REPORT OF THE CHILDREN AND YOUNG PEOPLE SCRUTINY COMMISSION

Investigation into unregistered educational settings in Hackney Children and Young People Scrutiny Commission – 15th January 2018 Cabinet – *to be confirmed* Council – *to be confirmed*	**Classification** **Public**	**Enclosures** **Questionnaire** - Have your say – is the Council doing all it can to ensure the quality of education, the safety and the safeguarding of children in unregistered settings in Hackney? **(CYPS investigation)**

FOREWORD

In 2016/17 the Children and Young People Scrutiny Commission started an investigation into unregistered educational settings; establishments which although aiming to provide a child's substantive educational experience often fail to comply with any of those regulations which help to keep them safe and ensure that they receive a quality and balanced education. These unregistered settings are often, although not exclusively, associated with faith groups, where parents may wish for their children to be educated within particular cultural or religious parameters that are not catered for within registered or mainstream educational settings.

This is an issue across the UK, in a number of largely urban areas, and relating to a range of different faith groups. In Hackney the issue of unregistered educational settings chiefly relates to the education of boys within the Charedi Orthodox Jewish population living in the Stamford Hill area.

This review was prompted by national and local concerns about unregistered educational settings which highlighted the unsafe conditions in which some children were being taught, the lack of safeguarding controls in those settings and the teaching of a narrow curriculum. Locally, the lack of safeguarding procedures in unregistered educational settings was brought to the attention of the Commission and local and national media, when 34 children from Hackney who attended an unregistered educational setting had to be rescued by Kent Coastguard after getting into difficulties on an outing.

Thus, for this investigation the Commission set itself the following objective: "Is the Council doing all it can to ensure the quality of education, the safety and the safeguarding of children in unregistered educational settings in Hackney?"

In its work the Commission has taken evidence from Council officers to help understand what work has already been undertaken to date. It has also taken evidence from regulatory partners including the Department of Education, Ofsted, City & Hackney Safeguarding Children Board, London Fire Service, the Local

Planning Authority and the Health and Safety Executive to understand the challenges of identifying unregistered educational settings and enforcing improvements. The Commission has also engaged and involved the Charedi Orthodox Jewish community, both through its representatives and also directly to the community via a survey.

Our investigation of unregistered educational settings across Hackney has revealed a complex and difficult situation in which the cultural and educational traditions of one particular group, the Charedi Orthodox Jewish Community, are at odds with the Council's statutory duty to safeguard local children and Central Government's duty to ensure they receive an appropriate education which conforms to national standards.

The Commission found that legislation around the regulation of unregistered education settings is at best patchy and at worst contradictory, which means that the Council and other statutory bodies find it impossible to satisfy themselves that the expected standards of safety and safeguarding are in place. Thus, whilst the parents of at least 1,000 teenage boys in Hackney send them to unregistered establishments to access the learning that they wish them to receive, being unregulated, there are few if any safeguards in place to ensure their safety and well-being or that they are being taught to an acceptable standard.

The Council and the City and Hackney Safeguarding Children Board, both at an officer level and politically, have been grappling with these issues for some years, and have extensively lobbied ministers. Despite repeatedly having been told by safeguarding and other professionals dealing with this issue that they have no legal 'clear line of sight' on children within these settings, the Department for Education has indicated that it has no plans to legislate in the current legislative cycle. We find this unacceptable and if a case of serious abuse were to be revealed in one of these settings we would consider that the Department for Education would have serious questions to answer.

The Commission makes three key recommendations:
(i) That the Council develop a formal strategy which sets out a clear, comprehensive and transparent approach to dealing with unregistered educational settings in Hackney;
(ii) That the Charedi Orthodox Jewish community engage and work with the City & Hackney Safeguarding Children Board who are ready to support the development of a safeguarding assurance process in unregistered educational settings;
(iii) That the Council continue to lobby Central Government, as a matter of urgency, for an improved and effective regulatory and enforcement framework for unregistered educational settings which is backed up by legislative change. Government should review its legislative timetable and produce a statement of intent about how it plans to close the evident legal loopholes that allow unregistered educational settings to operate with impunity.

Ultimately, all the Commission's recommendations are about ensuring improved outcomes for children and young people and ensuring that all educational settings are registered and therefore children in them enjoy the same protections and access to high quality education as other children in Hackney. Hackney is rightly proud of an amazing turnaround in the standards in its schools. Twenty years ago less than 60%

of parents wanted to send their children to a Hackney secondary school, but now that figure is above 85%. The strategy should set out a long term vision whereby the cultural traditions of our residents can be catered for, but at the same time every child has access to a safe registered educational setting in which they can thrive and learn the skills they will need for a successful future.

The answer to the question posed in the title of the review is that although it has worked hard with various partners, the Council should do more to bring these efforts into the public domain, both through the publication of a formalised strategy, and also through intensified and more public lobbying of Government. In addition, the Commission also asks for much more engagement from the wider community, and for greater leadership and direction from central Government, which has shown a lack of willingness to engage with the serious nature of this issue and its potential consequences. Whilst Government currently shows no desire to act in the immediate future, the Commission is confident that the Council and its partners, especially the Charedi Orthodox Jewish community will act in good faith on our recommendations for the benefit of all concerned.

My thanks go to all Commission members, Council officers, community representatives, partners in other organisations and members of the public who have worked so diligently and sensitively to make this review possible.

Cllr Christopher Kennedy
Chair- Children and Young People Scrutiny Commission

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1. INTRODUCTION

Events leading up to this review

1.1 Section 463 of the Education Act (1996) defines an independent school as any setting which is not funded by a Local Authority (LA) and at which full-time education is provided to 5 or more pupils of compulsory schooling age (5-18 years) or where at least one child has special educational needs (SEN). If any of these criteria are met, for legal compliance the independent school must apply to the Secretary of State to be placed upon the Independent Schools' Register. Those educational settings that do not register therefore operate illegally and are subject to possible prosecution.

1.2 Given that such unregistered educational settings (UES) operate outside the law they are not subject to standard statutory inspection and enforcement regimes in place for registered schools. In the absence of such oversight and regulation, welfare concerns have been raised for those children that attend UES, particularly in relation to the health and safety of premises used, adherence to standard safeguarding protocols and the nature of the curriculum taught.

1.3 As many of the UES choose to act covertly, there is little definitive or publicly available data to indicate how many UES may be in existence or how many children may attend. Media reports however, which have cited unpublished government documentation, have suggested that there may be as many as 290 UES in England (The Telegraph, 2017) at which up to 6,000 children attend (The Times, 2017). Similar reports would suggest that a significant proportion of UES are faith based, where the ethos, teaching and learning are based around the tenets of a specific religion, predominantly Islamic, Jewish or Christian.

HMI Inspectors Advice –2015/16

1.4 Over 2015/16, in a series of advice letters to the Secretary of State for Education, the Chief Inspector of Schools highlighted wide ranging and significant welfare concerns about UES in England (Ofsted, 2015; Ofsted 2015a; Ofsted 2016). Within these letters, serious concerns were identified at inspected UES which included:

- The lack of safeguarding protocols in place, particularly the failure to undertake appropriate checks on staff;
- Serious fire hazards, unhygienic conditions and other health and safety contraventions at premises used;
- The teaching of a narrow curriculum incorporating the use of inappropriate books and texts.

1.5 The release of HMI Inspector's Advice attracted widespread media coverage about UES at both the national (Independent, 2016) and local (Hackney Citizen, 2016) level.

Children & Young People Scrutiny Commission

1.6 Such widespread media coverage brought this issue of UES to the attention of the Children and Young Peoples Scrutiny Commission in Hackney, where it was noted that despite a long history of engagement by national and local agencies, UES continued to operate from within the Charedi Orthodox Jewish community.

1.7 This issue was discussed by the Commission at its meeting on 14th April 2016, where the Acting Group Director for Children, Adults and Community Health, reported on the work of the Council with UES to date. It was noted that there were thought to be up to 29 UES operating in Hackney and that these were exclusively yeshivas, offering religious teaching to between 1,000-1,500 boys within the Charedi Orthodox Jewish community in Hackney.

1.8 Whilst there had been repeated attempts on behalf of the local authority to engage local UES and the Charedi Orthodox Jewish Community, the community were reluctant to engage on this issue or to provide further details of UES operating in Hackney. Furthermore, the Commission noted that the Council had limited powers to ensure the safety and well-being of children or the quality of education taught in such settings, and that it could not close any UES even where they were found to be operating illegally.

1.9 The Commission understood that the Council continued to work closely with the Department for Education (DfE) and Ofsted (the education inspection agency) as well as other local agencies, to identify how safety and safeguarding in these settings could be improved and how UES operating illegally could be brought into compliance with the regulatory framework.

1.10 Given the complexity of this issue, and the ability of scrutiny to engage and bring stakeholders together, it was agreed that an investigation of UES in Hackney could be a considered for an in-depth review for the Commission within its 2016/17 work programme which would be decided on 16th June 2016.

Kent Coastguard Incident - June 2016

1.11 In the interim, however, in early June 2016, a group of 34 children and two adults were the subject of an emergency rescue coordinated by Kent Coastguard after becoming stranded on a beach near Dover. The party had been on a day trip to the coast but had become lost and were trapped against the cliff by an incoming tide in the dark. Whilst none of those rescued suffered serious injury, this was undoubtedly a traumatic experience for all those involved.

1.12 A subsequent investigation revealed that the rescued children were all boys aged 13 to 14 years who did not attend a registered school, but a yeshiva within the Charedi Orthodox Jewish Community in Hackney. Given the circumstances of the rescue and the apparent lack of safeguarding procedures in place to protect the children, the incident attracted widespread media coverage at national (The Telegraph, 2016; The Independent, 2016), regional (Evening Standard, 2016) and local (Hackney Gazette, 2016) levels.

1.13 This incident in Kent and subsequent press coverage served to reinforce the health and safety and safeguarding concerns for children in attendance at UES in Hackney. At its meeting on 16 June 2016, the Commission therefore agreed to undertake a full in-depth review of UES in Hackney which would encompass the health and safety, safeguarding and the nature of the curriculum taught in such settings.

Aims, Objectives and Methods

1.14 The terms of reference for this scrutiny review of UES were discussed and agreed by the Commission at its meeting in February 2017. In this context, the Commission agreed that the overarching aim for the review, which would guide and inform the work of the Commission, was to answer the question set out below:

> *'Is the Council doing all it can to ensure the quality of education, the safety and the safeguarding of children in unregistered educational settings in Hackney'?*

1.15 Within this overarching aim, a number of component objectives were also agreed to further direct the work of the Commission. Thus, as part of its investigation into UES, the Commission also wished to:

- Understand the legislative framework that governs the operation of independent schools, how they are authorised and the standards required for registration and legal compliance;
- Assess the nature and scale of UES in Hackney, why such settings choose to remain unregistered and therefore operate illegally, the number of such settings operating in the borough and the number of children that attend;
- Assess the nature of safeguarding, health and safety or broader welfare concerns for children in attendance at UES in Hackney;
- Assess the effectiveness of the regulatory framework for UES, the roles and responsibilities of national and local agencies within this and how effectively they work together to :
    - Identify UES operating in Hackney;
    - Identify those children that may be attending an UES and not receiving suitable full-time education;
    - Safeguard and protect the health, safety and wellbeing of those children that attend an UES.

1.16 Given the complexity and sensitivity of this issue, the Commission sought to engage all parties and stakeholders connected with UES in open and honest dialogue and discussion. Therefore, as well as engaging representatives from local and national education, health and welfare services, the Commission sought to engage representatives from the Charedi Orthodox Jewish community, to bring to the review a more developed understanding of their religious and cultural beliefs and how these influence the educational aspirations and schooling decisions of this community.

1.17 Ultimately, through its investigation, the Commission wished to develop a set of recommendations that would help to develop an agreed pathway among local stakeholders to ensure children attending UES in Hackney were safeguarded, and that their well-being needs are met in regards to health, safety and quality of education that they receive.

Methods

1.18 A range of data gathering methods were employed by the Commission to meet the aims and objectives of the review set out above. These included:

- Desk based research;
- Public evidence gathering sessions and informal meetings with stakeholders;
- Survey research.

1.19 Desk based research was undertaken to help the Commission understand the statutory guidance for the registration and inspection of independent schools and the standards required of them to remain registered. Similarly, desk top research was also used to help the Commission to understand the regulatory and enforcement framework, and the roles of those agencies within it, for those settings which choose to remain unregistered and therefore operate illegally.

