


**REPORT TO
CHILDREN'S SERVICES AND EDUCATION
SCRUTINY BOARD**

20 July 2020

Subject:	Elective Home Education
Cabinet Portfolio:	Councillor Joyce Underhill, Cabinet Member for Best Start in Life
Director:	Lesley Hagger, Executive Director of Children's Services Chris Ward, Director – Education, Skills and Employment
Contribution towards Vision 2030:	
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DECISION RECOMMENDATIONS

That Children's Services and Education Scrutiny Board:

1. Consider the update on trends and status of Elective Home Education (EHE) in Sandwell outlined in this report.
2. Make any comments and recommendations as necessary.

1 PURPOSE OF THE REPORT

- 1.1 To update Scrutiny board on trends and the current status of Elective Home Education (EHE) in Sandwell.

2 IMPLICATIONS FOR VISION 2030

Ambition 1 - Sandwell is a community where families have high aspirations and where we pride ourselves on equality of opportunity and on our adaptability and resilience.

Ambition 3 - Our workforce and young people are skilled and talented, geared up to respond to changing business needs and to win rewarding jobs in a growing economy.

Ambition 4 - Our children benefit from the best start in life and high-quality education throughout their school careers with outstanding support from their teachers and families.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 It is parents/carers, not the state, who are responsible for ensuring that a child of compulsory school age is properly educated. Despite the term 'compulsory school age', education does not have to be undertaken at school, even though state-funded education is available for any child of that age living in England
- 3.2 Elective home education is a term used to describe a choice by parents to provide education for their children at home - or at home and in some other way which they choose - instead of sending them to school full-time. This is different to education provided by a local authority otherwise than at a school - for example, tuition for children who are too ill to attend school.
- 3.3 The terms "home schooling" and "elective home education" are often used inter-changeably however, they do not necessarily mean the same thing to all. For example, in the recent climate of Covid19 the term "home schooling" has been widely used by various forms of media to describe those children being educated at home by parents due the enforced closure of their school during the ongoing pandemic.
- 3.4 Educating a child (or children) full-time at home is a rewarding but challenging task. Parents may choose to engage private tutors or

other adults to assist in providing a suitable education, but there is no requirement to do so. There are other settings which may be used, for example parental support groups which offer tuition, and companies which give part-time tuition. This can also include provision made at further education colleges for children aged 14 and over.

- 3.5 Although children being home-educated are not normally registered at any school, parents sometimes choose to make arrangements for a child to receive part of the total provision at a school - the purpose of this will often be to provide education in specific subjects more easily than is possible at home. Such arrangements are sometimes known as 'flexi-schooling'. Schools are under no obligation to agree to such arrangements, but some are happy to do so. When a child is flexi-schooled, the parents must still ensure that the child receives a suitable full-time education but the element received at school must be taken into account in considering whether that duty is met.
- 3.6 Parents who choose to educate a child in these ways rather than sending the child to school full-time take on financial responsibility for the cost of doing so, including the cost of any external assistance used such as tutors, parent groups or part-time alternative provision. If the child attends state-funded school or FE college for part of the week, that will have no cost to the parents. Examination costs are also the responsibility of parents if a child does not attend school full-time.
- 3.7 For this report, the term elective home education (EHE) or "home education" is preferred to describe those children who are not on a school roll and whose parents are home "educating otherwise than at school" as described in the 1996 Education Act.
- 3.8 Many children do well when educated at home and parents do a good job. However, the term "elective" is an issue of growing debate as some parents feel the necessity to "home educate" their children not because it is their ideological / philosophical preference but for other reasons, listed below:
 - Dissatisfaction with the school system
 - Bullying of the child at school
 - As a short-term intervention for a specified reason

- A child's unwillingness or inability to go to school e.g. school phobia
- Special educational needs, or a perceived lack of suitable provision in the school system for those needs
- Health reasons, particularly mental health of the child
- Disputes with a school over the education, special needs or behaviour of the child, possibly resulting in 'off-rolling' or 'exclusion'.
- Familial reasons which have nothing to do with schools or education (e.g. using older children educated at home as carers)
- As a stop-gap whilst awaiting a place at a school other than the one allocated.

