

Meeting of:	<b>Learning and Culture Scrutiny Committee</b>										
Date of Meeting:	<b>Thursday, 16 September 2021</b>										
Relevant Scrutiny Committee:	Learning and Culture										
Report Title:	Elective Home Education Update										
Purpose of Report:	To make members aware of the changes occurring in Elective Home Education (EHE) at both Local and National level.										
Report Owners:	Keeva McDermott, Inclusion Manager Martin Dacey, Lead Officer for Social Inclusion and Wellbeing										
Responsible Officer:	Paula Ham, Director of Learning and Skills										
Elected Member and Officer Consultation:	Morwen Hudson, Head of Standards and Provision Councillor Lis Burnett, Deputy Leader and Cabinet Member for Education and Regeneration										
Policy Framework:	The recommendations of this report are within existing policy framework and a matter for Member consideration.										
<p><b>Executive Summary:</b></p> <p>The Vale of Glamorgan (VoG) like all Local Authorities (LAs) has longstanding obligations to ensure that all children of school age receive a suitable and full-time education at school or otherwise.</p> <p>The VoG, along with nearly all LAs in Wales, has seen significant increases in the number of parents choosing to home educate in recent years. Comparative data is limited and restricted in its use. The VoG EHE data below shows an ongoing increase over time which has subsequently continued to rise even since schools re-opened in April 2021.</p>											
<table border="1"> <thead> <tr> <th>January 2018</th> <th>January 2019</th> <th>January 2020</th> <th>January 2021</th> </tr> </thead> <tbody> <tr> <td>46 EHE known to the LA</td> <td>76 EHE known to the LA</td> <td>87 EHE known to the LA</td> <td>104 EHE known to the LA</td> </tr> </tbody> </table>				January 2018	January 2019	January 2020	January 2021	46 EHE known to the LA	76 EHE known to the LA	87 EHE known to the LA	104 EHE known to the LA
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Elective Home Education is a legal option for parents to choose, provided that they are able to satisfy the LA (or the courts if they opt not to engage with the LA) that the education provided is suitable efficient and full time. The right to home educate is not a fundamental one and is conditional on parents providing their child with an 'efficient' and 'suitable' education. Parents may educate their child at home provided they fulfil certain legal requirements as the law currently stands.

Welsh Government has published revised draft statutory guidance on EHE which makes clearer the broader expectations on LAs to monitor and support the provision of EHE. Welsh Government has also published draft regulations for consultation which, if enacted, places a duty on LA's to make arrangements to establish the identities of children in their area who are not registered learners at a school and who are not receiving suitable education. The regulations, if enacted, would require local authorities to maintain and populate a database, Children Missing Education (CME), which would lead to increased obligations upon all Welsh LAs to maintain a reasonably accurate database of all learners living in the VoG who are of school age.

Neither schools nor LA officers or other professionals should encourage a parent to elect to home educate as it should be a positive choice by the parent. Where there are negative reasons for the decision, officers can, and do seek to advocate for and mediate between learners, parents and schools to establish if any concerns can be addressed to enable the learner to stay on roll.

In cases where the EHE provision is deemed to be unsuitable, the Inclusion team will work with parents and other agencies to ascertain next 'best steps' in the interests of the child. This may lead to the issue of school attendance order (SAO) proceedings whereby the court will be invited to require learners to attend a named school if the parent is unable to evidence suitable education is being provided.

Potential future changes to WG policy and legislation in relation to EHE and CME and the impact of the Additional Learning Needs and Education Tribunal (Wales) Act (ALNET) is likely to continue to increase the expectations of LA's in relation to the delivery of services and support for EHE learners.

In line with the WG's increasing focus on EHE, the increasing complexity of EHE learner needs (e.g. ALN needs) and expectations by way of support for EHE under the WG grant, the LA has changed its delivery and management of services relating to EHE. The provision of services relating to EHE now sits within the Inclusion team who provide EHE support and oversight for the LA.

## Recommendations

1. That Members consider the progress made in the EHE service during the last 12 months.
2. That Scrutiny Committee (Learning and Culture) receives a further progress update report in 12 months in relation to the ongoing delivery, and further measures to raise awareness of the use and impact of EHE grants for the support of EHE learners.
3. That Scrutiny Committee (Learning and Culture) in receiving the report referred to in paragraph 2 above are updated on the further progress as to the likely impact of any implementation of the proposed amended statutory guidance on Home Education and the proposed draft regulations which incorporate the requirement for LA's to maintain a CME database.

