance in Britain's Schools'.²³ Reading the report from BECTA, which is analysed in that report, we also note how BECTA was concerned not with technology as it applied to learning but as it applied to managing a captive population cost effectively and efficiently. This gives some insight into how the authorities understand the word 'educational' in “British Educational Communications and Technology Agency”. The same document, could have been written for an audience of managers of Alcatraz. One can't help thinking that there must be very few home education milieus where children are finger-printed whenever they want to take a book out of the library, or eat lunch, have to go through electronic face recognition systems when they arrive and leave and are supervised by staff with walkie-talkies as they walk between lessons, and filmed in the toilets? Indeed if a home educating family did that they would probably be prosecuted for organizing some kind of cruel torture. What is it about a mass system which somehow justifies it? Is this what the The National Association of Schoolmasters/Union of Women Teachers (NASUWT) meant (4.7) when they refer to how government policy means that all “children” should “benefit from educational provision where teaching and learning is led by qualified teachers in well resourced and fit for purpose modern educational settings”? How many CCTV devices does it need to qualify a place of learning as a “fit for purpose modern educational setting”?

Again; the case is doubly frightening; not only is there a nasty culture of mistrust in schools where technologies usually associated with detecting terrorists are routinely used on “children” but the noose is tightening so that it becomes harder and harder to escape from this.

Is there a welfare case here?

Of course sooner or later there may be an exceptional case where there is a clear argument from the evidence that a register of home educating families could have prevented abuse. When or if that event occurs the argument to install the kind of procedures recommended by Mr Badman will become unstoppable. But, ultimately when government's legislate in these matters it is themselves they are protecting not the public. Their ultimate concern is to maintain their legitimacy. The legitimacy of local authorities' social services departments nearly nose-dived in the 1990s when case after case of abuse of looked after young people - in foster care and care homes - hit the headlines. The huge (and costly) drive to institute first Child Protection and then “Safeguarding” procedures throughout the system is quite possibly best understood as a damage limitation exercise put in place to head off a loss of public confidence in the authorities. With “Safeguarding” the authorities can be seen to be doing something and taking the lead. (Some may perhaps be breathing a little sigh of relief, murmuring, under their breathes 'just in the nick of time'). Nowadays

when a case of a teacher or other professional abusing students arises there is often someone from the institution involved who pops up and says “But we did all the checks” of which the sub-text is “so we can't be blamed”. Notice, too, how social services departments and childrens' charities only became such vocal opponents of physical punishment after it became illegal for them to use it in 1999. Were home educators to accept the proposed monitoring they might in effect be colluding with an administrative game which is not really about the welfare of young people at all.

There is an assumption in Mr Badman's work that the only way to seek to prevent abuse is by surveillance by the authorities. There is no evidence presented that communities cannot do their own checking. Indeed based on the evidence from the the case of Khyra Ishaq one could argue precisely that the problem was that people were being encouraged to report their concerns to the authorities. Having reported them to the authorities nothing substantial was done. The authorities thus acted as a damp cloth soaking up the concerns and making sure they went nowhere. The NSPCC specifically spreads this message in its advertising campaigns, promoting the idea that if one suspects a young person is being abused one should do nothing oneself but call the professionals. This, and the general idea that only professionals with surveillance powers can “protect” young people, is fostering the dependency on large, manipulative, organizations which Illich talked about. If those organizations turn out to be lazy and incompetent it is clear that young people being abused in the community would have a better chance if far from reporting their concerns to the authorities people felt able to take some kind of direct community action. This argument stands even if one case can be found when the authorities managed to prevent abuse by a new system of surveillance. (The issue of visibility which Mr Badman and his colleagues make much of is misrepresented by Mr Badman. Of course their concern is not about visibility *per se* but about visibility to the authorities).

Based on the data published in the report Graham Badman has in no way made the “compelling case for immediate and urgent reforms” which Ed Balls welcomed ²⁴. The *only* “evidence” was an arbitrary collection of statements from some of those local authorities who cared enough about young people to reply to his questionnaire (60%) about a higher than average incidence of home educating families being “known to social services” . This is not scientific research. As discussed this may reflect a higher than usual number of those with special needs being home educated, a tendency of local authorities to register home educating families with their social services departments 'just in case', a simple prejudice - or a real problem. In most areas of public policy there is at least a gesture towards basing new policy developments on evidence. In the area of 'Safeguarding' policy is made it seems on the basis of hysteria rather than facts.