1.20 Three public evidence sessions were held with local and national stakeholders from November 2016 through to February 2017. At these sessions, the Commission discussed a range of issues pertaining to the operation of UES with local and national stakeholders. Stakeholders that contributed to this review included representatives from the London Borough of Hackney, other statutory agencies and representatives from the Orthodox Jewish community.

1.21 Specific stakeholders that were identified to be included within the review are listed below. The details of contributors that participated in the review are given in section 8 of this report.

Sector / organisation	**Stakeholder**
Service users / general public	▪ Parents with children in unregistered educational settings ▪ Hackney residents
Council Departments and services	▪ Hackney Learning Trust ▪ City and Hackney Safeguarding Children Board ▪ Children, Adults and Community Health (in particular Children and Families Service) ▪ Planning and Regulatory services
Other London Boroughs / Councils	▪ Boroughs with a number of religious independents schools and possibly a number of unregistered educational settings.
Government departments and executive bodies	▪ Ofsted ▪ Department of Education ▪ London Fire Brigade - Hackney ▪ Health and Safety Executive
Non-governmental organisations / lobby groups	▪ Educational settings in the Orthodox Jewish Community ▪ Union of Orthodox Hebrew Congregations

	▪ Partnership for Jewish Schools

1.22 A survey was designed by the Commission to help capture community perspectives on the operation of UES in Hackney and to facilitate wider public involvement in the review process. An on-line survey tool was developed to support distribution of the survey. The on-line survey was supplemented by the distribution of paper copies via local libraries and local synagogues. In total, 40 survey responses were completed and the analysis of this data is provided in section 5.5 of this report.

1.23 The following report details the main findings of the Commission, which together with its conclusions and recommendations will hopefully guide and inform the Council's approach to UES in Hackney.

2. SUMMARY, RECOMMENDATIONS AND OUTCOMES

2.1 The recommendations of the Commission are outlined below. The full findings are presented in Section 5 of the report.

2.2 The Commission makes three key recommendations.

2.3 The first key recommendation is that the Council develop and publish a formal strategy that clearly sets out its approach to unregistered educational settings, not just with the Charedi community, but wherever they may arise. Given the complexity of the situation, the Commission is of the view that this will help develop a comprehensive and consistent approach to UES in Hackney that is open and transparent about the Council's role and its engagement with all residents, especially the Charedi Orthodox Jewish Community. Hackney has achieved a major turnaround of the standard of local schools so that as of March 2017, over 95% of maintained primary and secondary schools were rated as good or outstanding (Government Statistics, 2017). The strategy should set out a long term vision whereby every child in Hackney should have access to an excellent education whilst still respecting the cultural traditions of all our residents.

2.4 The second key recommendation responds to the most concerning evidence the Commission received which was from City & Hackney Safeguarding Children Board who reported that they could give no reassurance that adequate safeguarding was in place in many unregistered educational institutions. Charedi Orthodox Jewish community representatives told us they were sure that safeguarding was a paramount concern in all establishments, even though they do not represent all sects that make up their community. Consequently, without the evidence of standard inspections and given recent reported breaches within the Orthodox Jewish community in both Melbourne (Australian Royal Commission, 2017) and in New York (The Guardian, 2012), the Commission recommend that all community leaders enter into a safeguarding reassurance process with the City and Hackney Safeguarding Children Board. Progress on this is to be reported back to the Commission at regular intervals.

2.5 The Commission is also convinced that the legislation in respect of unregistered settings is woefully inadequate and is baffled by an apparent lack of desire on the part of the Government to rectify this situation, despite numerous representations from leading officers and politicians in Hackney. Our third key recommendation is therefore that lead members and chief officers of Hackney Council continue to robustly, and openly, press senior members of the Government and the Department for Education for legislative change on unregistered educational settings and related issues around home schooling.

KEY RECOMMENDATIONS

Recommendation 1. Unregistered Educational Settings Strategy

To formalise and build on the work that has already been undertaken locally, it is recommended that the Council *develop* and *publish a* strategy that clearly sets out its

approach to UES in the borough. Such a strategy will help to develop a comprehensive, consistent and transparent approach to UES, particularly within the Orthodox Jewish Community in Hackney.

The Hackney UES strategy should explicitly set out:

a) Local ambitions and priorities for UES and those children that attend, and which clearly describe the expected benefits of registration and compliance with the regulatory framework in respect of health and safety, safeguarding, educational outcomes and community cohesion;
b) The legal duties of the Council (and partners) in ensuring that children attending UES in Hackney are taught in safe and hygienic conditions, that there are rigorous safeguarding protocols in place, that their well-being is promoted and that the curriculum taught conforms to agreed standards;
c) The roles and responsibilities of the Council and its statutory partners in the regulatory and enforcement framework for UES; specifically to state how they work together to identify, support and promote compliance with regulatory standards for health and safety, safeguarding and quality of education taught;
d) How the Council will engage the Orthodox Jewish community and its representatives to promote compliance and adherence to the regulatory framework;
e) The legal responsibility of parents to provide an appropriate and full-time education for their child regardless of setting.

Recommendation 2. Charedi Orthodox Jewish community developing cooperation with the Local Safeguarding Children Board to establish a safeguarding process

Whilst the Commission acknowledges the challenges in developing meaningful engagement and involvement with the Charedi Orthodox Jewish community, this remains the only way to secure consensual and lasting change and to bring UES into regulatory compliance in Hackney. The Commission therefore recommend that engagement efforts are renewed, and that a contact group be established between Community leaders, including the Union of Orthodox Hebrew Congregations, Interlink, Head Teachers of Registered Independent Schools and Chief Rabbis of all Charedi sects operating yeshivas in Hackney, and the City and Hackney Safeguarding Children Board (or its equivalent successor organisation) to support the development of a safeguarding reassurance process.

The establishment of such a contact group would help to build trust and confidence, and demonstrate a commitment to improve understanding of those issues pertaining to UES and to develop shared solutions to improved safeguarding arrangements for children that attend such settings. It is recommended that the contact group:

a) Is led by the Independent Chair of the Safeguarding Board and therefore free from involvement of any other statutory body including e.g. Hackney Council, the Metropolitan Police or Ofsted;
b) Should develop a clear remit and terms of reference which should:
    (i) Set out those measures that will build confidence between and among various representative including how UES will be engaged and involved;
    (ii) Agree the nature of safeguarding standards to be established in UES (for example DBS checks on staff, staff awareness and training in safeguarding, anti-bullying, complaints procedures, whistleblowing, health and safety);

(iii) Identify those systems and processes that will provide assurance that identified safeguarding standards are being met within UES (e.g. health checks, piloting and peer assessment and assurance) and acknowledge that this will be an incremental process;

(iv) Agree key milestones and outcomes (both process and safeguarding practice) and the timeframe for their implementation within UES in Hackney.

c) Report back progress of its work twice yearly to the Children and Young Peoples Scrutiny Commission and annually within the City and Hackney Safeguarding Children Board Annual Report.

Recommendation 3. Lobbying for an effective legislative framework for UES

It is recommended that the Mayor and Chief Officers within the Council continue to robustly press the Secretary of State for Education for a more effective legislative framework for UES. Government should review its legislative timetable and produce a 'statement of intent' about how it plans to close the evident legal loopholes that allow UES to operate with impunity. Specific improvements required of such new legislation would be to:

a) Extend the definition of a school, or a part-time school, to include settings where only religious studies are taught and this is a child's main educational experience;

b) Expand the powers of entry, inspection and enforcement of UES to give local authorities greater powers to regulate and improve such settings, particularly in relation to health and safety and the safeguarding of children;

c) Improve regulation around home schooling, specifically making it a legal requirement for parents to notify the local authority if their child is being electively home educated, and additional powers for the local authority to ensure the quality of education where children are home schooled;

d) Improved statutory guidance for how local statutory agencies work in partnership to improve safeguarding of local children (sharing of inspection data, shared intelligence);

e) Improve statutory guidance and powers to help local authorities track those children missing from education – with a duty of cooperation among partners (see recommendation 6);

f) Provide further clarification about the introduction of a system of regulation for out-of-school settings (including for example, the maintenance of a central register and being subject to inspection and sanctions for those not meeting required standards).

ADDITIONAL RECOMMENDATIONS

2.6 The Commission has made other recommendations to support the key ones outlined above. Hackney is not the only authority that has concerns on UES, indeed authorities in Birmingham, Salford and Luton have experienced similar issues across a range of faith groups. The Commission therefore recommended that Hackney creates an alliance with these and other authorities to share solutions, develop a common approach and create a stronger lobbying voice for legislative change for UES.

2.7 No approach to UES can be adopted without an aligned regulatory and enforcement approach by local and national agencies. The Commission is of the view that further

joined-up working between regulatory partners locally will help to identify and regulate UES.

2.8 The Commission understood that parents can exploit lax regulations around elective home education to mask attendance at unregistered educational settings and prevent authorities from knowing the whereabouts of children. In addition, those children that never attend a registered school effectively remain hidden from authorities, which limits any enforcement action that can be taken. In this context, the Commission were of the view that improved tracking arrangements should be developed to help identify those children missing from education.

2.9 The Commission were of the view that UES cannot be seen in isolation from other educational settings attended by children from our Orthodox Jewish Community or indeed any other group. It is therefore recommended that engagement and liaison with the independent school sector is strengthened.

2.10 The Commission makes a further three recommendations. Firstly, more could be done to engage parents directly and empower them with information about regulations designed to keep their children safe. Secondly, whilst safeguarding has been the main focus of the inquiry and recommendations we cannot ignore the specific issues with regards to the curriculum in yeshivas and other settings, particularly the lack of focus on English and mathematics. Finally, with specific regard to the Charedi Orthodox Jewish community there is an opportunity for the Stamford Hill Area Action Plan to address some of the issues raised in terms of educational capacity, training and employment.

Recommendation 4. Development of a local authority alliance

It is recommended that the Council should take the lead in developing an alliance with those authorities which experience similar issues with UES. Such an alliance will facilitate the sharing of good practice and help to develop a common approach to resolving those concerns with UES. In addition, such an alliance will aid the collection of evidence and strengthen the position of those authorities to lobby for legislative change with the Secretary of State for Education and other governmental departments. To support this recommendation the Council should consider hosting a UES conference for local authorities as this will help to maintain the public profile of this issue, assist in identifying the legislative reforms required and help to identify common ways forward for local authorities.

Recommendation 5. Improved partnership working among regulatory partners

The Commission noted evidence of positive collaboration among regulatory partners, though it is apparent that such partnerships between the Council (Planning, Learning Trust, Children & Families and Food Safety) and statutory partners (Health & Safety Executive, Fire Service, Ofsted) could be improved and formalised to help strengthen and improve the regulatory framework for UES. To support this process, it is recommended that a Memorandum of Understanding or similarly agreed protocol is developed across these agencies to:

a) Identify a common approach and priorities for UES – e.g. child safeguarding;
b) Share data and intelligence about UES across statutory partners (e.g. location, number of children in attendance, health and safety concerns etc.);
c) Undertake joint holistic inspection and assessments of UES;

d) Develop a coordinated response and interventions where such settings are uncovered, and do not meet regulatory standards.

Recommendation 6. Children Missing Education

Understanding that a significant number of Charedi Orthodox Jewish children are able to remain outside the registered school sector and therefore unknown to the Council and other regulatory partners, the Commission recommends that the Council must improve those systems for identifying and tracking children missing from education. Improved tracking and identification processes are central to developing an informed and proportionate response to UES, and will help to establish a clearer picture of the nature and scale of UES and the children that attend them, and to guide and support regulatory and enforcement action. To this end it is recommended that the Council:

a) Lobby for legislative change that legally requires parents to notify their LA if their child is electively home educated (as in 3 above);
b) In line with statutory requirements, ensure that all local Independent Schools notify the LA of those children that enter or leave the school register at standard transition points;
c) In line with statutory requirements ensure that all local Independent Schools notify the local authority when a child leaves or is placed on the central school register outside transition points;
d) In line with statutory guidance, raise awareness of the Council's children missing education procedures and notification processes with local agencies including schools, GPs, other health professionals (Health Visitors), clinical commissioning groups, police and other emergency services, housing agencies and voluntary sector groups;
e) Given the possible numbers of children involved (1,000-1,500), ensure that the Children Missing Education Service is adequately resourced and supported to undertake systematic identification, tracking and enforcement procedures;
f) With improved detection of those children missing education, introduce a more robust policy of administering enforcement notices and School Attendance Orders.