## Reasons for Recommendations

1. To enable the Council to scrutinise its legal obligations under the relevant Education legislation to ensure all learners of statutory school age receive a suitable and fulltime education either at school or otherwise.
2. To further update Scrutiny Committee as to the progress made in relation to the ongoing delivery, and further awareness raising of the use and impact of the EHE grants for the support of EHE learners.
3. To ensure that Members of the Scrutiny Committee continue to have oversight and awareness of ongoing changes to the expectations and obligations placed on the LA in regard to EHE learners and learners who may be categorised as CME and missing their entitlement to an education.

## 1. Background

### 1.1 Elective Home Education (EHE):

- 1.1.1 Parents may educate their children at home providing they fulfil the requirements contained in section 7 of the Education Act 1996. *'The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable – (a) to his age, ability and aptitude, and (b) to any special educational needs he may have, either by regular attendance at school or otherwise'*.

### 1.2 Children Missing Education (CME):

- 1.2.1 Under section 436A and 436A (1) of the Education Act 1996, LAs have a duty to *make arrangements to identify children not receiving a suitable education*. The duty applies in relation to children of compulsory school age who are not on school roll and who are not receiving a suitable education otherwise than being in school (e.g. at home, privately or in alternative provision). "Suitable

education”, in relation to a child, means *efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.*

### **1.3 School Attendance Orders (SAOs):**

**1.3.1** Section 437 of the Education Act 1996 relating to school attendance orders, sets out (1) - *If it appears to a local authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education. A parent on whom a notice has been served under subsection (1) fails to satisfy the local authority, within the period specified in the notice, that the child is receiving suitable education, and (b) in the opinion of the authority it is expedient that the child should attend school, the authority shall serve on the parent an order (referred to in this Act as a “school attendance order”), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order.*

### **1.4 Safeguarding and impact of the Children Act 2004:**

**1.4.1** Sections 25 and 28 of the Children Act 2004 *requires each local authority and its relevant agencies to work together to improve the well-being of children, by safeguarding children from harm and neglect; promoting their education, and improving their physical, mental, emotional, social and economic well-being. Children who are missing education are at risk of social exclusion and are unlikely to be able to achieve in the future without having consistent educational provision. Local authorities should approach all cases where the suitability of home education is in doubt using their powers in the Education Act 1996. They should also be ready, if a lack of suitable education appears likely to impair a child’s development, to fully exercise their safeguarding powers and duties to protect the child’s wellbeing.*

**1.5** Until March 2020, the LA’s functions relating to the provision of EHE was the responsibility of the Additional Learning Needs (ALN) and Wellbeing service within the Learning and Skills Directorate and the operational duties were carried out on a day to day basis by one part time, ‘term time’ only LA officer.

**1.6** In 2020 the EHE service became the responsibility of the newly established Inclusion Team which forms part of the Standards and Provision service within the Education Directorate.

**1.7** Additional capacity was created and saw the recruitment of an additional officer to meet the increasing demand for the service in the Summer of 2020, and as at September 2021, qualified teachers will support the Inclusion officers’ work in supporting and assessing EHE provision. Inclusion officers on year-round contracts will be supported by the EHE teachers on 39-week contracts rather than on a part time basis, term time only learning support officer (LSA) contract. The Inclusion team will be able to offer support to the learner whether on roll and considering EHE, actively EHE, actively CME or returning to school on a supported and phased basis after a period of having been EHE. This child-focused approach should lead to better support for the learner's needs.

- 1.8** Further additional capacity was created by the appointment of dedicated full time administrative support to the Inclusion team in the Summer of 2020 and the establishment of the Attainment, Wellbeing and Engagement (AWE) Team to support EHE learners as well as 'on roll' learners.
- 1.9** A review of all LA EHE systems and processes was undertaken to ensure that where EHE visits are undertaken, there is a clear and objective criterion used to assess the provision and recording of this information which is shared appropriately.
- 1.10** Training on EHE and the potential overlap with CME was shared with all Inclusion team officers internally and cascaded to other teams and offered to all schools (December 2020 - February 2021).