In the end it is an option for Home Educators to accept a register to defuse the political charge that they may as a community be harbouring abusers. Some home educators have said they would accept a register; others would not, or not willingly. Had Mr Badman managed to distinguish between the possibility of people hiding young people away to abuse them citing 'home education', and associating home education in general terms with abuse he might, we can speculate, have found a greater degree of co-operation than he did. But Mr Badman mingled his alleged 'Safeguarding' concern with his vision of schooling, in a manner characteristic of educationalists, and thus prevented himself addressing the 'Safeguarding' problem in a civilised way.

The register for Mr Badman was not simply about Safeguarding, though he used the Safeguarding card to justify it. The register proposed by Mr Badman was part of a system for beginning to impose a very particular system of schooling on home educating families.

Badman on education

Badman confuses questions relating to welfare and questions relating to education in a way characteristic of educationalists. His proposed monitoring visits are both to provide an occasion when the child can be required to “exhibit” what they have learned and for the local authority to provide an opportunity to for officers to “satisfy themselves that the child is safe and well”. The recommendations relating to registration, visits and testing of home educated young people made it into the proposed legislation in Schedule 1 with modifications. As we've noted the requirement that the young person be seen alone was dropped and the requirement for the parents to be “required to allow the child” (an interesting turn of phrase blending force and allowing in one breath as only a teacher could) to “exhibit” was substantially watered down into a more general check that the learning was going according to plan. By requiring that parents lodge a plan with the local authority (annually) and by requiring that the child be tested against the plan a particular structure of education would have been imposed on home educating parents. The modified version which made it into the legislation is a compromise. What Mr Badman sought was outcomes education; curricula, plans, summative testing by third-parties, progress, hoops. When he says “This training [of local authority monitoring officers] must include awareness of safeguarding issues and a full understanding of the essential difference, variation and diversity in home education practice, as compared to schools” the casual reader of this report might be misled into thinking that Mr Badman respects, tolerated and wanted to allow home educators to take a different approach to educating their children than that which is practised in schools. But the actual proposed regime would have destroyed the independence of home educators.

Outcomes education

Of course the “prescriptive expectations” of schools is the kind of education favoured by professional school-teachers. The National Association of Schoolmasters/Union of Women Teachers (NASUWT) submitted that:

“The NASUWT maintains the existence of a right to home educate is anomalous with the clear emphasis in Government policy of ensuring that all children and young people can benefit from educational provision where teaching and learning is led by qualified teachers in well resourced and fit for purpose modern educational settings.”

It is not entirely surprising that a teachers' Union whose function is to protect its members' jobs and professional status should object to Home Education. But this is a belief system not just a (natural) desire to protect one's jobs - part of a wider social tendency which we have already touched on in our brief summary of Ivan Illich. Illich's analysis is that the trend in the modern world is towards services delivered in a uniform way by large organizations who manipulate people into accepting dependence on those services. In discussing his concept of manipulative institutions and how these differ from those that are more “convivial” Illich writes “At both extremes of the spectrum we find service institutions, but on the right the service is imposed manipulation, and the client is made the victim of advertising, aggression, indoctrination, imprisonment or electro-shock. On the left the service is amplified opportunity within formally defined limits while the client remains a free agent”. The submission to Badman's report by the NASUWT viewed in the light of Illich's analysis shows them to be a right-wing and manipulative organization wishing to impose their service on everyone without choice.

Badman resolves the tension of this dilemma – on the one hand this stringent demand by the NASUWT to force children into school and on the other his terms of reference which stated that the government accepted that parents could educate their children at home, by imposing the kind of education favoured by the NASUWT onto home educating parents. It is a sleight of hand. He is saying to home educating parents you can continue to educate your child at home, but, to be allowed to do so you must do it in our way. Thus the requirement to give the appearance of freedom while taking it away is met. An authoritarian solution would simply be to ban home education. This solution though is more characteristic of power and specifically of how power acts in a democracy; it disguises itself while acting.

