

Meeting of:	Learning and Culture Scrutiny Committee
Date of Meeting:	Thursday, 09 November 2023
Relevant Scrutiny Committee:	Learning and Culture
Report Title:	Elective Home Education (EHE) Update
Purpose of Report:	A further update following the Elective Home Education (EHE) Update of September 2022
Report Owner:	Suzanne Cowan, 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 Rhiannon Birch, Cabinet Member for Education, Arts and the Welsh Language
Policy Framework:	The recommendations of this report are within existing policy framework and a matter for Members consideration.
<p>Executive Summary:</p> <ul style="list-style-type: none"> • 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. • 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 LA's EHE data below shows an ongoing increase over time which has subsequently continued to rise since schools fully re-opened post Covid closures in April 2021 and over the last year. 	

January 2018	January 2019	January 2020	January 2021	January 2022	January 2023
46 EHE known to the LA	76 EHE known to the LA	87 EHE known to the LA	104 EHE known to the LA	134 EHE known to the LA	166 EHE known to the LA

- Since the date of the last report to cabinet regarding Elective Home Education (EHE) in September 2022, Welsh Government have published the new guidance document no: 292/2023 which replaces 289/2023 as of October 2023.
- This document provides statutory guidance for local authorities on arrangements for identifying children of compulsory school age who are resident in their area, who are not on any maintained school roll, not in education other than at school (EOTAS), not on any independent school roll, being educated at home by parents and those not known to the local authority as receiving a suitable education.
- The regulations have increased obligations upon all Welsh LAs to maintain a reasonably accurate database of all learners living in the VoG who are of school age and ‘so far as it is possible to do so’ the local authority should do all that is reasonable, practicable and appropriate to identify children.
- Welsh Government has published a Home Educators EHE guidance document in June 2023.

Recommendations

1. That Members consider the progress made in the area of EHE 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 LAs 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 with regards to EHE learners and learners who may be categorised as CME. This is with a specific focus on those 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'*.
- 1.1.2 Article 2 of Protocol 1 to the European Convention on Human Rights (ECHR)⁵ means that the wishes of parents are relevant, but this does not however mean they are the sole arbiters of what constitutes a suitable education Article 2 of the ECHR states: *Parents may decide to home educate their child from a very early age and so the child may not have been previously enrolled at school. They may also decide to home educate at any stage up to the end of compulsory school age.*

- 1.1.3 Regulation 8(2) of The Education (Pupil Registration) (Wales) Regulations 2010 states: ‘The name of a child who has under arrangements made by the local authority become a registered pupil at a special school must not be removed from the admission register of that school without the consent of that authority, or if that authority refuse to give consent, without a direction of the Welsh Ministers.’
- 1.1.4 Section 13 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 places a duty (subject to certain exceptions) on a local authority, where it is brought to its attention or otherwise appears to it that a child for whom it is responsible has ALN, to decide whether the child has ALN. The duty is not specific to particular groups of children and would include those who are home educated. Under section 14 of the Act, if a local authority decides the child has ALN, an IDP must be prepared and maintained for the child. Section 14 of the Act also sets out that where a local authority maintains an IDP for a child or a young person, the local authority must secure the additional learning provision (ALP) described in the plan. This does not mean the local authority has to directly provide the ALP. Where, for example, the IDP sets out the ALP as being one-to-one support, this could be provided by a parent home educating the child.
- 1.2 Children Missing Education (CME):**
- 1.2.1 Under section 436A and 436A (1) of the Education Act 1996, places a duty on local authorities to make arrangements to establish the identities of children in their area who are of compulsory school age who are not registered learners at a school and are not receiving suitable education otherwise than at a school. Local authorities must have regard to published statutory guidance in exercising their functions under that section. “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*. The caveat in s.436A ‘so far as it is possible to do so’ should be interpreted as meaning the local authority should do all that is reasonable, practicable and appropriate to identify children.
- 1.2.2 Legal precedent has established that local authorities can make informal enquiries of parents for details of the educational provision for their child. Goodred v Portsmouth City Council states “There is nothing remotely problematic in the defendant approaching a home-schooling parent...to request evidence that, if satisfactory, would enable the defendant to discharge its duty under section 436A without the need to serve a [notice to satisfy under section 437(1) of the Education Act 1996] R. (on the application of Goodred) v Portsmouth City Council 16 November 2021
- 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 written notice has been served on the parent requiring that parent to satisfy them within the period specified in the notice (no less than 15 days beginning with the day on which notice is served)*

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 Education Supervision Orders

1.4.1 Under section 447, Education Act 1996 *if a parent fails to comply with an SAO a local authority must consider whether it would be appropriate (instead of or as well as instituting proceedings for the offence of failing to comply) to apply for an education supervision order (ESO) in respect of the child. Failure to comply with an SAO could lead to either a criminal conviction or the imposition of an ESO or both.*

1.5 Safeguarding and impact of the Children Act 2004:

1.5.1 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.*

1.6 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 annually and this training offer is being re-run this Autumn term 2023.

1.7 The Inclusion Team has an Inclusion Officer and an Engagement Officer with responsibility for focused EHE work with schools, families, and learners. The work is also supported by the Inclusion Officer with responsibility for CME and the Admin and Data Officers within the Inclusion Team. This work is supported and monitored by the Inclusion Manager within the Inclusion Team.