## **2. Key Issues for Consideration**

- 2.1** As at January 2021, the number of EHE learners visited or seen on a virtual home visit within the last 12 months had risen significantly by 38% compared to January 2020.
- 2.2** The Covid pandemic has exacerbated an already existent trend for electing home education in both England and Wales. The Inclusion team has worked with schools to seek to avoid parents electing EHE when Covid concerns have been the main reason for decisions made by parents for elective home education. A supportive and flexible approach by schools and the LA during the imposition of WG restrictions resulting in school closures has led to a significant reduction in EHE as a consequent of the impact of Covid health protection restrictions compared to many other LAs in Wales.
- 2.3** The Inclusion team has improved the support for EHE learners during the last 12 months by:
  - improving internal recording systems;
  - better monitoring of the uptake and outcomes of EHE home visits;
  - providing the capacity within the team to undertake home visits, and
  - delivering an enhanced EHE offer to learners to provide access to resources (both online and physical), exams and short courses and loaned ICT equipment.
- 2.4** EHE numbers in the Vale of Glamorgan based on the census date of 26th January 2021 were 104 compared to 87 the year before, but this 20% increase is a significantly lower rate than that experienced by many LAs in Wales; the average increase across Wales was 36%. The rate per 1,000 pupils in the Vale increased from 4.5 in 2020 to 5.3 in 2021 which compares to a Wales average increase from 7 to 9.5. The Vale's rate per 1,000 pupils is the joint lowest in Wales.
- 2.5** In April 2020, saw the first time WG awarded all LAs a grant allocation to offer a nominal amount per learner of circa £160 for LAs to use to support the needs of EHE learners. Prior to this, it had been common practice that no LA would or should provide financial support in relation to the delivery of parental EHE

provision in any way, as the willingness to take on full responsibility for EHE learners' education is a key aspect of a parent taking this route. This change of focus is in part aligned to the European Convention on Human Rights and the requirements of the Well-being of Future Generations (Wales) Act 2015.

- 2.6** Following the introduction of the WG EHE grant allocation in April 2020, a revised and enhanced EHE offer was shared to all EHE learners in December 2020 including access to funded exams, funded online resources and programmes and physical materials.
- 2.7** In addition, the grant allocation has been used to support EHE learners by:
- providing access to tuition through the medium of the English and Welsh language;
  - ensuring teacher assessed grades for GCSEs could be ascertained;
  - reimbursing the costs of external exam provider fees;
  - providing access to one day courses in vocational topics such as Health and safety, First Aid and Food Hygiene; and
  - the loaning of IT equipment.
- 2.8** This supports both the right of parents to choose how their child is educated but also supports the LA desire to reduce the risk of EHE learners becoming 'not in employment education or training post 16' (NEET). Article 28 of the United Nations Convention on the Rights of the Child (UNCRC) states that *all children have a right to an education and that primary education should be compulsory and free*. Article 29 states that *education should develop each child's personality and talents to the full*. However, one of the underlying principles of the UNCRC is the best interests of a child, and Article 3 of the UNCRC requires *all adults to think about how their decisions will affect children and to do what is best for them*.
- 2.9** This year the WG EHE grant is again being provided to all LAs and the VoG will be creating a support and resource offer for all EHE learners living in the Vale. The LA will seek to ensure that the offer (again a nominal fee per head amounting to circa £160 per learner per year), whilst supportive of those who have already elected to home educate and who are meeting the legal requirements in their provision, does not encourage other learners to choose EHE as an alternative learning pathway solely in order to access to the EHE grant support.
- 2.10** For the first time, Welsh Government has this financial year (April 2021) provided all LAs with a grant of £50,000 per year to better support the existing obligations of LAs in meeting the requirements within the relevant provisions of the Education Act, to ascertain the suitability of EHE provision, support EHE families with advice and guidance and, where necessary, to issue School Attendance Orders (SAOs) to seek the return to school of learners who are missing education (and thus CME) where the EHE provision is not achieving the legally required level.
- 2.11** The LA will continue to improve its delivery in this area by continuing to seek to increase the number of annual home visits made to EHE learners where parents

accept such visits, and by ensuring that for all learners, the LA has sufficient evidence to ascertain whether the EHE provision is suitable or not.