By requiring parents to register a plan in advance for a year and proposing the child be tested ('exhibit') at any time in the year against this plan Badman was in effect hoping to require all home educating parents to adopt the outcomes model of education. Even the language of the proposals is oppressive. "That parents be required to allow the child through exhibition or other means to demonstrate both attainment and progress in accord with the statement of intent lodged at the time of registration." (Recommendation 7). The proposed "exhibition" of the child to local authority officers who may have been sent on a short course but who may not have any knowledge of the subjects the young person has been working on sounds like the language of Victorian psychiatry with its 'examination' (often by more than one psychiatrist) of the patient. As we noted above these proposals made it into Schedule 1 in a significantly more reasonable way, without the Victorian psychiatry theme. Badman's desire to have the child "exhibit" - which might strike some as abusive - was replaced with a somewhat more reasoned requirement that the local authority officers satisfy themselves that the 'child' was being educated in line with the plan submitted at registration. The requirement for a test is gone. Of course; the test would have been a practical impossibility since it would have required the local authority to rustle up experts on every subject under the sun who could be claimed to be competent to administer the tests. Ad hoc "testing" by local authority officers would have been abusive and easily challenged in court.

The educational model which Graham Badman sought to impose on home educating families is a model which works (or more accurately thinks it works – in fact it often doesn't) in a mechanistic way to produce predictable, measurable 'outcomes' chosen in advance by by some central committee somewhere which enables 'children' to be sorted out into levels and grades in preparation for later life and teachers to be evaluated. It is the dreary, Mr Gradgrind, style of education favoured by schools. It gives power to the teachers and alienates the more creative and imaginative young people. There are whole industries devoted to 'helping' the 'dis-affected' who result from this kind of treatment who are said to 'have' EBD (Emotional and Behavioural Difficulties). This is a process reminiscent of Soviet era political psychiatry designating as mentally ill any who did not conform. It can only be done in the UK because it is done to 'children'. There is no requirement in this system of education for teachers to participate with young people, to roll up their shirt-sleeves, and mutually pursue learning. It is the 'banking system' of education critiqued without par by Paulo Freire in *Pedagogy of The Oppressed*.²⁵

The second proposal by Badman relating to how children taught at home are taught was

"That the Department for Children Schools and Families (now renamed the Department for Education) review the current statutory definition of what constitutes a 'suitable' and 'efficient' education in the light of the Rose review of the primary curriculum, and other changes to curriculum assessment and definition throughout statutory school age. Such a review should take account of the five Every Child Matters outcomes determined by the 2004 Children Act, should not be overly prescriptive but be sufficiently defined to secure a broad, balanced, relevant and differentiated curriculum that would allow children and young people educated at home to have sufficient information to enable them to expand their talents and make choices about likely careers. The outcome of this review should further inform guidance on registration. Home educators should be engaged in this process." [Recommendation 2].

It is worth dwelling on this paragraph. We see here the potential for an increasingly 'right-wing' (in Illich's sense) process where home educating parents would have been not simply forced to succumb to 'outcomes education' but also that that plan should have specifically come to resemble the curriculum as defined by the government and 'educational experts'. Of course, as we have discussed, the reason people home educate is in most cases precisely because they do not believe in the kind of approach to education which is delivered in schools. Once home educating parents are forced to deliver this kind of education at home the actual reason to home educate evaporates. If the proposed review of the legal basis for home education were ever to take place and were to take place along the lines which Graham Badman suggested Home Educators would be obliged to 'offer' a certain curriculum to their children (based on the Rose review into primary education and so on). It would then become very easy for the NASUWT to argue that home

educators were not qualified to teach this curriculum. Under the current arrangements home educating parents can play to their strengths; were this new system ever to come into place their weaknesses would be exposed. How like schooling, one is tempted to say, to devise a system for exposing peoples' weaknesses. At 10.1 in his report Badman raises the possibility, in a characteristically allusive way, that Home Education (which he sees as delivering something called "autonomous learning") lacks "pace, rigour and direction". He does this by referencing a United Kingdom legal case (from 1981) in which the judges stated "...in our judgement 'education' demands at least an element of supervision; merely to allow a child to follow its own devices in the hope that it will acquire knowledge by imitation, experiment or experience in its own way and in its own good time is neither systematic nor instructive...such a course would not be education but, at best, childminding".²⁶ However in the case in question the judges went on to acknowledge that the young people in question had benefited from an approach which was systematic while allowing the young people to follow their own interests – thus Badman was revealed to be a very selective quoter²⁷. It would appear then that Graham Badman is making a rather hazy connection here; home education delivers "autonomous learning" which is or may be (but probably is) "neither systematic nor instructive" and thus is not giving young people the best opportunity (which of course is supplied by schooling - the unwritten assumption of the whole report). There is an irony in this legal quote which retains its irony even out of context; Mr Badman and the judges whom he is quoting all seem to be missing that one of the main functions of modern schools is precisely child-minding. One could argue that millions of children in large classes in state schools who are not getting the teacher's attention are indeed simply being "allowed to follow their own devices". Many people who have been through this system attest to exactly that. Many young people state that this is their experience and welcome being given more individual attention in any setting – for example a Pupil Referral Unit - where there are smaller class sizes.