3.9 Nationally, there has been a very significant increase in the number of children being educated at home, and there is considerable evidence that many of these children are not receiving a suitable education. EHE numbers over the last 5 academic years have risen significantly in Sandwell.

The table below shows numbers at academic year end:

Year end	14/15	15/16	16/17	17/18	18/19
Active EHE	142	200	267	300	334
Statement / EHCP	4	7	11	17	23

The number of active EHE cases has more than doubled since the end of the 2014/15 academic year. As at the 25th June 2020* the number of active EHE cases had risen to 408 including 25 children with an education health and care plan

*Please note the reason for choosing this date is that year 11s are usually removed from the data on the last Friday in June - the date for post 16 statutory school age leavers.

Further data is provided in the next section of this report.

3.10 Elective Home Education can at prove a contentious subject with varying views held by each party with parents; EHE advocacy groups and local authorities, all trying to act in the best interests of children.

In 2009, Graham Badman CBE, reported to the Secretary of State for Education submitting what some advocacy groups described as a "controversial legislative proposals" in his review of Elective Home Education. At that time, Badman's recommendations, following the death of home educated Kyra Ishaq in May 2008, included the following suggestions:

- That schools be required to keep children on roll for 20 days - prior to removal for home education - not adopted.
- That ALL children who are home educated be registered with the local authority (whether or not they have been previously on a school roll) - not adopted.
- That action should be taken by the DFE to prevent schools from "off-rolling difficult pupils" (alternative to exclusion) - not adopted although now monitored during schools and LA Ofsted inspections.

In 2018, Lord Solely appeared to take up the baton from Badman when he introduced a private members Bill to the commons in which he proposed the following amendments to the Education Act 1996:

- Requirement for all EHE children to register with local authorities
- A minimum of one inspection per year - ensure standards (reading, writing and numeracy)
- Safeguarding and protection of those at risk (abuse / radicalisation)
- Light touch regulation for those who do EHE well V non-philosophical (avoiding prosecutions)
- New guidance requested from secretary of state for local authorities.
- Government requested to commission research on EHE linked to abuse / child deaths / radicalisation.

Guidance published by the DfE in 2019 (para, 9.4a) in relation to children not in school (missing education) proposed:

- a duty on local authorities to maintain a register of children not registered at specified types of school

- a duty on parents to register their child with local authority if not registered at specified types of school
- a duty on proprietors of certain education settings to respond to enquiries from local authorities
- a duty on local authorities to provide support to parents who educate children at home.

Little appears to have changed in the last 10 plus years in relation to home education since Graham Badman described "the law relating to the duties and powers local authorities with regard to home education as very complex and difficult to interpret.

- 3.11 For those children who have never been at school, there is no legal duty on parents to inform the local authority that a child is being home educated and therefore, an authority may be unaware that he or she is being home educated' (para 4.1).
- 3.12 Where children have attended school, parents must write to the school confirming their intention to withdraw the child to "electively home educate". There is also a duty on schools to notify LAs of the removal of a child from a register.
- 3.13 In the majority of cases parents have undertaken home education in what they perceive as the best interests of the child even if they require additional support to undertake home education properly. However, it may be the case that if the local authority discusses home education with parents, the reason initially given for adopting it may not reflect what parents actually do by way of making provision

4 THE CURRENT POSITION

- 4.1 At present, in Sandwell there are no signs of a reversal in the trend demonstrated in section 3 above. See summary data below

Female	202
Male	205
Total number of students	407
Total % of school population	0.73%

EHE Pupils	
Those with an EHCP	25
SEN support	67
No special educational need	310
Unknown	5

Number of pupils in each year group

Nursery 1	2	Year 5	24
Nursery 2	2	Year 6	27
Reception	11	Year 7	42
Year 1	24	Year 8	36
Year 2	23	Year 9	43
Year 3	28	Year 10	49
Year 4	26	Year 11	60