2. Key Issues for Consideration

2.1 The number of learners recorded as EHE in the VoG rose from 134 in January 2022 to 166 in January 2023. EHE continues to rise across many areas of Wales. Parental preference is the key driver, but other factors are recorded and scrutinised to support school improvement and inclusion. The EHE grant offer is unlikely to be a determining factor in parents initially choosing to EHE but may be a factor in increasing the number of EHE learners being willing to be known to and engage with the LA.

- 2.2** As of January 2023, the number of EHE learners visited or seen on a virtual home visit within the last 12 months had risen significantly to 83%, with 55% of this number being visited at home. An additional 15.5% submitted reports to the EHE team. 2% (3 learners) of the EHE cohort did not engage with this offer. This demonstrates the impact of increased capacity within the inclusion team to support EHE (funded by WG grant), the increased focus of the LA upon monitoring and support of EHE and the increased willingness of parents of EHE learners to engage with the LA to agree to either face to face or online virtual EHE visits.
- 2.3** If it appears to the LA that the education does not meet the required legal threshold then the LA adheres to WG guidance on EHE and supports the parent to attain this level within a reasonable timescale. Where this is not possible the LA will initially encourage parent to consider a return to school. If this appears to be in the learner's best interests and if there is no consensus on this and no improvement in the EHE provision, then the LA will consider the learner to be CME. For any CME learner steps would be taken to consider if an SAO were needed or if other multi agency input was more appropriate, such as involvement of health colleagues or other professionals.
- 2.4** No EHE learners were compelled to return to schools under School Attendance Orders (SAOs) in this period and there are no ongoing SAO matters for EHE. If the initial information supplied by a parent is insufficient at any point, then LA will, and does, ask for further information to enable it to be satisfied that the learner is receiving suitable education and is not CME and therefore issue of SAO proceedings is not required.
- 2.5** One of the reasons for increased engagement with the LA may be due to it being a requirement to access the EHE grant offer. Only EHE learners who have engaged with the LA sufficiently to enable it to determine that the quality of EHE provision meets the legal threshold and that the learner is not CME may access the grant funding.
- 2.6** Following the introduction of the WG EHE grant allocation in April 2020, a revised and enhanced EHE offer is delivered to learners to provide access to resources (both online and physical), exams, short courses and loaned ICT equipment. This has been developed over the 3 years with more variety being offered from April 2022 - March 2023 compared to the first offer in 2020.
- 2.7** The grant allocation has been used to support EHE learners in the last year by offering:
- Free weekly swimming sessions at Barry Leisure Centre
 - Free Twinkl Subscription
 - Free First News Subscription
 - Reimbursement for an annual carparking pass
 - Reimbursement for Athletics or equivalent maths package
 - Amelia Trust Farm sessions Key Stage 2
 - Amelia Trust Farm sessions Key Stage 3
 - Amelia Farm Family Pass
 - Forest School Sessions

- Beach Academy Sessions
 - BKSb accounts
 - Duke Of Edinburgh scheme (including related activities e.g. archery)
 - Friday English and Numeracy catch up sessions at YMCA base within VoG
 - WJEC Exam entry
 - Laptop loan
- 2.8** The number of learners taking up the EHE grant offer is rising: 41 learners accessed some form of support in the first year of the offer amounting to 31.5 % of the EHE learner cohort, and in the most recent year (up to Jan 2023) this rose to 91 learners amounting to 61.5% of the known EHE learners. A survey was sent out to parents for feedback on previous years offer in April 2023 to feed into new 2023-24 offer.
- 2.9** The variety of activities encourages participation from different learners, and has helped to build EHE community links with the LA. Through these links there has been increased awareness of Nursery and Reception age siblings within the Inclusion Team and some EHE families have approached us about opportunities as they have heard about the enrichment by word of mouth, and as a result more EHE learners have become known to the Inclusion Team.
- 2.10** The EHE offer supports the prevention of learners becoming not in employment education or training (NEET) by facilitating support sessions for EHE learners entered for exams to ensure exam readiness.
- 2.11** In the past academic year 3 EHE learners gained their Bronze DofE, supported by a LA arranged archery activity. 44% of Year 11 EHE learners attended weekly GCSE Sessions at the YMCA with a tutor for Maths and English. 24% of Year 11 EHE learners were supported with entries for GCSE's at Ysgol Y Deri where they sat Maths and Numeracy and English. A tutor was also organised to support the oracy assessment. 8% of Year 11 EHE learners sat iGCSEs and one learner was supported with their Diploma. This support was funded by the WG grant funding.
- 2.12** We liaise with colleagues in the Additional Learning Needs Team (ALN) to support and engage with parents where there are requests to support or identify such needs and ensure that these are adequately provided for under the terms of the Additional Learning Needs and Educational Tribunal (Wales) Act (ALNET).

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. Climate Change and Nature Implications

- 4.1** There are no noted implications save that the EHE grant offer supports access to VoG open spaces such as Cosmeston and Porthkerry and makes use of the Amelia Trust Farm provision.

5. Resources and Legal Considerations

Financial

- 5.1** 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 WG grant funding for EHE which amounts to the sum £67,696 for supporting EHE existing obligations of the LA.
- 5.2** The Inclusion team will also oversee and manage the WG EHE pupil grant allocation which for this year is £17,500.

Employment

- 5.3** WG EHE grant funding has enabled the recruitment of two EHE specialist officers within the Inclusion Team to enable the delivery of the increase in EHE support and fulfil the responsibilities required to ensure the LA meets its legal obligations under the Education Act and the ALNET Act (in partnership with ALN colleagues) as well as ensuring suitable and beneficial use of the EHE WG grant allocation.

- 5.4** 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.

Legal (Including Equalities)

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

6. Background Papers

None.