Of course; many home educating parents are giving their child individual attention; they may progress in a natural way during the course of a year from one project to another approaching each topic however with a considerable degree of systematization. The requirement to submit a plan a year in advance is simply choking off this element of freedom. Children sometimes develop incredibly fast; under Badman's system any deviation from the plan could have been penalized. (But, again, this is what he knows about education: now you are in Year 8 you will study Planets. In Year 9 you will study Home Economics). It is simplistic to suggest as Mr Badman seems to that there is nothing in between a child "following his own devices" and an annual curriculum set in stone at the beginning of each year. (Indeed the judges in the case he cites seem to take just such a middle-road when the relevant paragraph is read in full). It is in this space in between top-down rigidity and "allowing a child to follow his own devices" perhaps where many home educating parents and young people negotiate together what to study next in a disciplined but convivial and respectful way. But such a concept of negotiation between 'teacher' and 'learner' is something so wholly alien to mainstream education with its fixed demarcation lines between teachers and 'pupils' (children, 'the kids') that Mr Badman perhaps simply cannot imagine it? This rift between mainstream educationalists and some home educators emerged in the report when Badman held up as an example of an "unmeasured" home educator (how like a teacher to hold up for ridicule in front of the class an unwelcome opinion as an example to be avoided) one who had written to him that "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". (4.3). But anyone who has some sympathy with the attitudes of home educators would understand this as a statement that this parent valued their child's intellectual development. What is wrong with the aspiration that one's child develops intellectually above the level of a typical local authority officer at a young age? At worst the remark is a little precocious on behalf of her child but hardly "unmeasured". It is a statement of value of intellectual development. But teachers prefer serried ranks of children who know their place and who learn the prescribed subjects at the prescribed time in a 'measured' way; teachers do not favour those who progress at a pace not dictated and controlled by them.

Conclusions

Badman misunderstands home education

Badman says “As stated previously, the term 'efficient' has been described in case law as an education that 'achieves that which it sets out to achieve'. On this basis there surely can be no argument against those who choose to educate their children at home being required to articulate their educational approach or 'philosophy', intentions and practice and with their child demonstrate its effectiveness.” (3.12). There are a number of ripostes to make to this overbearing attitude. Firstly; there was this rather questionable “demonstration” which is sometimes referred to as the child “exhibiting” what they have learned. This of course would have to have been done to a complete stranger, probably two of them and quite possibly (if Badman had had his way) alone. These complete strangers would have been local authority officials who may or may not have had any expertise in the areas which the child has been studying. Further; there is no guarantee at all that the officers would have had an empathy with children or a sympathy with alternative approaches to education. Indeed as the biggest providers of schooled education in the district it is quite likely that they would not be sympathetic to home education. Secondly an immediate testable result is expected. This, as we have discussed, is classic outcomes education. It is not a given that to be valid education must produce 'testable outcomes'; it relates purely to the particular form of education which Mr Badman is trying to promote. Thirdly; the statement is laden with the idea of 'children' – those little beings who have less rights than adults and who can be required to 'exhibit' at the behest of adults, with no choice in the matter at all. We have discussed how Ivan Illich viewed 'children' as a relatively recent construct in the West and one used in education to justify an undemocratic and oppressive treatment of young people. Fourthly; why should there be “no argument” about “being required to demonstrate”? There are many laws which require me to do or not do certain things. It is only because 'children' are involved that Badman can get away with making adherence to the law something one must positively demonstrate rather than adherence being the assumption until there are grounds for believing it is not. He is offended that there are young people out there who might not be getting the message that they are 'children' who should be subject to adult control and determination. His proposed regime brings the concept of 'children', which is used to erode the rights and dignity of all young people, right into the family home, and he attempts to do it in the name of the rights of the child.