EHE Reason (parent's belief)	Female	Male	Total
At Risk Of Exclusion	3	3	6
Attendance/prosecution	2	2	4
Bullying	28	17	45
Declined	3	5	8
Dissatisfaction With School	52	68	120
Emotional	0	2	2
Emotional Behavioural Difficulties	16	15	31
Lifestyle/cultural	54	49	103
Medical-Child	8	7	15
Medical-Parent	0	1	1
Not Known	0	4	4
Not Preferred School	15	10	25
Other	6	8	14
Particular Talent	1	2	3
Philosophical	0	1	1
Problems S.E.N Provision	2	2	4
Religious Beliefs	4	6	10
School Refuser/phobic	8	3	11
Total	202	205	407

Town	Total
Birmingham	10
Cradley and Cradley Heath	34
Oldbury	70
Rowley Regis	42
Smethwick	66
Tipton	93
Walsall	2
Wednesbury	33
West Bromwich	57
Total	407
Ward Description	Total

- 4.2 School places are not always available where required and in response to pressures in some localities parents may decide to "home educate". It should be noted that whilst families can decline support they may be asked to provide evidence of the "suitability" of the education provided.
- 4.3 The complexity of EHE cases is also increasing as evidenced by a rise in pupils with SEND; EHCP and or health issues including anxiety and self-harm etc. Another point to note is that EHE numbers could rise further in September 2020 when most children are expected to return to full time education following the recent Covid19, schools closure by central government:
- 4.4 Parents with recent experience of "home schooling" may decide to "electively home educate" their children to minimise the likelihood of fines and/or prosecution or as a matter of positive choice - ideological / philosophical / religious and/or cultural. What parents may not appreciate prior to receiving an initial consultation visit, is that the situation in September 2020 will be very different to their experience of "home schooling" between March and July 2020 when they were provided with learning resources for their children by schools and/or the local authority.
- 4.5 Parents are responsible for funding home education but many may not understand the full costs, such as exam fees and resources.
- 4.6 During the "school closure" period out lined above, a wealth of online learning resources have been created by schools,

educational institutions, the BBC and voluntary organisations. Also, the Government has funded the delivery of special online learning lessons delivered through the Oak Academy. These were created and delivered by teachers from schools around the country. These resources will now be available for the EHE community going forward.

- 4.7 Equally, the Education and Skills Directorate with the support of Connexions and Youth Service Colleagues supported numerous children missing education (not on a school roll). Families unable to access a school place during lock down were supported to deliver "home schooling" with the provision of age-appropriate learning resource packs. Where a need was identified, families were also referred to the food hub for additional support with food parcels as an alternative to the schools' food voucher scheme (for children on a school roll). Where necessary, this support will continue throughout the schools' summer holiday.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 Communication with, and engagement of, our EHE community is key to the success of this local authority in meeting the support needs of home educated children and their families. We will continue to engage with our EHE families, our partners and our staff to ensure that service delivery is designed and implemented with the EHE community.
- 5.2 Consultation with the EHE Community is usually user led and needs driven via informal requests, queries and suggestions as surveys or global consultation has tended not to provide the desired level of engagement or outcomes. The EHE Advisory Teacher regularly meets with members of the EHE community at half termly library events facilitated in the six towns.
- 5.3 During these sessions feedback, plus ideas and suggestions for future events is considered. Some regular attendees assist in delivery of activities and help plan the next session. Because of this assistance, the Advisory Teacher is free to support and answer any queries that might arise. The EHE community requested a focus on arts and crafts and science activities, Appendix 1 details what the library activities currently deliver plus

further information on our stakeholder engagement with the following partners:

- SEND Team
- Library Services
- Housing and Domestic Abuse Hostel Services
- Connexions
- Colleges and Training (Alternative Provision) providers