Recommendation 7. Relationship with registered schools within the Independent Sector

Although there are limited statutory duties and responsibilities for the Council in respect of registered schools within the independent school sector, given a) the interrelationship between this sector and the children that attend them and UES and b) the number of local independent schools which are not reaching the required standards or where explicit safeguarding concerns have been raised; it is recommended that engagement and liaison with the local independent school sector by the Council should be strengthened. Improved relationships will help build links, trust, and confidence and help to establish those systems and processes which ensure local children are taught in safe conditions, that their welfare is safeguarded and they obtain the best possible educational outcomes.

Recommendation 8. Enabling parents within the Orthodox Jewish Community to provide challenge to UES

Parents are ultimately responsible for the safety and welfare of their child and legally obliged to ensure that they are in receipt of appropriate full-time education. It is recommended therefore that the Council should engage and involve parents within

the Charedi Orthodox Jewish community, to inform them of relevant statutory health and safety regulations (e.g. fire safety) and safeguarding standards (e.g. DBS checks) required for their child's schooling, with the intention of supporting parental enquiry and challenge to local UES. It is recommended that the Council should start to engage directly with parents in the Charedi community, rather than relying on intermediary bodies.

Recommendation 9. Curriculum in UES

Whilst it was broadly recognised that child safeguarding must take a priority for the Council and other regulatory bodies, there was widespread recognition that specific issues with the curriculum at yeshivas remained which could not be ignored and not addressed given the marked differences in educational attainment and the work and training outcomes that result for the Orthodox Jewish Community (particularly among males).

It is the belief of the Commission that there will be a significant benefit for the Charedi Orthodox Jewish community if English and STEM subjects (science, technology, engineering and maths) were taught in parallel with religious studies, and in advance of likely changes to legislation.

Specifications and standards for any school curriculum, irrespective of setting, are however determined and regulated by the Department of Education and this is an area over which the Council has no powers. In addition, the Department of Education and Ofsted are responsible for inspection, compliance and enforcement of the curriculum quality and standards within all educational settings.

In this context, the Commission recommend that the DfE and Ofsted work with the Charedi Orthodox Jewish Community to identify those processes which can lead to a pathway to compliance for UES, in which the curriculum taught is balanced, of sufficient quality and provides outcomes for children which enable them to achieve better outcomes for themselves and their families. The Commission recognise that the Council has no direct role here, but recommends that the Council should facilitate this work and help to move this issue forward wherever possible.

Recommendation 10. Stamford Hill Area Action Plan

The Commission noted that the Stamford Hill Area Action Plan (SHAAP) is still in the process of development and finalisation, and as such represents an opportunity to address those education and training issues identified for the Orthodox Jewish Community within this review. It is recommended therefore that the Council ensures that the SHAAP makes sufficient provision in respect of:

- Capacity of educational settings to deal with future demand from the Orthodox Jewish community;
- Availability of potential sites for registered education settings;
- Youth employment, training and apprenticeship opportunities for young people in the areas, particularly from the Orthodox Jewish community.

2.3 Outcomes

2.3.1 The Commission was keen to give residents a chance to voice their views on yeshivas directly, which is why a survey, the findings of which are included in the report, was an important part of this review. The survey elicited responses directly

from the Orthodox Jewish community. Although the survey size was small (40), a significant number of respondents said they were Jewish (58%) and 30% specifically identified as Charedi.

3 FINANCIAL COMMENTS

3.1 The recommendations for the Council contained within this report largely build on work already underway and are not expected to have further financial implications. For example Hackney Learning Trust officers are at an advanced stage of developing the strategy document referred to in recommendation one.

3.2 Responses to recommendations 4 and 5 need to be developed in consultation with finance colleagues as the impact will depend on, for example, size and venue for a conference and the nature and extent of the Council's commitments under the recommended Memorandum of Understanding with the expectation that these will be contained within current budgets.

3.3 In relation to recommendation 6, the Children Missing Education team structure has recently been reviewed and a shortfall in resource was not identified.

4 LEGAL COMMENTS

4.1 Legal has considered the contents of this report and confirms that it reflects the position of the law.

4.2 The Children and Young People Scrutiny Commission is empowered under Article 7 of the London Borough of Hackney's Constitution to undertake reviews and make recommendations following such reviews to the Executive, Full Council and external partner organisations.

4.3 The aim of the Commission in carrying out this review was to satisfy itself on the following "is the Council doing all it can to ensure the quality of education, the safety and the safeguarding of children in unregistered educational settings in Hackney?"

4.4 Legal Services note that the Commission has made a number of recommendations which is commendable as a general policy thrust. However, as noted in the recommendations, at present the law surrounding Unregistered Educational Settings is inadequate and makes it very difficult for the Council to satisfy itself that it is doing all it can to safeguard children in these types of settings.

4.5 The recommendations are clear and well thought out. They include but are not limited to the Council lobbying for amendments to the law and collaborating directly with the Orthodox Jewish Community and other external organisations to find ways to improve the well-being of their children without disrespecting their religious and cultural beliefs.

5. FINDINGS

5.1 The national and local context

The national context

5.1.1 Although there is no publicly available data, speculative press reports (based on unpublished Ofsted data) would suggest that there are in excess of 290 unregistered educational settings in operation in England (The Telegraph, 2017) at which up to 6,000 children attend (The Times, 2017).

5.1.2 Similar press reports would suggest that suspected unregistered educational settings are operating throughout England, with concentrations recorded in both London and the Midlands. It is not clear what proportion of these unregistered settings are faith based, but where a faith based ethos has been identified, 57% were operated by Islamic faith groups, 31% by Jewish faith groups and 12% Christian faith groups (Independent, 2017).

5.1.3 The full scale and nature of unregistered educational settings operating in England however is unlikely to ever be fully known, given that many of these choose to operate outside the law and therefore do so covertly.

5.1.4 On the basis of health and safety, safeguarding and curriculum concerns raised by HMI Chief Inspector of Education (Ofsted, 2015; Ofsted 2015a; Ofsted 2016), a dedicated inspection taskforce was established within Ofsted in early 2016 to investigate suspected unregistered educational settings and pursue those individuals who operate them.

5.1.5 Although it has been reported that almost 40 warnings have been issued to unregistered educational settings operating illegally as a school, there have been no successful prosecutions to date (Schoolsweek, 2017). It is widely recognised, however, that the legal framework for tackling unregistered educational settings is undefined (e.g. in how a school is defined) and has significant omissions (e.g. in relation to elective home education) which limits enforcement action by Ofsted and other regulatory partners.

The local context

5.1.6 Local intelligence reported to the Commission would suggest that there are at least 20 unregistered educational settings in Hackney. On the whole such unregistered educational settings are yeshivas, which provide religious teachings for males aged 13-18 years from the Charedi Orthodox Jewish community.

5.1.7 The existence of yeshivas (and any subsequent recommendations regarding UES) have to be understood within the context of the local area and the religious beliefs and cultures upheld by the local Orthodox Jewish community.

Demography

5.1.8 The 2011, census estimated that there were 17,600 members of the Jewish community living in Hackney, which is approximately 6.3% of residents living in the borough. Using this same data, it was recorded that Hackney had the third highest

proportion of Jewish residents across England after Barnet (15.2%) and Hertsmere (14.3%), and was significantly higher than the London average of 1.8% and the national average of 0.5%.

5.1.9 As the Orthodox Jewish community is considered to be a group less likely to complete the Census form, or to complete the religious category, this official estimate is likely to be lower than the actual population. A study was commissioned by the Council to use administrative data to provide an alternative estimate to help address the concern that certain groups might be under-estimated in the Census. This found that Jewish residents makeup at least 7% of the population (Mayhew Harper Associates, 2011). More recent work undertaken by the Interlink Foundation, a representative body for community groups within the Orthodox Jewish community, would suggest that the census data would be an under-representation, as the number of residents from the Charedi Orthodox Jewish community alone was far higher at 28,000 (which would equate to 10.2% of the population based on the ONS 2016 population estimate of 273,500 for Hackney).

5.1.10 National data would suggest that that the Jewish community is growing at a faster rate than for other religious groups, particularly among the Charedi Orthodox Jewish community. Using 2011 census data, the estimated total fertility rate (the average number of children born to a woman in her lifetime) for the Charedi Orthodox Jewish community was 7.0, which was far higher than for mainstream Jewish (1.98), Muslim (3.25) and Christian (1.53) communities (Staetsky & Boyd, 2015).

5.1.11 As a result of this high birth rate, in Hackney, 2011, there was estimated to be 9400 children and young people aged 0-19 in the Orthodox Jewish community, which is 53.5% of the Orthodox Jewish population. The proportion of 0-19s in the wider population is 27.1% (Mayhew Harper Associates, 2011).

5.1.12 The Charedi community is particularly concentrated in the northeast corner of the borough along the border with Haringey, where there is also a significant resident population (Mayhew Harper Associates, 2011).

5.1.13 At a staff and member training event in 2017, the Children and Families Service revealed that it used working estimates of 10% of the adult population and 20% of the child population in Hackney now belonging to the Charedi Orthodox Jewish community.

The distinctive identity of the Charedi Orthodox Jewish population

5.1.14 The Interlink Foundation is a network of Orthodox Jewish community organisations that provide internal facing services, such as capacity building, training and school support, as well as external facing services to raise awareness and to support partnership working. They were invited to contribute to the evidence session on 16th November 2016 by giving a presentation on the history and culture of the Orthodox Jewish Community in Hackney, as well as the education system and cultural and parental expectations in regards to education. This presentation described the ways that the Orthodox Jewish Community is distinct from the wider population, because of strict adherence to Torah law and to traditional Jewish beliefs and practices. The key points made were that:

- Most Charedi Jews are descended from East European refugees and migrants. The Charedi population in Hackney is estimated at 30,000 and the majority belong to the sub-group of Hasidic/Chasidic Jews. This sub-group is further divided into smaller groups such as Satmar, Bobov, Viznits, Belz, Gur and Lubavitch.

- Orthodox Jewish or Charedi are characterized by strict adherence to traditional Jewish beliefs and practices. They are committed to Torah law and its derived laws and traditions as defined in classic works such as the Shulchan Aruch. The word Haredi (Charedi) in Hebrew literally translates as 'one who trembles in awe at the word of God'.

- Everyday life is based on a set of laws, these laws or rituals guide them through the day and impact on the way that life is organised. Getting married and raising a family are Torah requirements and culturally very important. Consequently almost all children and young people grow up in a family setting with mother, father and siblings.

- Co-habitation or intimacy outside marriage is not allowed and there are laws in place to prevent this, these laws are referred to as laws of modesty and are also the reason why most communal activities are single gender only, including activities for young children.

- Orthodox Jewish tradition places importance on retaining cultural identity and it is particularly important to Chasidim (the largest group of Charedi Jews in Hackney).

- Most Charedim do not have televisions, magazines or daily newspapers in their homes as the content often breaches their faith and norms. They also seek to avoid content on the internet that conflicts with their norms. Therefore, the majority choose not to use the internet for social and leisure purposes and try to continue to protect and maintain a sheltered environment, particularly for children and young people.

- Even though Charedi families and schools strive to protect their children by sheltering them from aspects of wider society that conflict with their culture and religion, they seek to live peacefully alongside other communities and to make a positive contribution. Charedi children are taught from a young age about; 'Darkei Shalom – promoting peace and positive relations between Jews and other citizens' and 'Dina Demalchusa Dina – the requirement to observe the law of the land'.

Educational pathways for children from the Orthodox Jewish Community and the tradition of the yeshiva

5.1.15 The presentation from Interlink highlighted that education was of high religious and cultural importance. Parents had a duty to transmit Torah teachings to their children. There is therefore an extensive network of educational settings, the majority of which operate outside the state system. Girls and boys, who are educated separately, follow different pathways. Charedi girls generally follow one pathway from pre-school through to post 16 provision and are educated in either maintained faith schools or independent schools. The boys can follow a variety of more traditional pathways,

including yeshiva preparation at the age of 14, followed by yeshiva and Kollel (for advanced study of the Talmud and rabbinic literature). They can also follow a less traditional pathway, including secular studies at secondary school and studies at a yeshiva first at the age of 16.

5.1.16 According to Hackney Learning Trust, there are 20 independent schools registered in Hackney which state they are Jewish or Orthodox Jewish schools. There are four maintained schools, two primary and two secondary (Simon Marks is not included as one of these four schools as it is a co-educational setting described as a "modern Orthodox Jewish school").

