

# Three convicted of running an illegal school

Three people pleaded guilty at Lincoln Magistrates' Court last week (26 September) to conducting an unregistered independent school under section 96 of the Education and Skills Act 2008. The prosecution, only the third of its kind, was brought following an investigation by Ofsted's unregistered schools taskforce.

Patricia Hodgkinson, Dr Albert Okoye and Clement Earle received a conditional discharge and were ordered to pay £1,000 costs and £20 victim surcharge.

Six local authorities were misled into paying hundreds of thousands of pounds of public money for children to be educated at Freiston Hall, Lincolnshire. Local authorities were being charged £1,200 a week for each child's education. Freiston Hall clearly sought to identify itself as a school in its name, on its website and in other documents. Some local authorities told Ofsted that they were assured by the school that it was registered.

Freiston Hall was an unregistered school for looked after children with highly complex physical and mental health needs. Children lived on site at the registered children's home while receiving all their education at the on-site unregistered school.

When one looked after child or a child with an education, health and care (EHC) plan is attending an educational setting full time, that setting must be registered as a school or it is operating illegally. At Freiston Hall, inspectors found 9 looked after children attending full time. Several of these children had an EHC plan.

The Department for Education referred Freiston Hall School to Ofsted's unregistered schools taskforce in September 2017 after it was suspected to be operating without registration. Despite a warning issued by Ofsted, the school continued to operate illegally.

Ofsted carried out 2 further pre-registration inspections, which found that Freiston Hall was unlikely to meet the government standards. It had failed to carry out necessary staff suitability checks, to give first aid training to staff, and to supervise pupils adequately.

At a final unannounced inspection carried out by our unregistered schools taskforce, inspectors found unsupervised children wandering around the premises. Staff were struggling to keep reasonable order and calm, while children became agitated and upset.

Freiston Hall only closed because Ofsted issued the associated children's home with a suspension notice. The children were removed and placed elsewhere. The proprietors had no choice other than to close the school.

Amanda Spielman, Ofsted's Chief Inspector, said:

The people running Freiston Hall were receiving large amounts of public money from local authorities, which were paying for exceptionally vulnerable children to be educated in an unregistered, unsafe school.

Registration is so important. Schools operating beneath the radar are not subject to regular inspection, so we cannot be assured that they are safe or providing good quality education. We want to send a clear message to those who continue to run unregistered schools, despite being warned not to. You will face justice.

This case should also serve as a warning to local authorities. Decisions about placements must be made with due diligence. All local authorities should be carrying out the necessary checks to make certain that schools are registered with the Department for Education.

Under section 96 of the Education and Skills Act 2008 (the 2008 Act), in England, a person must not conduct an independent educational institution unless it is registered. A person who conducts an unregistered independent school is guilty of a criminal offence.

Under section 97 of the Act, if Ofsted has reasonable cause to believe that an offence under section 96 is being committed on any premises, inspectors may enter the premises and take copies of any records or other documents that may be required for the purposes of proceedings in relation to such an offence.

Under section 463 of the Education Act 1996, an 'independent school' is defined as a school that is not maintained by a local authority or is not a non-maintained special school and at which full-time education is provided (a) for 5 or more pupils of compulsory school age or (b) for at least 1 pupil who is looked after by a local authority (within the meaning of section 22 of the Children Act 1989) or has a statement of special educational needs or an education, health and care plan.

The offence is a summary offence and currently carries a maximum penalty of 6 months' imprisonment, an unlimited fine or both.

Between 1 January 2016 and 31 December 2018, Ofsted identified 521 possible settings that may be unregistered schools: 259 settings have been inspected and 71 have been issued with warning notices. From these, 15 settings have since closed, while 39 have changed the way they operate in order to comply with the law, and 9 have registered as independent schools. The remaining cases are still under active investigation, while more settings continue to be identified.