- 2.12** In cases where the EHE provision is deemed to be unsuitable then the Inclusion team will work with parents and other agencies to ascertain next best steps in the interests of the child. This may lead to an increase in the issue of SAO (school attendance order) proceedings whereby the court will be invited to require learners to attend a named school if the parent is unable to evidence suitable education is being provided.
- 2.13** A key aspect of the work of the newly recruited teachers for EHE will be to support the allocation and use of the EHE learner grant to continue to enhance the support for EHE learners. In addition, they will engage with stakeholders to establish appropriate and beneficial use of the EHE grant to ensure inclusive and equitable distribution of the allocation of the grant within a range of targeted ages and cross-curricular areas. As we emerge from the pandemic there will be a greater emphasis on socialisation and mental and physical wellbeing as well as access to formal qualifications.
- 2.14** Due to the changes outlined above, there is likely to be an ongoing increase in both the numbers of learners who are EHE and also the amount of support and time the LA needs to allocate to the obligations for the EHE remit.
- 2.15** It is likely that as part of the LA legal obligation to ensure all learners receive a suitable education, the LA will be required to begin issuing SAOs in a small number of cases where learners have been identified as not receiving a suitable EHE provision, and where efforts to raise the level of provision by a supportive approach have been unsuccessful.
- 2.16** It is likely that the LA remit will be increased in relation to learners with additional learning needs due to provisions of the ALNET Act. The LA is awaiting clarification on this from WG.
- 2.17** Where learners have become EHE due to concerns around the impact of the Covid restrictions, there is the potential for there to be a gradual return to school over time for some of the learners. It is likely that these learners would need enhanced support to reintegrate back into school and that those learners may not be able to return to their original school if places are no longer available.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The Well-being of Future Generations (Wales) Act 2015 (“the 2015 Act”) requires the Council to think about the long-term impact of their decisions, to work better with people, communities and each other and to prevent persistent problems such as poverty, health inequalities and climate change.

- 3.2** The revised EHE offer is explicit in the ways we work alongside Health and Careers Wales to ensure all EHE learners are able to access health and careers support and services. The AWE team offers assessment and support to enable EHE learners to meet the EHE legal threshold if this can be done in a reasonable timescale that leads to self-sustaining improvements in the parental provision. The EHE teachers will also be offering support and EHE support sessions from September 2021. This aligns with the need to support learning, employment and sustainable economic growth.
- 3.3** The role of the LA with EHE is to enable the raising of overall standards of achievement for all learners whether on school roll or not. This report recognises the importance of schools collaborating closely with families, the local community and a range of agencies to ensure specific support for EHE learners in order to improve the support for, and standards of achievement of EHE learners, and also to ensure that EHE learners are able to access all support to which they are entitled.
- 3.4** We work collaboratively with internal and external partners including agencies, education and training providers, Careers Wales and Welsh Government, to help meet the Well-being objective.

## **4. Resources and Legal Considerations**

### **Financial**

- 4.1** The Inclusion team is core funded as a result of it being responsible for a range of long standing LA legal obligations including those relating to school attendance and the regulation of child employment and performance. The only additional funding available is the new WG grant funding for EHE which amounts to the sum of £50,000 for supporting EHE existing obligations of the LA as well as Covid impacted increases in EHE and a per head learner amount. The inclusion team has also been able to offset (on a temporary basis) some of its core funding costs against the Covid Relief fund from WG due to it being able to evidence the increased workload resulting from the rise in EHE and increasing need to try to support learners in EHE and seeking to return to formal schooling or seeking to be supported to stay in schooling with appropriate measures in place to reduce any Covid related concerns.
- 4.2** Due to improvements in the way LA manages specialist provision for learners (via the SEMHP panel) the LA has been able to realign some of its resources to create an internally managed team to support the changes in learner attendance, well-being and engagement exacerbated by the implication of the restrictions arising from the Covid pandemic.
- 4.3** The AWE team is funded from the Inclusion budget and has led to the creation of a team which can react to changes which require greater flexibility than most external alternative providers can provide. AWE team officers have for instance provided support to home educated learners (EHE provision), learners missing



education (CME remit), child employment business visits (CIEE remit) and non-attending and disengaged school learners (EWS remit). This flexible way of working supports the changing Covid scenario and the wide remit of the Inclusion team overall.

- 4.4** The Inclusion team will also oversee and manage the WG EHE pupil grant allocation which for this year is £17,696 based on a nominal per learner amount of £160.

### **Employment**

- 4.5** The Inclusion team has recruited additional officers to the AWE team on temporary contracts and via temporary agency sourced arrangements (currently 3 Learning Support Assistants and one part time teacher). WG EHE grant funding has enabled the recruitment of two EHE specialist teachers (one at 0.4 and one at 0.6 of a full-time equivalent contract) to enable the delivery of the increase in EHE support and responsibilities required to ensure the LA meets its legal obligations under the Education Act and also, in due course, the ALNET Act as well as ensuring suitable and beneficial use of the EHE WG grant allocation.
- 4.6** The Inclusion team restructure has created a more tiered team to enable internal career progression opportunities in the future and one member of the team has already benefitted from this opportunity. This tiered structure should support the retention of officers within the Vale over time.
- 4.7** The Vale of Glamorgan's Inclusion team are seeking to appoint additional officer capacity with the ability to enable the AWE team to deliver support to learners and families in the medium of Welsh.

### **Legal (Including Equalities)**

- 4.8** The legal implications arising from this report are as set out elsewhere in this report.

## **5. Background Papers**

N/A