5.1.17 At the Commission meeting in April 2016, the Group Director for Children, Adults and Community Health, Anne Canning stated that there were 29 UES operating in Hackney and that the majority were yeshivas. An estimated 1000-1500 boys were attending these settings. At the Commission meeting in November 2016, the estimate provided by Hackney Learning Trust (HLT) was higher, at 35. This number was contested by the representative from Interlink Foundation, Chaya Spitz on the basis that, in her view, the number of unregistered educational settings would be far fewer than the number of registered independent schools. In that same meeting, the Ofsted Deputy Director for Unregistered Schools said that 13 of the unregistered educational settings that have been identified by HLT might be linked to registered independent schools, which would bring the number down. The absence of a definitive list of yeshivas was highlighted in the evidence session on 9th January 2017 when the Group Director for Children, Adults and Community Health asked if the community kept a centralised list and no direct response was provided.

5.1.18 In the evidence provided by representatives of the Orthodox Jewish community in both November and January, the curriculum was consistently raised as the reason why yeshivas will not register as independent schools. The strong view presented was that there were irreconcilable differences between what was required to be taught in independent schools and what the Orthodox Jewish community would consider acceptable, without changing their way of life, because what was expected by the law was viewed to be against the religious beliefs of the Orthodox Jewish community. The position from the community representatives was that education had remained the same for "thousands of years" and that the community's recent experiences of inspection in registered settings was described as interference. There was also a view that parents would still find a way to follow their deeply held views about the right educational pathway for their children. The community felt targeted and parents would be forced to make choices that were under the radar, choosing to educate their children at home or send their children abroad rather than compromise on these convictions. The only way forward that was presented was if an inspection regime could separate the curriculum from safeguarding. Furthermore, representatives stated that safeguarding was not an issue in schools. During this evidence Ofsted clarified that it was not possible to separate the two issues. If a setting was running illegally, Ofsted will intervene to interrupt practice even if safeguarding checks were in place. In addition, they had a duty to ensure that the Equality Act 2010 was adhered to.

5.1.19 From this, the conclusion is that Orthodox Jewish parents will continue to seek an educational pathway for boys which is within an unregistered setting, whether that is

a yeshiva, home education or somewhere abroad, because of their deeply held religious beliefs about what education is best for their child. The option of working with the community to register yeshivas is not seen by the community as an option because expectations about the curriculum will be imposed which are incompatible with religious belief.

5.2 The legal context

5.2.1 In order to understand fully whether the Council is utilising every possible mechanism to ensure the quality of education, safety and safeguarding of children in unregistered settings, it is necessary first to understand the legal context and regulatory framework. The Commission reviewed some aspects of this context, in terms of the respective roles of Ofsted and the Council, in its meeting on 16th November 2016 and considered a full summary of the legal context on 14th September 2017. From this review of the legal context it is clear that there are gaps in current legislation, which lead to minimal oversight of unregistered schools.

5.2.2 In order to understand the legal framework relevant to UES it is necessary to understand what legislation is in place for Independent Schools. Section 463 of the Education Act 1996 defines an independent school as:

- Any school which is full-time and not maintained;
- Having 5 or more pupils of compulsory school age (5-18);
- Or having at least 1 child with SEND or an EHC plan.

Such schools must register with the Secretary of State.

5.2.3 Independent Schools have greater autonomy in respect of curriculum, hiring staff and admissions policies, but they must adhere to 8 standards under Education Regulations 2014: These standards relate to the following:

- Quality of curriculum (whilst not required to teach the national curriculum, must have age appropriate teaching of linguistics, maths, science, technology etc.);
- Spiritual, Moral & Social education (e.g. teaching of British values such as liberty, respect, tolerance of different faiths);
- Welfare, health and safety (e.g. ensuring children are safe, adequate fire risk assessments;
- Suitability of staff & proprietors (e.g. recruitment and DBS checks)
- Suitability of premises and accommodation;
- Provision of information about the school (e.g. ethos);
- Complaint Handling;
- Leadership and management.

5.2.4 Before they are allowed to operate, Independent Schools are inspected by Ofsted to assess if they meet these standards. Once registered, schools are subject to an inspection cycle. Under Section 97 of the Education and Skills Act 2008, Ofsted inspectors can, with reasonable cause, enter, inspect and take evidence from any registered school. The ultimate sanction available by the Secretary of State is to take the school off the register, thereby making it illegal. In practice, regulatory action is low. In 2015, 104 schools out of 2360 were subject to regulatory action and only 2 were subject to enforcement action (DfE, 2016).

5.2.5 Section 96 of the Education and Skills Act 2008 makes it an offence to run an unregistered establishment which meets the definition of an independent school, punishable by imprisonment for up to 51 weeks or by a fine.

5.2.6 Section 92(2) of the Education and Skills Act 2008 has not been brought into force, so there's currently no basic legal definition of a part-time school therefore it might be possible for the Secretary of State to make regulations under section 92(3)(b) specifically designating religious instruction within out-of-school settings as (part-time) education for the purposes of the Act. New standards for such institutions would have to be drawn up to allow e.g. yeshivas to qualify, but the DfE should be lobbied to consider this as a way of regulating such institutions.

5.2.7 If it is suspected that a school (under the definition of an Independent School) is operating unregistered and therefore illegally, Her Majesty's Inspectors (HMI) can inspect a premises without notice, collect evidence and submit a report to the DfE. The Secretary of State will then determine whether to prosecute. The DfE are reliant on local intelligence of such establishments. The DfE also states that "In some cases it might be possible for other agencies to take actions to stop an unregistered school from operating or disrupt its operations and the DfE will liaise with other agencies as appropriate." This would include a specific child protection concern or a serious fire risk or health and safety hazard when the fire service or HSE may need to inspect (DfE, 2016). In his Advice Note on Unregistered Schools in May 2016, Sir Michael Wilshaw, Her Majesty's Chief Inspector at OFSTED reported that a task force of 7 was now in place to investigate illegal schools. He reported that they had found 100 suspected schools across the country which were now being inspected under section 97 of the Education and Skills Act 2008.

5.2.8 However, the UES operating in Hackney present themselves as supplementary schools or out of school settings, falling outside of the definition of a school. In the DfE guidance 'Registration of Independent Schools' (DfE 2016), it is stated that "if your establishment falls outside the definition of an independent school given above, it cannot be registered with the department as an independent school. However, local authorities will need to be satisfied that children of compulsory school age who are attending your establishment are receiving full-time education suitable to their age, ability, aptitude and any special educational needs they may have, including any provision being made in parallel to that in the establishment."

5.2.9 The children in the UES that we are considering are not, according to the DfE in illegal schools (because they do not meet the definition of a school). The assumption therefore is that they are being home educated. Given this, the Commission also had to look at the legislation governing Elected Home Education. There is no legal obligation to register a child that is home educated (parents are required to advise if they take a child out of education to be home educated but this excludes those who have never attended school). Local authorities also have no powers to routinely monitor the quality of the home education. According to the Children's Act 1989, they must identify children as far as possible who are not receiving a suitable education and can intervene if the child appears not to be accessing suitable education and issue a school attendance order, or if there is a safeguarding concern.

5.2.10 Under Section 436a of the Education Act 1996, local authorities have a duty to identify children missing in education and need to have a robust policy to meet this statutory duty which all partners are aware of. Children missing education are children of compulsory school age who are not registered pupils at a school and are not receiving suitable education otherwise than at a school.

5.2.11 Finally, Section 7 of the Education Act 1996 places a duty on parents to ensure that their child receives "an efficient, full-time education, which is suitable to their age, ability, aptitude and any special needs that they may have. Parents may be prosecuted if they fail to ensure their child receives an education." Section 437 is concerned with a child of compulsory school age who is not on a school roll. If the local authority is not satisfied that the child is receiving suitable education a School Attendance Order can be served on the parent requiring them to register the child at a school named in the Order. The authority may instead apply for an Education Supervision Order (SAO) as an alternative which gives the authority far greater say in the child's home education than would otherwise be the case. The Commission noted that whilst 16 warning notices were served on local parents (6 of which related to home schooling), no actual SAO's were issued as parents complied. Given that the council is unaware of the identities of those children from the Orthodox Jewish community that attend local yeshivas, no warning notices or SAO's have been issued within this community.

5.2.12 The legislation referred to in the paragraphs above appear to be designed to deal with individual cases rather than whole cohorts of children. There are growing criticisms and frustrations about the inadequacies of legislation with regards to unregistered settings.

5.2.13 In the same 2016 Advice Note cited above, Sir Michael Wilshaw write to the then Secretary of State Nicky Morgan to say "Evidence inspectors have gathered over recent weeks has also reaffirmed my belief that there is a clear link between the growth of unregistered schools and the steep rise in the number of children recorded as being home educated in England over the past few years…

> *"I have previously voiced concern that many of those operating unregistered schools are unscrupulously using the freedoms that parents have to home educate their children as a cover for their activities. They are exploiting weaknesses in the current legislation to operate on the cusp of the law."*

5.2.14 In September 2016, the Local Government Association (LGA) called, in a press release, on the UK Government to provide councils with greater powers to deal with illegal schools, particularly bemoaning the lack of powers to enter homes and premises, which limited their ability to differentiate between children who are being legitimately home-schooled and those who are actually being educated in unregistered schools.

5.2.15 The Casey Review (2016) recommended that "further action is necessary to cover children who are home educated without ever having attended school, otherwise there will always be a cohort of pupils who are not known to local authorities and the opportunity to abuse the system will remain."

5.2.16 In September 2017, Matthew Coffey, the chief operating officer at Ofsted, went on record in an article in the Telegraph to express frustration with the weakness in legislation. "We are really frustrated," he said. "There are a number of things. I don't have powers to force entry. So in those very rare occasions where children are at risk and I need to get in there...I can't, I have to phone the police and they may well be busy doing other things." Of the Education and Skills Act 2008, which gives Ofsted the power to inspect suspected unregistered schools, he says: "I have got to be honest the law doesn't really help us here," he said. "This is why we haven't brought a successful prosecution yet, because the law is a little bit unclear… a little bit flimsy. It talks about what constitutes an unregistered school. But it doesn't define an 'education', it doesn't define a 'school' and it doesn't define 'full time'."

5.2.17 The May 2016 Advice Note from Ofsted to the DfE (referred to above) makes reference to and welcomes changes to legislation: "I welcome the new legislation that the government intends to bring forward on unregistered and supplementary schools. I would also welcome the opportunity for my officials to work with yours on the current legal framework around home education to consider how the arrangements should be strengthened." However since then, the DfE have advised this Commission, in writing, that there is no planned legislation:

> *"The position has moved on since January, and the legislative programme for the current session of Parliament is set. Consequently it isn't possible to give commitments about legislation at present. In this context, you should bear in mind that the current session is a two year one, from 2017-19."*

5.2.18 From the legal context that the Commission reviewed it had to conclude that UES fall between different pieces of legislation. Whilst there is legislation that could be utilised if there were concerns about safeguarding or about the adequacy of the education being accessed, this legislation is designed to work with individual and isolated cases and cannot legally be applied to the hundreds of boys in Hackney, who are of school age and systematically being educated in unregistered settings.

5.3 The roles and responsibilities of the Council and local and national partner agencies and how they work together to support the regulatory framework

This section summarises the roles of different agencies with regards to fulfilling the legal duties outlined above, as well as any other action which they take in line with good practice. This is based on evidence provided In the Commission hearing sessions in November 2016 and January 2017.

<u>The Local Authority</u>

5.3.1 The Children and Families service has a duty to act on reasonable suspicion of a safeguarding concern affecting an individual.

5.3.2 Under Section 436A Education Act 1996, the local authority has a duty to establish the identities of children not registered at school and take actions in line with the legislation outlined above. This also helps them to fulfil wider safeguarding duties to ensure the health and safety of children and ascertain if they are receiving an education which equips them for life in modern Britain. However, legally, it is the parents' responsibility to advise when a child is without a school place, but not to

provide information if they elect to educate their child outside of school. Subsequently, it is difficult to identify children who are not receiving education when they do not have full details of these children and when there are differing opinions between professionals (whose assessment is based on available guidance) and parents about what constitutes a suitable education. If a large group of children were identified as needing school places, Hackney Learning Trust has plans which can be actioned to accommodate these needs.

5.3.3 The local authority has a duty to identify unregistered settings and report these to the DfE who have the power to instruct Ofsted to inspect.

5.3.4 Whilst the local authority will endeavour to be inclusive, it cannot negotiate on law and the legal requirements that ensure children are safe and safeguarded.

City and Hackney Safeguarding Children Board

5.3.5 Under the Children's Act 2004 and Local Safeguarding Children's Board Regulation 2006, the Board has to duty to coordinate and ensure the effectiveness of local safeguarding arrangements. The Board cannot instruct local agencies to take action, but it can seek to influence, challenge, and hold to account.