Badman misunderstands democracy

If education is defined in broad terms about bringing up young people to help them realize their potential and gifts and find a place in society in economic and cultural terms is it in any sense proven that schooled education is the best, let alone the only way to do this? Is there not a body of critical work which links what goes on in schools to either oppression (Paulo Freire for example) or a kind of crippling institutionalization (Illich) linked to a wider malaise in society? Whether or not you agree with these writers or even those who offer modified, liberal, versions of schooling, such as A.S.Neil, it is important that the debate is not closed out. Since a debate where you cannot put your ideas into practice is not a debate it follows that freedom requires that people be allowed to practice a range of forms of education. The attempt to enforce the standards and methods of schooled education on home education is no more than an act of power trying to stop the debate about what constitutes education. Certainly the state has a role to step in when/if a child is being abused. The state, in the UK, already has ample powers to do this. The requirement of the state to protect young people from serious harm is just that. But neither this requirement nor international treaties nor European Human Rights law require that the government of the day be allowed to dictate the specifics of how young people are brought up and and the form of education they are given. If Badman had succeeded in his proposals the freedom to do anything different than schooled education would have been removed and with it an important element of democracy.

The misuse of Safeguarding

As we have seen Badman misuses the claim of the state to be the guardian and protector of children when their parents abuse them in order to force his way into families and impose his take

on education on them, a vision which combines emotional value-training with an academic training, controlled and monitored by testing. He does not present any credible independent research evidence that Home Educating families are a greater risk to their children than non Home Educating families.

Having raised a false flag of suspicion Badman then uses this to support his argument for a register and a regime of mandatory visits. But, as he does with his educational recommendations, he joins lots of dots in a way not called for by the actual evidence. In the case of Khyra Ishaq neither Badman nor the Birmingham Safeguarding Children Board seem able to make the distinction between evidence and interpretation: the *evidence* of this case was that human failings to implement existing law by social workers contributed to the tragedy. It is a *guess*, to suggest that a register might have helped prevent the tragedy. Yet it is on the basis of this guess and others like it that an entire new layer of 'Safeguarding' regulations were proposed.

There are other, practical, concerns about the new approach proposed by Mr Badman. It was so superficial and so concerned with dressing up the situation with showy new powers rather than seeing what could, if anything were necessary, be practically done, that it was potentially even more dangerous than the current situation. For example; if a Local Authority had sufficient grounds to revoke registration for Home Education on Safeguarding grounds this then they would certainly have sufficient grounds to launch an investigation under Section 47 of the Children Act 1989. Badman does not explain the circumstances when a Local Authority might have grounds for refusing registration for Home Education on Safeguarding grounds but would not be carrying out a Section 47 investigation. The latter would be thorough (one hopes) and provide various mechanisms for accountability. Under the new proposals no thorough investigation would have to be done. (An appeals system was allowed for in the legislation but not a full court hearing). It simply doesn't make sense and the fact that it doesn't shows, convincingly, how little these proposed powers really were to do with protecting children.

In short, 'Safeguarding' was used as a decoy to give substantial new powers of surveillance and control to social workers, including the huge shift in power which would make people have to seek permission from the local authority to home educate, with little or no evidence that this would actually help deal with cases of abuse, and indeed in some cases flying in the face of such evidence there is.

From freedom regulated by an independent judiciary to a prescriptive behaviour system administered by officials

Under the last administration there was a general trend towards increasing the power of officials and reducing the independence of the courts. The central devices for this were the increase in the use of Penalty Notices, and the new culture of control orders such as ASBOs and Parenting Orders and their cheaper to administer extra-judicial second cousins ABCs (Acceptable Behaviour Contracts) and Parenting Contracts. The expansion of the Penalty Notice system led to an increase in the number of people being punished without a hearing in court. In one school term alone 5,000 penalty notices were issued for unauthorised school absences and 3,700 parenting contracts signed, according to the Daily Telegraph.²⁸ The argument, made by the last government, that people could choose to contest the matter in a court is fake. Given the choice between a small, known, fine now and months of anxious waiting to take your chance in a magistrates court with the risk of a much larger fine - larger because you did not accept the Penalty Notice and so demonstrated deviancy - the rational choice is obviously to accept the Penalty Notice. With the Parenting contracts and 'ABCs' it was obviously the hope that people would be frightened into accepting them because refusal to do so could be used to support an application for the full Order.²⁹ So, in both cases we see the creation of a system whereby officials rather than the courts punish and control people - a step in the direction of a more authoritarian and less democratic society. Badman's proposals were in line with this trend.