6 ALTERNATIVE OPTIONS.

- 6.1 The resources required to support Elective Home Education are very people dependant. Sandwell has, since September 2015, been fortunate to benefit from the commitment of an EHE Advisory Teacher who, as evidenced throughout this report, has worked hard to engage and support the EHE community of Sandwell. We are considering what further resource would be needed to maintain contact with the growing number of EHE families.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 To better respond to rising EHE the team have adjusted staffing deployment with the potential to increase capacity in teacher support to the EHE community.
- 7.3 In many instances families do not require visits to the home because they have been seen to be doing well previously, so support becomes less formal. This has meant a rise in informal judgements being made via phone, email and the increased supply of evidential materials. The additional option of video calling families is also being considered.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 The law in relation to Elective Home Education is complex; at times contradictory and requires local authorities to balance a child's education rights with the civil; political; social and welfare rights of the family. All legal considerations need to be taken into account whilst seeking to support and safeguard children who are electively home educated.

8.2 The Education Act 1996 (Section 7) confirms: *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**.*

8.3 There is no definition of a ‘suitable’ education in English statute law . . . a court will reach a view based on the particular circumstances of each child and the education provided’.

8.4 Guidance for local authorities (para, 9.3) states local authorities . . . should be free to develop their own expertise and approach to this issue. The DfE (response to 2018 consultation, 4.10 and) suggests "each case must rest on a balance of relevant factors depending on the circumstances of each child’ whilst a subsequent consultation (April 2019 para 9.4h) indicates:

*‘local authorities should not set rigid criteria for suitability’ (9.4h)
BUT . . .*

may specify requirements as to effectiveness in such matters as literacy and numeracy. . . whilst accepting that these must be applied in relation to the individual child’s ability and aptitudes (9.4d).

8.5 Local Authority duties and responsibilities can be found in Elective Home Education guidance for local authorities [here](#) .

9 EQUALITY IMPACT ASSESSMENT

9.1 The equality implications for Elective Home Education are as follows: As previously stated, Parents ‘assume financial responsibility for all education where they have elected to home educate.

9.2 **EQUALITY ACT 2010:** ‘Parents from all educational, social, linguistic, religious and ethnic backgrounds successfully educate children outside the school setting and these factors should not in themselves raise a concern. The fact that a family has particular protected characteristics should not deter the local authority from

taking action to secure a suitable education for a child who is not receiving suitable education at home'

- 9.3 SEN / Children with an Education, Health and Care Plan
Local authorities should not assume that because the provision being made by parents is different from that which was being made or would have been made in school, the provision is necessarily unsuitable.
- 9.4 Parents of children with an EHCP retain the right in law to choose to "electively home educate their child". They must however, notify the school and continue to engage with the annual review process - managed an SEND caseworker (Inclusion Support).
- 9.5 The service works in accordance with the legislation detailed above plus the caselaw and guidance which relates specifically to children with disabilities and/or an education health care plan.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 Every care is taken to ensure that the data of children and families is protected in accordance with the relevant legislation, guidance and retention schedules etc.

11 CRIME AND DISORDER AND RISK ASSESSMENT

- 11.1 It is important that children young people have access to a full and proper education. There is strong evidence that children missing education have more involvement with youth justice and courts in later life. Therefore it is important that we encourage the EHE community to provide suitable education for their children.

12 SUSTAINABILITY OF PROPOSALS

- 12.1 Options considered at point 6 above are deemed to be sustainable in the short term. Whilst we not able to predict future increases in EHE numbers if current trends continue the resources required to effectively manage and support home education are likely to increase even though parents are responsible for providing all necessary learning resources.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

13.1 The Welfare and Safeguarding of children and young people is always our priority. All staff within the Service are fully aware of their responsibilities and duties in relation to safeguarding and child protection.

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

14.1 There are no impacts on Council managed property or land.

15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

1. To note the steps the service, has taken significant steps to support the EHE community of Sandwell.
2. To understand the information underpinning increasing number of electively home educated pupils

16 BACKGROUND PAPERS

None.

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