5.3.6 As part of its work to ensure the effectiveness of safeguarding arrangements, the Board deploys a variety of different methods as part of its Learning and Improvement Framework. The Board undertakes cycles of auditing, referred to as Section 11 audits or Section 157/175 audits (for school and education settings). These processes enable the Board to judge how well organisations are meeting basic safeguarding standards, such as safer recruitment, training, supervision and importantly strong and effective leadership. As part of this diagnostic approach to identifying areas for improvement, the Board is able to support organisations to improve their response to vulnerable children and young people.

5.3.7 The view of the Senior Professional Adviser to the City and Hackney Safeguarding Children Board was that the most effective safeguarding practice was when organisations and communities worked together and were focussed on developing basic safeguarding assurance. The Board employs a range of staff including a Community Partnerships Adviser who actively engages with communities, including the Orthodox Jewish community.

Ofsted

5.3.8 Ofsted, under Her Majesty's Chief Inspector's (HMCI) powers, has the right to enter unregistered educational settings in order to investigate concerns that they are operating outside the legal framework. Where possible the settings need to be closed immediately. Prosecution was used as a last resort.

5.3.9 The Ofsted Chief Inspector has been committed to tackling the issue of unregistered educational settings and a dedicated team has been set up. At the time of giving evidence in November 2016, Ofsted were anticipating new legislation which would make it easier to tackle issues around unregistered educational settings and to better ensure that all children receive a high standard of education and are kept safe. As reported above, there is now no planned legislation within this parliamentary session.

5.3.10 Ofsted will work alongside local authorities to ensure that all children attending unregistered educational settings identified and faced with closure receive appropriate education elsewhere. However, as a part of this process, which can be rather lengthy, Ofsted needs to prove that the unregistered educational setting is in fact a school. Ofsted and Hackney Learning Trust meet frequently and work together closely to ensure that their interventions have the most possible impact and that these complex issues have been dealt with appropriately. Ultimately it was parents who needed to be informed to make better choices about their children's education and to understand the risks of sending their children to unregistered settings.

DfE

5.3.11 It is the DfE which drafts legislation, regulation and guidance relevant to UES. Independent schools must register with the Secretary of State for education and it is the Secretary of State that can sanction a school being removed from the register, or an individual being prosecuted for running an illegal school. It would appear however that actual enforcement action is rare, indeed, as HMI Inspector of Education pointed out to the Secretary of State in November 2015, not one individual had been prosecuted for operating an illegal school at that time (Ofsted, 2015). Whilst the Commission notes a more proactive enforcement approach may be in train nationally, a number of schools continue to operate despite being issued with warning notices (Schools Week, 2017).

5.3.12 There is also a clear expectation by the DfE that local agencies will work together to help regulate and enforce standards within UES, though perhaps in recognition of the lack of regulatory powers available to local agencies, the emphasis of enforcement is clearly on frustration and disruption of the operation of UES rather than closure:

> *'In some cases it might be possible for other agencies to take actions to stop an unregistered school from operating or disrupt its operations and the DfE will liaise with other agencies as appropriate. For example, where there are child protection concerns the LA may have a role to play in respect of individual pupils and families; if there is a serious fire risk or health and safety hazard, the fire service or HSE may need to inspect. The proprietor may also be referred to DBS to consider whether a proprietor should be working with children.' (Prosecuting Unregistered Independent Schools, DfE, 2016)*

London Fire Brigade Hackney

5.3.13 Under 2005 reforms the onus is on the Responsible Person in a building (employer, person in control of the building or owner) to put in place adequate measures to ensure compliance with fire safety legislation. The Fire Service cannot assertively enter locations as an enforcement agency unless there has been a specific report made to them. It was not therefore possible to take a list of premises and inspect them all for no reason. When they visited, the Fire Service carried out risk assessments. Fire regulations were less specific than they used to be and relied more on judgement than prescription. Since 2005, the Fire Service had inspected thousands of venues including ones which claimed to be unregistered schools.

5.3.14 The Fire Service would advise the Council of inspections when necessary, however this sharing of intelligence appeared to be limited; the example given was of structural issues.

5.4 An assessment of the nature of safeguarding, health and safety or broader welfare concerns in unregistered educational settings

5.4.1 At the evidence session on 9th January 2017 the Senior Professional Adviser (SPA) to the Children's Safeguarding Board, Rory McCullum, gave evidence about work done to date with the Orthodox Jewish community. The Board had successfully engaged with local Orthodox Jewish community organisations, such as Interlink to deliver training, as well as the Charedi Health Forum. However, with regards to unregistered educational settings, the Senior Professional Adviser reflected the Board's position that it has no credible oversight on the ability of these settings to meet these standards. Because UES are not recognised as educational establishments, there was no systematic way to check that basic vetting was in place around recruitment or health and safety, for example. This is something that would be tested through the audit processes undertaken by the Board. However the vetting at recruitment stage through DBS checks would not be enough, as some people with clean DBS checks are perpetrators of child abuse. Organisations need to proactively establish a whole range of actions to keep children safe, as well as working in partnership with other safeguarding agencies. There is no assurance that these arrangements are in place in UES and this represents a serious safeguarding risk. Furthermore the SPA highlighted that no community is immune from people who want to work in settings where they can abuse a child, making reference to child abuse cases in Orthodox Jewish settings in Melbourne and Brooklyn. The SPA advised that if information was provided about the UES, the Board could look to engage in a series of audits to create assurances that safeguarding policies were in place.

5.4.2 Over 2015/16, in a series of advice letters to the Secretary of State for Education, the Chief Inspector of Schools highlighted wide ranging and significant welfare concerns about UES in England (Ofsted, 2015; Ofsted 2015a; Ofsted 2016). Within these letters, serious concerns were identified at UES which included:

- The lack of safeguarding protocols in place, particularly the failure to undertake appropriate checks on staff;
- Serious fire hazards, unhygienic conditions and other health and safety contraventions at premises used;
- The teaching of a narrow curriculum incorporating the use of inappropriate books and texts.

5.4.3 The Borough Commander of the Fire Service in Hackney attended the evidence session on 9th January 2017 . A list of 32 unregistered educational settings was given to him in 2013 which was cross referenced with their data. They had inspected 20 in the past few years. 5 of these premises had Enforcement Notices served on them (when a serious risk is identified and action needs to be taken within a set course of time) and 3 had Prohibition notices served (when the risks identified are so great that access to the premises needs to be restricted). All were now broadly

complaint, issues had been cleared and notices lifted. Whilst 5 out of 32 was deemed to be a high number, only one had been a moderately high risk. There was no benchmarked data that could help establish if this was high when compared with other boroughs.

5.4.4 On 9th January 2017 the Commission also considered the remit and powers of Planning with regards to premises providing education services, registered or unregistered. Out of 1250 open planning enforcement cases, 7 related to use of a property as an unauthorised school. In relation to one property in Amhurst Park the proprietor was being encouraged to put in a planning application to regularise the situation. In relation to a site at Cazenove Rd the Council had also informed other agencies: HSE, the Fire Service and there had been a food hygiene inspection. If a premises had been operating for longer than 10 years and there had been no enforcement activity against it then it was immune from enforcement and as such had 'established use'.

5.4.5 The Commission asked how the Stamford Hill Area Action Plan would identify enough sites for schools to cater for growth in the Orthodox Jewish Community. The AD Planning and Regulatory Services commented that the consultation on the Stamford Hill Area Action Plan was about to commence and they would welcome input from the community on the issue of sites. She added that at least one site for a school had already been identified. The Group Director Children Adults and Community Health cautioned however that these sites will have to meet the requirements for maintained or independent schools. Sites could not be made available for unregistered schools.

5.4.6 The view of representatives from the Orthodox Jewish Community, including Commission Members at both evidence sessions in November 2016 and January 2017 was that safeguarding issues were being confused with curriculum issues. Furthermore, there were repeated statements that there were no concerns about safeguarding and that the assumption that children are in danger and not receiving what their parents deem as best for them was both upsetting and insulting. Health and safety was a religious requirement. No actual evidence was provided however, that could assure the Commission that there were no safeguarding issues, and no definitive list of UES was provided.

5.4.7 According to the Census 2011, 44% of Jewish people over 16 in Hackney have no qualifications compared with 20% of the population over 16 overall. In the evidence session in November 2016 the Interlink representative stated that whilst Charedi young people may be leaving school with few secular qualifications, her view was that they will be equipped by their rigorous academic learning and the strong work and study ethic. This prepares them for the choices they subsequently make and they can expect strong community support in a culture where entrepreneurship is widespread and ambition is respected. However this statement needs to be considered alongside data about poverty and employment. According to the 2011 Census, 48% of Jewish people in Hackney are in employment (employees and self-employed). This is 10 percentage points lower than the population overall. According to the research undertaken by the Institute for Jewish Policy Research (JPR) in 2011, poverty and deprivation within the Charedi community "is becoming acutely

apparent… particularly among children." They cite survey findings which reveal that parents struggle to cover necessities (Abramson, S, Graham, D, Boyd, J, 2011).

5.4.8 In the Survey which is detailed below, respondents were asked to indicate how satisfied they were with three issues concerning the operation of UES these being; the safety of premises (e.g. fire safety, evacuation plans), the wellbeing of children (e.g. DBS checks on staff, anti-bullying policy and safeguarding protocols) and the curriculum taught. Analysis of survey data revealed that a majority of respondents were either very dissatisfied or dissatisfied with all aspects of UES including the curriculum taught (70%), the wellbeing of children (63%) and safety of buildings used (63%).

5.4.9 From the evidence provided, the Commission has to conclude that they have received no assurance that adequate support and policy is in place to assure the safeguarding, health and safety and wellbeing of the children in yeshivas. There is no definitive information about the number of yeshivas and the numbers being educated and no evidence of how safeguarding policies are developed and managed. Relying on assurance from community representatives giving evidence, however strongly expressed, is not enough. The Commission has to take heed of the positon adopted by the CHSCB with regards to there being no credible oversight of these UES, as well as the views expressed by Ofsted, albeit recognising these refer to the national picture with regards to unregistered settings. Furthermore, the survey findings provide a qualitative insight from a small sample into concerns which residents have about safety, wellbeing and curriculum.

5.5 Survey responses – summary

General

5.5.1 The aim of the survey was to facilitate community engagement and involvement with the review. It sought to include a wide representation of views about UES operating in Hackney, not only from the Orthodox Jewish communities but also from other interested stakeholders. In this context, the survey sought to further understand community perspectives on:

- Health and safety issues of those premises from which UES were operating;
- How the wellbeing of children attending UES was being protected and promoted at UES (e.g. safeguarding protocols, DBS checks on staff, anti-bullying policy, whistle blowing policy);
- The nature of the curriculum taught in UES.

5.5.2 This survey was distributed via two methods: on-line and paper copies. It must be acknowledged at the outset that for religious reasons, many people from the Charedi Orthodox Jewish community do not have internet access and therefore would not have been able to complete the on-line version of this survey. In this context, paper copies of the survey were also made available and distributed through local libraries and, where access was obtained, local synagogues. Subsequent analysis revealed that surveys were completed in both on-line and paper formats.

5.5.3 At the outset it should also be acknowledged that there was a reluctance from representatives within the Orthodox Jewish community to endorse the survey and to support its distribution. It was understood that given the depth of faith, members of

the Charedi Orthodox Jewish Community would find it difficult to complete a survey which invited critical reflections on traditions which were central to their religious belief. Indeed, as has been suggested within survey responses themselves, to complete the survey could be considered as sinful within the Charedi Orthodox Jewish community. In this context, the survey was deemed to be intrusive by community representatives and was not endorsed or supported.

5.5.4 Whilst the lack of endorsement by the Charedi Orthodox Jewish community clearly impacted upon the number of responses received, a number of contributions to this survey were received from members of the Orthodox Jewish community in Hackney. As such, these provide an illustrative perspective of the range of views within the community, rather than being wholly representative of it.

5.5.5 Similarly, in light of the relatively small number of responses the findings presented below do not purport to provide a representative view of community perspectives of UES in Hackney. With 40 responses from a wide range of community representatives, both within and external to the Orthodox Jewish Community, analysis does however provide community *insight* into the operation of UES in Hackney.

5.5.6 Prior to the presentation of survey analysis, it should be noted that a number of safeguarding issues were raised within qualitative responses to this survey. Where safeguarding issues were raised and where it was possible to identify such contributors, these have been followed up by the safeguarding team within Children and Families services. Safeguarding concerns raised by contributors however, were non-specific and in some cases historical in nature which limited further investigation and inquiry. Some respondents indicated that their reluctance to report specific incidents was informed by concerns about the possible community repercussions for their families and themselves.