Is the freedom for parents rather than the state to choose how their children are educated still under threat?

Of course the attempt to not only regulate home education but to dictate how home educating parents might teach, thus defeating the purpose of home education (so you can do it differently), died in legislative terms with the death of New Labour at the last election. Both the other main parliamentary parties eschewed the proposals. Accordingly Schedule 1, which implemented the register and mandatory visits part of Badman's proposals together with giving local authorities powers to deny people registration, did not make it into the shortened Children, Schools and Families Act which was enacted just before the election. The threat which is one to both home educators and to freedom in general has subsided. It was a proposed piece of legislation absolutely characteristic of the last administration with its relentless instinct to take control of everything and its desire to use the law to regulate behaviour, rather than protect rights. Whether or not home educators in particular need to fear will depend perhaps on the character the next Labour administration will take. While it is the kind of policy which would be most likely introduced by Labour the overall culture of behaviour control, especially towards young people, is not the unique preserve of the Labour party; the language of Mr Glove's speeches for example differs little from that of his recent predecessors under New Labour. There are some definite signs that the new government believes in old-fashioned ideas like the autonomy of teachers and interfering less in general but overall this may be no more than a pause in the intensity of the attempts cultivate consumer -citizens. If and when Labour return to power it is quite possible that they will pick up where they left off with the culture not having been seriously tackled by the Conservatives. The culture of instrumentalism - the thrill of modifying other peoples' behaviours to get specific 'outcomes' , a practice which is particularly easy to apply to young people (while dressing it up as 'education') - has not been over-thrown. So; in very real terms this kind of proposal could come back again.

One last word: if you employ a teacher

Mr Badman has a long record as a teacher, headteacher, schools inspector and chief education officer in a local authority. He was also a Director of Social Services for Kent. Clearly, he is someone who has dedicated his working life to schools and local authority run social services departments. It would have been incredible had he produced a report which did not see a supervisory role for local authorities in home education. It would have required a Damascus like conversion.

The report proposed institutionalized controls over an area which is not currently institutionalized. Possibly Mr Badman really does equate a lack of institutionalized controls ("systematic", "instructive", "detailed prescription of expectations") with a kind of inferior chaos where young people are disadvantaged and quite likely abused. On the other hand perhaps is he just someone with something to sell.

We have discussed how little actual evidence there is for his product. It does not appear to make young people safer from abuse. We have discussed a range of harms that come to young people in schools, from abuse by 'professionals' which seems to happen with much more frequency than the NSPCC would like to admit, harm from over-testing - an argument which seems to be gathering weight at the moment, but, above all from the training young people receive in how to be a competitive, uncreative, consumer of the services of government and big business, a training process which is as inimical to democracy as it is to individuals. There is no real case made for the benefits of schooling (beyond the claim that it provides a place where the authorities can surveil young people in the fight against the ever-present threat of child abuse - a regime which does not in fact actually seem to prevent abuse by teachers) and no discussion of any of the myriad reasons why people may feel that schooling is not right for them or their children. The report assumes that institutionalized education is a boon and struggles or indeed completely fails to understand those who can't bear it. Mr Badman claimed to be defending the rights of young people; but it is quite difficult to see how schools with their "detailed prescriptions of expectations", testing regimes which

were criticized by the UN rapporteur on the Rights of the Child, petty regimes of uniforms and confiscations, physical punishment (by untrained staff) being re-introduced as restraint for being disruptive, endless surveillance (including finger-printing, cameras etc), curriculum content over which neither the young people consuming it nor the teachers delivering it have any input, and dismissive designation of young people as 'pupils', can be held up as beacons of institutions which promote the rights of young people.

As a society we are fortunate that these proposals were not implemented. The 'reforms' proposed by Mr Badman had they been successful would not simply have instituted an intrusive regime of inspections and monitoring for home educators (by people whose ability to act in the interests of the welfare of young people at any level is extremely questionable); they would in effect have made 'schooling' compulsory for all rather than a service which is offered by the state for people to take if they choose. To some extent the proposals were perhaps designed to please certain interest groups and were not entirely serious - that they had to be rationalized into workable form when the legislation was drafted bears this out.