5.5.7 In the context of the above concerns, a decision was taken by the Commission (with advice from Children and Families Services) to present a thematic analysis of the key issues arising from the survey which avoided the use of verbatim excerpts. It was felt that this approach would enable emerging themes from the survey to be presented whilst protecting the identity of individual contributors to the survey.

Survey responses

5.5.8 In total there were 40 responses to the survey on UES in Hackney (Table 1). Analysis of demographic characteristics of respondents to the survey revealed that:

- There were proportionally more male respondents (73%) than female (15%);
- Almost 2/3 (61%) of respondents were aged 44 years or under;
- Just over one-half (53%) were of white or white British ethnicity (Table 1).

5.5.9 Of particular note, it was positive to record that a majority (58%) of contributors to the survey were from the Jewish community (Charedi 30% and otherwise 28%). In addition, a majority of respondents were noted to be current residents within the N16 postcode in Hackney which encompasses the Stamford Hill area and which is home to many local residents within the Orthodox Jewish community (Table 1).

5.5.10 Respondents were asked to indicate in what capacity they were completing the survey as this would provide useful context to responses and further inform data analysis. Multiple responses were allowed to this line of questioning to allow contributors to reflect the range of experience which might inform their responses.

Table 1 – Characteristics of respondents to the survey (total responses 40)					
Gender		**Ethnicity**		**Religion**	
Male	73%	*Asian or Asian British*	3%	*Atheist / no religious belief*	13%
Female	15%	*Black or Black British*	3%	*Muslim*	3%
DNA	13%	*White or White British*	53%	*Secular beliefs*	8%
		Other ethnic group	18%	*Charedi*	30%
		DNA	25%	*Jewish*	28%
				DNA	20%
Age Group		**Sexual orientation**		**Postcode of respondent**	
Under 16	3%	*Heterosexual*	63%	E5	3%
16-17	-	*Lesbian*	3%	E8	3%
18-24	5%	*Gay*	-	N4	3%
25-34	30%	*Bisexual*	5%	N16	55%
35-44	23%	*DNA*	30%	DNA	38%
45-54	13%				
55-64	3%	**Disability**		**Carer**	
65-74	10%	*Yes*	10%	*Yes*	13%
75-84	3%	*No*	78%	*No*	70%
DNA	13%	*DNA*	13%	*DNA*	18%

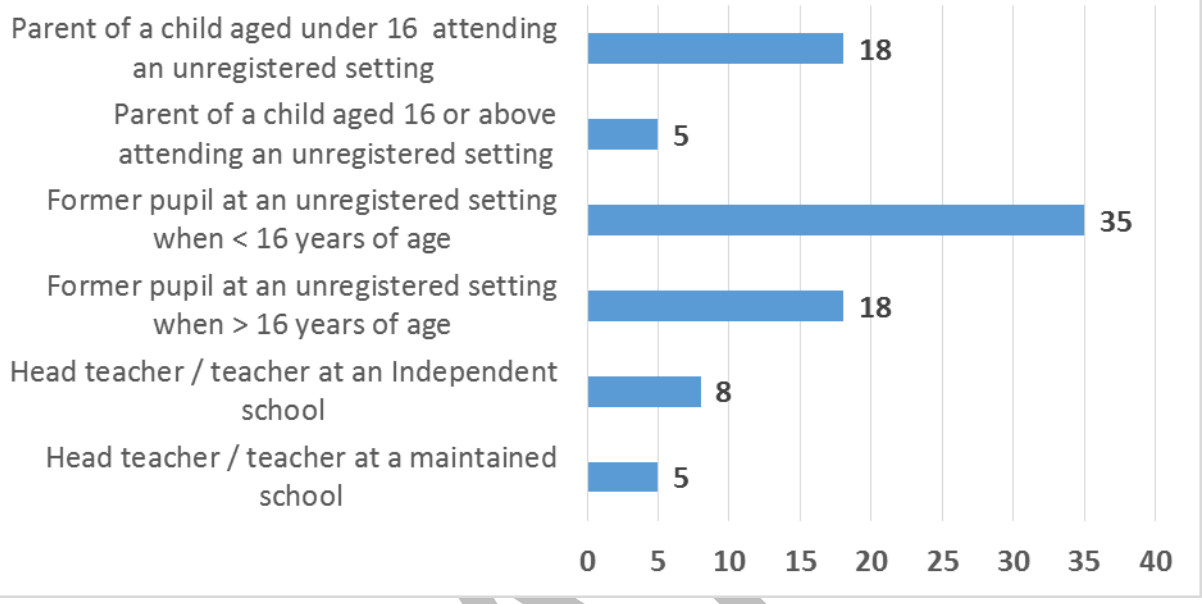
(DNA = Did not answer)

5.5.11 Analysis of this data revealed that a significant proportion of those responding had direct experience of an UES, either as a child aged under 16 years (35%) or over 16 years (18%) (Figure 1). In total 18 out of 40 (45%) of respondents had direct experience of an unregistered setting as a child at any age (Figure 1). Similarly, 18% of respondents were a parent of a child attending an UES (Figure 1). This data was encouraging as it would suggest that the insight provided in this survey was provided from direct experiences of the operation of the UES in Hackney.

5.5.12 There was representation within the survey from the education sector where 5 (13%) respondents were Head teachers at either a maintained or independent school in Hackney (Figure 1). In addition, a further 2 (5%) respondents indicated qualitatively that they were (or had been) teachers.

5.5.13 Two surveys were completed on behalf of national charitable organisations; GesherEU a charity that supports former members of the Charedi community and the British Humanist Association (BHA) a charity 'working on behalf of non-religious people to live ethically fulfilling lives'. Other responses were received from grandparents, local residents and 'members of the local Jewish community'.

Figure 1 - Capacity in which survey was completed (chart depicts % of respondents wheremultiples responses allowed).



5.5.14 Respondents were asked to indicate how satisfied they were with three issues concerning the operation of UES these being; the safety of premises (e.g. fire safety, evacuation plans), the wellbeing of children (e.g. DBS checks on staff, anti-bullying policy and safeguarding protocols) and the curriculum taught. Analysis of survey data revealed that a majority of respondents were either very dissatisfied or dissatisfied with all aspects of UES including the curriculum taught (70%), the wellbeing of children (63%) and safety of buildings used (63%) (Figure 2).

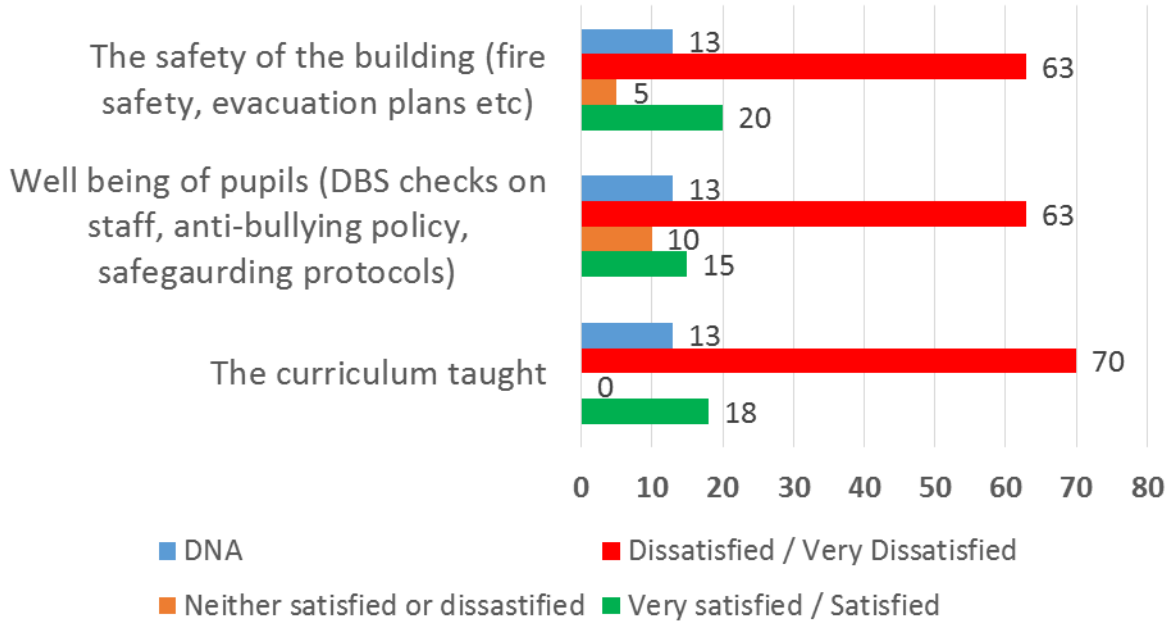
5.5.15 At the outset, it should be recorded that qualitative analysis indicated that a small number of respondents were broadly satisfied with the operation of UES, and had few if any concerns as to the welfare of children in attendance, the safety of buildings used or the nature of the curriculum taught. Indeed, some respondents indicated that they were very satisfied with UES in that they provided a solid education which enabled children to reach their potential and offered them the opportunity to continue to practice their religion, traditions and beliefs.

5.5.16 Analysis of qualitative data however, strongly reinforced respondents' concerns about UES, particularly those that related to the nature of the curriculum taught among boys aged 13 years and above. Respondents were concerned that the curriculum taught in UES was too narrow as this almost exclusively focused on the religious teaching of the Torah. Qualitative analysis would suggest that the teaching of key secular subjects such as maths, English and science was limited (where it existed at all), and that the teaching of the humanities (history, geography), arts and physical education was rare.

5.5.17 The focus of respondents' concerns however, was that many young men attending UES would leave with a limited understanding of English and have poor literacy and numeracy skills, which would leave them ill-equipped to engage with and be involved

in the society in which they live. In addition, as few pupils studied for any formal qualifications, this would limit opportunities for employment and training and further restrict opportunities for them to economically participate in wider society. In the view of many respondents therefore, the operation of UES restricted future community engagement and involvement and effectively confined those children that attend to the immediate religious community in which they live.

Figure 2 - From experience or knowledege, satisfaction with aspects of unregistered educational settings (%)



5.5.18 Qualitative analysis also suggested that the focus on teaching the Torah within UES in Hackney restricted opportunities to teach pupils about other religions and other ways of life. Such an approach, in the view of respondents, was detrimental to pupils obtaining a balanced awareness and understanding of different religions and cultures which make up the society in which they live. Thus, for many respondents, the operation of UES within the Orthodox Jewish community was problematic as this was perceived to inhibit community integration and cohesion of that community within Hackney.

5.5.19 A number of welfare concerns were also raised within survey responses. These concerns focused on three areas: the lack of safeguarding protocols within UES, the administering of corporal punishment within UES and the excessively long hours that children are in attendance at UES.

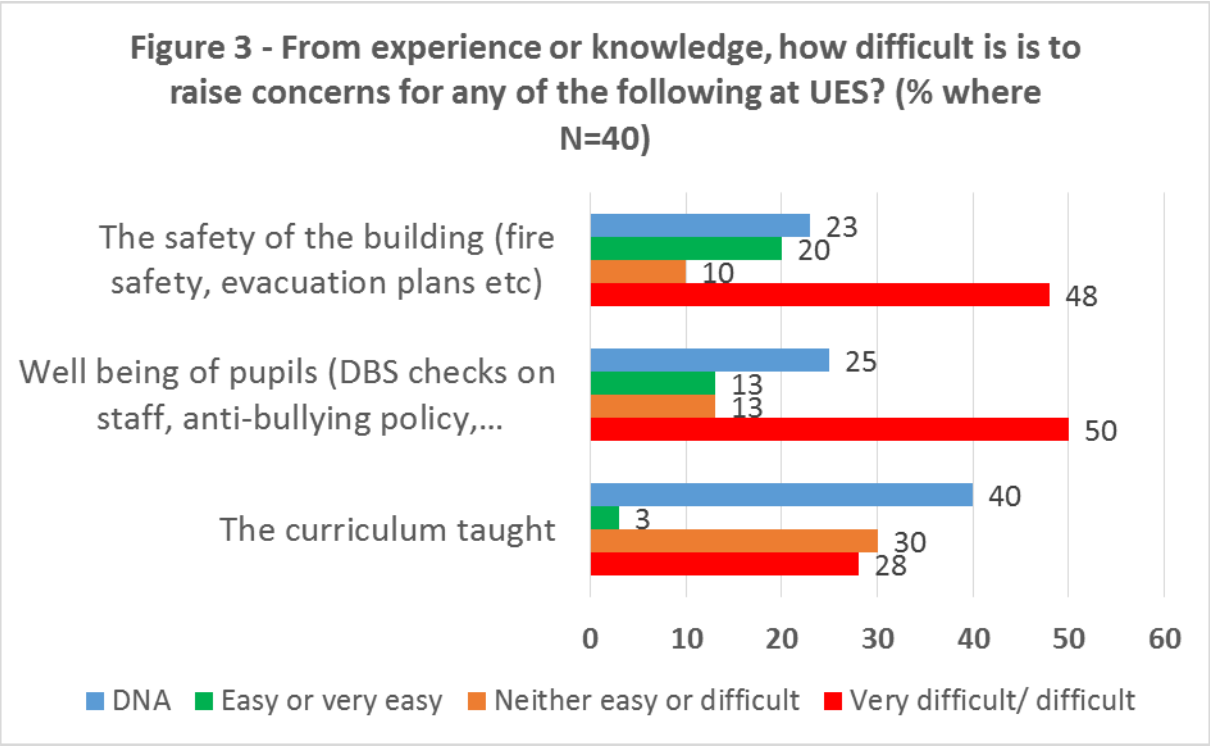
5.5.20 In respect of safeguarding, analysis of qualitative responses indicated that the main concerns of respondents were the lack of qualifications of those teaching in the UES and their failure to undertake Disclosure and Barring Service (DBS) checks to ascertain if staff were safe to work with children. It was also suggested that UES also lacked basic safeguarding protocols which for example, failed to support children for off-site visits and day trips or to protect them from bullying from other children.

5.5.21 A number of respondents raised concerns about physical abuse being used routinely as a method of punishment of children whilst attending UES in Hackney. These concerns were raised by ex-pupils of a UES in Hackney and from a parent whose child had attended a UES in Hackney. A number of respondents also noted that they had concerns about the long hours which children were expected to attend UES; there was some suggestion that children could spend up 15 hours (from 6.30am to 10pm) at these premises.

5.5.22 Almost 2/3 (63%) of respondents indicated that they had concerns about the safety of buildings from which UES operated, which was supported within qualitative analysis of responses. Such analysis indicated that because UES were unregistered as schools, to avoid detection during regulatory inspections children were often required to move to different locations and settings, sometimes at short notice, and were placed in buildings which were not appropriate or safe to accommodate large groups of children. Respondents indicated that some premises used as UES were old, cramped and there was little recognition of the health and safety risks that these may present.

5.5.23 Indeed, a number of respondents highlighted that because UES were operating illegally and hoping to evade detection, the premises used were often not suitable to accommodate large groups of children. In this context, respondents highlighted concerns for UES compliance with fire safety regulations and whether children could egress the building quickly and safely in the event of a fire or other emergency. Similarly, the use of unsuitable premises to accommodate large groups of children also raised concerns about toilet and other hygiene facilities on site, and whether such premises were suitable to prepare or consume food.

5.5.24 The survey also sought to assess how difficult it was to report concerns about UES operating in Hackney. About one-half of respondents indicated that it was difficult to report concerns about the well-being of a child in attendance at a UES (50%) or the safety of the building (48%) being used as an UES (Figure 3). Whilst more respondents found it difficult (28%) than easy (3%) to report concerns about the curriculum taught, it would appear that there was uncertainty as to how to raise concerns given the number of respondents who were unsure (30%) or chose not to answer this question (40%) (Figure 3).



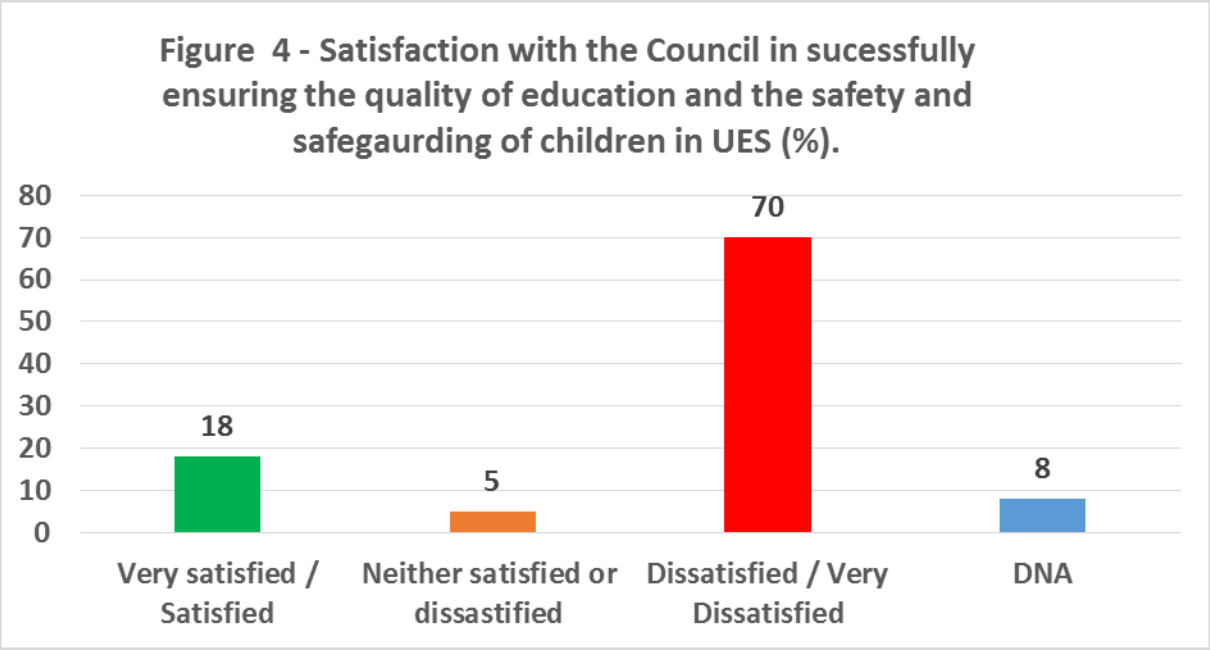
5.5.25 Analysis of qualitative comments within the survey provided further insight as to the difficulty or otherwise of raising concerns about the operation of local UES. It was apparent that for some respondents from within the Orthodox Jewish community, there would be a reluctance to raise concerns about UES, as to do so might bring censure or other repercussions for them and their family. Referring to what is seen as the patriarchal nature of the Orthodox Jewish community, respondents indicated that this exacerbated the inability of and willingness of women to raise concerns about UES within their community.

5.5.26 It was also suggested within the survey that a number of respondents had made their concerns about UES known to government authorities, particularly the Department of Education. From submissions to this survey, it was not clear if any action was taken by authorities as a result, however, understanding that some respondents chose to make such complaints anonymously to protect themselves and their family from any repercussions within the community, it is possible that such complaints could be difficult to pursue and investigate further. Other contributions from national organisations were more forthright however, and suggested that a lack of action in response to complaints about UES was as a result of the paucity of the regulatory framework for unregistered educational settings.

5.5.27 In summary, analysis of quantitative data suggested that there was a degree of uncertainty among respondents as to how to raise concerns about UES (Figure 3) and this was borne out within the analysis of qualitative data. Qualitative analysis suggested that respondents were unclear about which authorities to report different concerns to (e.g. safety of buildings, safeguarding or curriculum) and the process through which to do this.

5.5.28 Finally, the survey sought to ascertain how satisfied respondents were in the way that the Council ensured that children who attended UES in Hackney were

appropriately safeguarded, were kept safe and received a quality education. Analysis of this data indicated that an overwhelming majority of respondents (70%) were either very dissatisfied or dissatisfied with the Council in this respect (Figure 4).



5.5.29 Analysis of qualitative data in response to this question confirmed a general dissatisfaction toward the Council in respect of ensuring that children were safe, safeguarded and received a quality education in UES in Hackney. Whilst it was recognised that this was a complex and sensitive issue, respondents remained dissatisfied as the Council was perceived as not having effectively tackled what was considered to be a long-standing issue within the community.

5.5.30 Dissatisfaction with how the issues pertaining to UES had been handled was not focused solely on the Council however, as qualitative analysis suggested that respondents recognised that a number of local and national agencies were involved in the regulation and enforcement of UES. With there being numerous agencies involved however, respondents were of the view that no single agency had taken ownership in managing this issue, which gave rise to the perception that engagement with the community had been uncoordinated and that no clear pathway forward had been established to help resolve those issues relating to UES.

5.5.31 Respondents acknowledged the community sensitivity that was required of the Council and other regulatory partners as they sought to balance the religious principles and educational expectations of the Orthodox Jewish community with the need to ensure that UES were compliant with national standards for safety, safeguarding and the curriculum taught. It was the view of some respondents however, that the regulatory and enforcement approach taken by the Council should be driven by the principle of parity, in which the need to uphold the legal standards and regulations among all educational settings is of paramount importance, irrespective of cultural or religious denomination.

5.5.32 Qualitative analysis also suggested that respondents were aware of the limitations of the regulatory framework which impeded local enforcement action that agencies

could take in respect of UES. There was however a clear expectation that the Council and other regulatory partners should take more affirmative action where possible, and utilise the full range of enforcement powers available which could include greater use of School Attendance Orders (SAO) to parents whose child was assessed not to be receiving suitable education.

5.5.33 For a number of respondents to this survey who had direct experience of UES in Hackney, it was perceived that paucity of the regulatory framework had allowed UES to operate with impunity and not uphold the legislative standards required for safeguarding children, the safety of buildings or the curriculum taught. As a result, it was felt that limited regulatory and enforcement action had conferred a disadvantage on those children that attended, as they were not subject to the same degree of safeguarding or health and safety protections or quality of education as other children attending registered schools in the community.

5.5.34 A number of respondents, however, held divergent opinions to those described above. Qualitative analysis indicated that among some respondents at least, there was a strong resistance to any involvement of the Council or other regulatory bodies within the operation of UES in Hackney. There was also a perception that safeguarding and safety concerns about UES had been inflated and distorted by the media, which had precipitated a local and national clamour for regulatory action.

5.5.35 Qualitative analysis suggested that there was some acceptance among respondents that the Council and other regulatory partners could play a role in providing oversight for safeguarding, and health and safety issues at UES operating in Hackney. Such respondents were of the view however that such oversight should not extend to matters pertaining to the curriculum taught at UES, as decisions taken on what was taught and where a child was educated should rest with parents alone.

6. CONCLUSIONS

6.1 Summary of overall findings

6.1.1 From the evidence considered in this review, the Commission concludes the only way forward is through partnership working between the local agencies responsible for safeguarding and the Orthodox Jewish community. Actions which are imposed will only further marginalise the community, and result in parents making choices "under the radar," which will mean boys will continue to be educated in unregulated settings. We heard both professionals and representatives from the community stress the importance of a partnership approach.

6.1.2 Whilst partnership working needs to be inclusive, what is legally required is non-negotiable. This is something that came up during the discussion in both evidence sessions. Local agencies need to be culturally sensitive and respectful of parents' choices, but they cannot compromise on the laws and duties around safeguarding or compulsory education. These are designed to keep children safe and to ensure they are equipped for life in modern Britain. All local agencies, whether statutory or voluntary, and parents, have an obligation to take appropriate actions to ensure every child is equally protected from abuse and harm, and can benefit from a standard of education deemed to be suitable.

6.1.3 During the evidence reviews we heard that, as yet, there was limited common ground with regards to how we can work in partnership. Although proposed by the Senior Professional Adviser to the City and Hackney Children's Safeguarding Board, no agreement was reached on carrying out an audit of UES, at least to give basic assurance about safeguarding concerns such as recruitment and staffing. Community representatives were asked if a definitive list of yeshivas could be shared but no direct response was provided. The Commission was told that if a setting was identified, it was for the statutory sector to take appropriate action.

6.1.4 The crux of the matter lies in the choices Orthodox Jewish parents make about education. The Commission was told that parents will continue to seek an educational pathway for boys which is outside of a registered setting, whether that is a yeshiva, home education or somewhere abroad because of their deeply held religious beliefs about what education is best for their child. The option of working with the community to register yeshivas is not seen by the community as possible because expectations about the curriculum will be imposed which are incompatible with religious belief. The Commission heard that the very issue of whether parents were acting within the law was a matter for lawyers to decide, implying that this was not a judgement that community leaders thought parents should be making themselves.

6.1.5 Although the common ground is limited, there has been a dialogue between the community and professionals, held in public, and a desire on both sides to work together. The Commission has also been able to engage, through the survey, directly with parents, and hear a range of views about yeshivas from those with direct experience.