The struggle here is between power and freedom. Those who are pre-occupied with power exaggerate the dangers which are associated with freedom and use these to argue for the removal of freedom. They argue for more power and less freedom while trying to sound as if they are motivated by humanitarian concerns. But humanity has to be on the side of freedom because ultimately it is freedom which is the guarantee of freedom.

Notes

The main reference is the review report itself which is (at the time of writing) available online at <http://publications.education.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=HC+610&> .

If you have downloaded this essay from www.justinwyllie.net the report is also available linked from /essays on that site.

References in this essay to (Recommendation n) refer to the specific recommendation in the report.

References like this: (3.5) refer to sections in Badman's report.

1. BECTA was charged with promoting the use of IT in schools; one of its more unpleasant outputs was a report extolling the benefits of bio-metric surveillance in schools on 'efficiency' grounds.

2. <http://www.york.ac.uk/iee/strategyboard/bios/gbadman.htm>

3. <http://www.publications.parliament.uk/pa/cm200910/cmbills/008/10008.38-44.html>

4. 2004 Children Act 10 (1)

5. <http://www2.ohchr.org/english/law/crc.htm>] todo check this link

6. Section 436A Education Act 1996 inserted by section 4(1) Education and Inspections Act 2006

7. See Michel Foucault in *Discipline and Punish*. Penguin 1991. Foucault provides a historical analysis of the 'birth of the prison' and disciplinary systems of the modern era in general.

8. <http://www.cypnow.co.uk/news/ByDiscipline/Education/974198/Badman-review-blasted-MPs-inquiry/>

9. <http://www.lscbbirmingham.org.uk/press/BSCB+Press+Release+Final+Case+14.pdf>

10. <http://www.dailymail.co.uk/news/article-1325796/Cage-autistic-pupil-removed-Nicolson-Institute-Stornoway.html#comments>

11. <http://news.bbc.co.uk/1/hi/wales/7671830.stm>

12. Where Have all the Intellectuals Gone. Frank Furedi. Continuum Press, September 2004

13. Maureen James. Smallholder. October 2010.

14.1 Ivan Illich. Deschooling Society. 1971. Calder and Boyars Ltd. (Chp 2 Phenomenology of School)

15. Communist Manifesto. Karl Marx. In the Section 'Proletarians and Communists'.

16. Professor Frank Furedi. Where have all the intellectuals gone Continuum 2004

17. Ivan Illich. *ibid.* p31

18. <http://nationalstrategies.standards.dcsf.gov.uk/primary/publications/banda/seal>

19. The Dangerous Rise of Therapeutic Education. Ecclestone and Hayes. Routledge 2008.

20. <http://www.dcsf.gov.uk/everychildmatters/ete/independentreviewofhomeeducation/irhomeeducation>
21. <http://www.spiked-online.com/index.php/site/article/8632>. TODO CHECK
22. <http://www.telegraph.co.uk/education/educationnews/7874818/CCTV-turning-schools-into-prisons.html>
23. <http://www.justinwyllie.net/essays/biometric.pdf> Justin Wyllie 2009. The original BECTA document is no longer available on the internet but a copy is available here:
http://www.justinwyllie.net/essays/becta_surveillance.doc
24. See the letter from Ed Balls to Graham Badman dated 11 June 2009.
<http://www.dcsf.gov.uk/everychildmatters/ete/independentreviewofhomeeducation/irhomeeducation/>
25. Paulo Freire. Pedagogy of the Oppressed. 1970. Various editions. E.g. Penguin 1996.
- 26 Reference given by Badman: Harrison and Harrison v Stevenson (1982) QB (DC) 729/81
27. <http://www.scribd.com/doc/21310084/HomeEd-Right-to-Reply>
28. <http://www.telegraph.co.uk/news/uknews/1529531/500-fines-a-week-given-to-truants-parents.html>
29. That refusal to accept an ABC or Parenting Contract could be used to support an application for the full order is a claim made by the Home Office. I cannot locate this in the legislation and assume therefore that it is a suggestion to organizations applying for these orders that this could form part of their overall case to present to the courts. There appears to be an assumption that the courts would take the same view - that refusal to accept an ABC is itself evidence of anti-social behaviour.