6.1.6 During the course of this review, the Commission has not received any assurance that adequate support and policy is in place to assure the safeguarding, health and safety and wellbeing of the children in yeshivas and has heard serious concerns from the professionals whose role it is to promote safeguarding and health and wellbeing. Relying on assurance from community representatives giving evidence, however strongly expressed, is not enough. There are many agencies involved, but there is no explicit positon with regards to UES in Hackney, and how agencies will work to seek assurance around the safeguarding of a significant number of children and young people resident in the borough. This is why the first recommendation from the Commission is for the Council to develop a strategy that transparently sets out its expectations with regards to the current situation and how it will work with partners and the local community to ensure compliance with regulation. A similar approach to unregistered settings has been adopted in other local authorities (Luton BC, 2017).

6.1.7 The Commission takes heed of concerns raised by community representatives about the likely community response to any imposed actions and the risk of children being moved to settings which are even more "under the radar" than UES. Whilst this is a possible scenario, the Commission cannot respond to this by recommending that the status quo continues or that there is a softening of current actions. The Commission recognises that any further action needs to be based on building trust and collaboration. The Commission concludes that an ongoing structured dialogue is needed between the CHSCB and community representatives to improve safeguarding arrangements for children in these settings. Community leaders who assert that safeguarding is a paramount concern to them need reliable ways of providing the evidence that that assertion is correct. The Commission hopes that one of its key recommendations will lead to that becoming a reality.

6.1.8 The Commission concludes that UES fall between different pieces of legislation. Whilst there is legislation that could be utilised if there were concerns about safeguarding or about the adequacy of the education being accessed, this legislation is designed to work with individual and isolated cases, not a whole section of children and young people who are of school age and systematically being educated in unregistered settings. Changes to legislation are urgently needed that address the current loopholes with regards to settings that do not claim to be full time educational establishments, but which are the primary location attended by a child who is the age of compulsory education.

6.1.9 Whilst the Commission understands that a step change is needed with regards to UES, in terms of strategy, engagement and legislation, the Commission concludes that more could be done within current roles and remits as well. The Commission heard a lot of evidence about the range of actions from Council services and partners with regulatory responsibilities, with regards to UES, and concludes that greater co-ordination and information sharing would help strengthen the regulatory framework. The Commission also acknowledges that there are other parts of the country where there is an Orthodox Jewish community and therefore where yeshivas operate. It urges the Council to share practice and identify shared positions with regards to legislation and best practice.

6.1.10 The Commission is disappointed that legislation regarding unregistered settings and home education is no longer expected to change within a known timeframe. It does

not think that Central Government's continued reliance on children missing in education duties is sustainable or acceptable, given the scale of the issue in Hackney. However, whilst this remains the case the Commission concludes that the Children Missing in Education service needs to be strengthened to be able to respond to the numbers in Hackney, where 1000-1500 children are estimated to be in unregistered settings.

6.1.11 Parents are ultimately responsible for the safety and wellbeing of their child. They need to be engaged directly and empowered to understand statutory health and safety regulations and safeguarding duties so they can carry out their own enquiries and challenges.

6.1.12 Although this Commission has focused on UES, the Commission has heard how UES are part of a wider set of educational pathways available for children in the Orthodox Jewish community. Commission members are also aware of some issues within the independent sector with regards to standards and safeguarding. The Commission therefore recommends that the Council also does more to engage with the local independent sector.

6.1.13 There is no evidence that the boys and young men being taught in UES are accessing a curriculum which adequately covers English, STEM subjects or even broader curricula studies like the humanities, social science or physical education. The reluctance to regularise UES because of curriculum concerns would lead the Commission to conclude that there is limited coverage of these subjects. Whilst safeguarding must take priority, the fact that a section of the population are not receiving the education deemed to be needed to thrive and live independently cannot be parked indefinitely.

6.1.14 Indeed, a fundamental principle that underpins many of the Commission's recommendations is that of parity, and to establish those policies and practices which ensure all children are equally protected and have equal access to a suitable and appropriate education. This would also appear to be the position of the DfE:

> *'No child should be subject to potentially unsafe provisions or a potentially lower standard of education than other children in the UK by virtue of their attending an unlawfully operating setting.' (DfE, 2016)*

6.1.15 The safeguarding of upwards of 1000 young people cannot be ignored. Being told by community representatives that there is nothing to be concerned about is not enough. The Commission looks forward to receiving reports in the future which detail the evidence that adequate safeguarding procedures are in place in Hackney's unregistered educational settings.

6.1.16 The Commission have noted the conclusions of the Casey Report which highlighted how the operation of unregistered educational settings and poorly regulated elective home education can foster and promote community insularity, a point which was also made strongly within survey responses within this review. In this context, the Commission believe that the recommendations detailed within this report not only advance the protection and education of children and young people in attendance at UES, but can also help to promote community cohesion.

6.1.17 The Commission recognise that this is a complex and sensitive policy area for which there is no 'silver-bullet' solution to those issues raised, however this should not deter or inhibit local resolve to ensure local children are safeguarded and their well-being maintained. In this context, it is hoped that the recommendations detailed within this report provide a local process through which the Council and the Orthodox Jewish community can develop a pathway to compliance for safeguarding issues with some urgency.

7 CONTRIBUTORS, MEETINGS AND SITE VISITS

The review's dedicated webpage includes links to the terms of reference, findings, final report and Executive response (once agreed). This can be found here.

Meetings of the Commission

The following people gave evidence at Commission meetings or attended to contribute to the discussion panels.

14th April 2016
- Cllr Anntoinette Bramble, Cabinet Member for Children's Services
- Anne Canning, Acting Group Director, Children, Adults and Community Health
- Andrew Lee, Assistant Director, Education Services, Hackney Learning Trust
- Paul Kelly, Head of Wellbeing & Education Safeguarding, Hackney Learning Trust
- Martin Buck, Head of Secondary, Hackney Learning Trust

16th November 2016
- Anne Canning, Group Director Children, Adults and Community Health, LBH
- Andrew Lee, Assistant Director of Education Service, HLT
- Paul Kelly, Head of Wellbeing and Safeguarding, HLT
- Councillor Anntoinette Bramble, Deputy Mayor,
- Chaya Spitz, Interlink Foundation
- Rabbi Pinter, spokesman for the orthodox Jewish community, represents Haredi interests on the London Jewish Forum and the principal of Yesodey Hatorah Senior Girls' School (Stamford Hill)
- Mike Sheridan, HMI and the Regional Director for London, Ofsted,
- Victor Shafiee, Deputy Director Unregistered Schools, Ofsted,
- Sue Will, Ofsted
- Philippa Darley, Ofsted

9th January 2017
- Steve Dudeney, Borough Commander, Hackney Fire Service
- Rabbi Pinter (as for 16th November 2016 above)
- Cathy Gallagher, Assistant Director, Planning and Regulatory Services, LBH
- Sarah Wright, Director Children and Families,LBH
- Lisa Aldridge, Interim Head of Safeguarding and Learning, LBH
- Steve Liddicott, Interim Head of Access & Assessment, LBH
- Anne Canning, Group Director Children, Adults and Community Health, LBH
- Rory McCallum, Senior Professional Advisor, CHSCB
- Mr A Fogel, Talmud-Torah Yetev-Lev School
- Mr J Stauber, Talmud-Torah Yetev-Lev School

6th February 2017
- Cllr Anntoinette Bramble, Cabinet Member for Children's Services
- Anne Canning, Group Director Children, Adults and Community Health, LBH
- Jim Gamble, Independent Chair of CHSCB
- Rory McCallum, Senior Professional Advisor, CHSCB
- Rabbi Pinter (as for 16th November 2016 above)

8. MEMBERS OF THE SCRUTINY COMMISSION

Councillor Christopher Kennedy (Chair)
Councillor Margaret Gordon (Vice Chair)
Councillor Tom Ebbutt
Councillor Abraham Jacobson
Councillor Patrick Moule
Councillor Tom Rahilly
Councillor M Can Ozsen
Councillor Yvonne Maxwell
Councillor Emma Plouviez
Councillor Sophie Conway

Co-optee Rabbi Baumgarten (Orthodox Jewish Community)
Co-optee Sevdie Sali Ali (Parent School Governor)
Co-optee Richard Brown (One London Diocesan Board for Schools)
Co-optee Shuja Shaikh (North London Muslim Association)
Co-optee Jane Heffernan (Catholic Westminster Diocesan Schools)
Co-optee Ernell Watson (Free Churches Group of Churches Together in England)
Co-optee Jo Macleod (Hackney School Governors Association)
Co-optee Maryam Mohammed (Hackney Youth Parliament)
Co-optee Louis Comach (Hackney Youth Parliament)
Co-optee Skye Fitzgerald McShane (Hackney Youth Parliament)
Co-optee Kairi Weekes-Sanderson (Hackney Youth Parliament)

- Overview and Scrutiny Officer: Martin Bradford ☎ 020 8356 3661

- Legal Comments: Dawn Carter-MacDonald, Solicitor, Team Leader Children, Education and Community Services team and Deputy Monitoring Officer ☎ 020 8356 4817

- Financial Comments: Jackie Moylan, Director, Children, Adults & Community Health Finance ☎020 8356 3032

- Lead Officer: Anne Canning, Group Director Children, Adults and Community Health ☎020 8356

- Relevant Cabinet Member: Councillor Anntoinette Bramble, Cabinet Member for Children's Services and Deputy Mayor

9. BIBLIOGRAPHY

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10. GLOSSARY

Below is a list of abbreviations used within this report and their full title.

Abbreviation	Definition
CHSCB	City & Hackney Safeguarding Children Board
CYPS	Children & Young People Service
DBS	Disclosure and Barring Service (check)
DfE	Department for Education
EHE	Elective Home Education
EHC	Education and Health Care Plan
HLT	Hackney Learning Trust
HMI	Her Majesty's Inspectorate (of Education)
HMCI	Her Majesty's Chief Inspectorate (of Education)
HSE	Health and Safety Executive
LBH	London Borough of Hackney
LGA	Local Government Association
SAO	School Attendance Order
SEND	Special Educational Needs or Disability
SPA	Specialist Professional Adviser (Child Safeguarding)
UES	Unregistered educational setting

APPENDIX 1

Have your say – unregistered educational settings in Hackney.

Question 1: What is your email address?

Question 2: In what capacity are you answering this survey? (Please tick all options that apply)

Parent of a child aged under 16 attending and unregistered setting? [__]
Parent of a child aged 16 or above attending and unregistered setting? [__]
Former pupil at an unregistered setting when <16 years of age [__]
Former pupil at an unregistered setting when >16 years of age [__]
Head teacher / teacher at an Independent School [__]
Head teacher / teacher at a maintained school [__]

Other (please state here):

Question 3: From your knowledge/experience of unregistered settings how satisfied are you with:

- The safety of the building (e.g. fire safety and evacuation plans, fire safety equipment, drills and training etc.)
- The well-being of the pupils (e.g. DBS Checks*, anti-bullying policy and safeguarding protocols etc.)
- The curriculum taught

Please tell us in more detail about your knowledge /experience. Please use the free text box below or submit any additional information or statement:

Question 4: If applicable, from your knowledge / experience of unregistered settings how easy or not is it report or raise concerns in respect of the following?

- The safety of the building (e.g. fire safety and evacuation plans, fire safety equipment, drills and training etc.)
- The well-being of the pupils (e.g. DBS Checks*, anti-bullying policy and safeguarding protocols etc.)
- The curriculum taught

Please use the free text box below or submit any additional information or statement.

Question 5: How satisfied are you that the Council is successfully ensuring the quality of education, the safety and the safeguarding of children in unregistered settings in Hackney?

Demographics

Question 6: Where do you live? (This information will help us to better understand the views of Hackney residents)
Postcode?

Question 7: What is your Gender?
Male [__]
Female [__]
If you prefer to use your own term please provide this here:

Question 8: Is your gender identity different to the sex you were assumed to be at birth?

Question 9: What is your age group?

Under 16	[__]	25-34	[__]	55-64	[__]
16-17	[__]	35-44	[__]	65-74	[__]
18-24	[__]	45-54	[__]	75+	[__]

Question 10: What ethnicity: are you?

Other, please tell us if you wish:

Question 11: Religion or belief:

Other (please state if you wish):

Question 12: Sexual orientation:

Other (please state if you wish):

Question 13: Disability: Under the Equality Act you are disabled if you have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities. Do you consider yourself to be disabled?

Question 14: Caring responsibilities: A carer is someone who spends a significant proportion of their time providing unpaid support to a family member, partner or friend who is ill, frail, disabled or has mental health or substance misuse problems. Do you regularly provide unpaid support caring for someone?