
Children's Services Scrutiny Committee – 9th September 2020

Report of the Acting Director of Children's Services

Elective Home Education

Purpose

1. To provide Members with a position statement around Elective Home Education (EHE) in Dudley Metropolitan Borough Council's (the Local Authority) area up to July 2020.
2. EHE provision lies within the Education Investigation Service and forms part of the Education Outcomes area. The review of EHE services which was due to be undertaken following the previous report to scrutiny, was put on hold due to the priorities brought about by the Covid-19 response. Despite this a number of actions have been implemented, especially in relation to EHE pupils with special educational needs and/or a disability.
3. Work with Public Health to ensure that the wellbeing of EHE pupils is effectively supported has been commenced and is ongoing. We know that the social elements of school are important determinants of health and contribute to good wellbeing now and in the future. It is important to ensure that support is offered to EHE pupils to address these social influences on health and wellbeing.

Recommendations

4. It is recommended that Members:
 - Note and comment on the information contained in this report regarding EHE data in the academic year 2019/2020. In particular that the number of EHE pupils both locally and nationally continues to rise and that this will have obvious implications for the service.
 - Also note that a further rise in the numbers of EHE pupils is predicted, due to the effects of Covid-19, and the anxieties many parents face with returning their children to mainstream schools in September, as well as 'Relationships



Education, Relationships and Sex Education and Health Education' being made compulsory, in both primary and secondary schools. Although parents still retain the right to withdraw their child from the sex education aspect, the remaining content is compulsory.

- Are aware that a full review of EHE services is being carried out to ensure that support is provided appropriately; including a review of the existing EHE staffing levels, and the relationship between EHE support and other Education, SEND, Public Health, Connexions, Children Missing Education and Social Care services.
- The Department for Education have carried out a consultation on proposed legislation on EHE, particularly relating to local authority registers of children not attending mainstream schools and the duties of parents. Once the Department for Education [DfE] has analysed the feedback there may be changes to the local authority duties for EHE pupils which will also inform the review of the service

Background

5. In April 2019, the DfE published new guidance entitled 'Elective Home Education: Departmental guidance for local authorities', which defines EHE as *"...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."* In the UK, there are no nationally recognised, reliable data sources on the number of children educated at home and this remains a risk at a national level. The lack of information presents a risk that the required level of support may not be available for potential safeguarding concerns, as well as the possibility of social exclusion. It is also difficult to measure the impact of any services without reliable data.
6. In September 2019 the EHE Service returned to Education Services, and currently sits within Education Outcomes, working alongside the Education Investigation Service, Pupil Access Service, School Admissions Service and Fair Access Panels.
7. The service consists of one full time EHE officer who also has responsibility for Gypsy Roma and Traveller (GRT) children's education.

The Officer for EHE & GRT services follows the EHE Standing Operating Procedures (SOP). The SOP has an annual review planned to be released in September each year. It was last reviewed in June 2019 to take account of the national guidance for local authorities provided by the DfE in April 2019, and is currently under review in preparation for September 2020.

8. Over time the EHE Service has identified the following key issues:
 - The numbers of children whose parents or carers wish to educate their child at home locally and nationally is rising;



- Whilst in the UK there are no reliable data sources on the number of children being educated at home, there is some local data, but as this only identifies the children who are registered as EHE., it is therefore necessary to be cautious about the reliability of this data.
- The reason for parents choosing to Electively Home Educate their children has changed over recent years. More common reasons include issues associated with SEND, avoiding exclusion from school and avoiding fines or legal action due to truancy.

9. Based on these initial concerns, the key areas for development are:

- To improve ICT recording systems and data reporting to ensure a fuller understanding of the wider landscape of EHE, Exclusions and Education Investigation, thus enabling areas of specific concern to be highlighted.
- To create consistency with the wider workforce and embed homogenous processes and procedures.
- To improve working relationships with the SEND Team and ensure that the cases of children with an Education, Health and Care Plan (EHCP), who are also EHE are reviewed by their SEN Case Officer
- To increase working links with the Connexions Service and ensure Year 11 children who are also EHE have positive destinations post 16

Emerging Issues

10. Over the past 12 months the EHE Service has identified and addressed initial concerns and implemented the key areas of development highlighted above. However, a number of emerging issues still need to be addressed.

Evidence of Schools Encouraging Parents to Home Educate

- There is growing evidence from parents to suggest that they have been strongly encouraged by some schools to home educate, when their child or the parent experiences difficulties at school.
- Information in relation to this is being collated, so that officers have the evidence necessary to develop appropriate and informed challenges to the actions of relevant schools.
- Local authorities have no powers to intervene with the parent / school relationship, unless there are safeguarding issues, or the child has an EHCP and its content is not being delivered. However, the new Ofsted Inspection Framework includes a specific judgement relating to “off-rolling” (removing a pupil from the school roll inappropriately), including where schools encourage families to home educate. This gives local authorities more leverage with schools to change policy and has already led to a fall in the numbers of young people home educated locally and nationally;

DfE Consultation on EHE Legislation

14. The DfE's consultation on establishing a local authority registration system for children who do not attend state-funded or registered independent schools closed on 24th June 2019. Their questionnaire sought views on:
 - Proposed legislation to establish a register maintained by local authorities of children not attending mainstream schools;
 - Associated duties on parents and the proprietors of certain educational settings; and
 - Proposed legislation to establish a duty to support parents who educate children at home and seek support from their local authority in doing so.
15. Dudley Metropolitan Borough Council's response to the consultation generally welcomed the recommendations, but noted that the resource implications at this stage were not known
16. The DfE have yet to respond to the consultation. Issues relating to Brexit and Covid-19 have delayed the response. There is currently no expected response date.

EHE Pupils with Special Education Needs and/or Disabilities

17. The situation regarding pupils that are EHE and have an EHCP has been reviewed. Whilst the DfE makes it clear that "the parents' right to educate their child at home applies equally where a child has special educational needs [SEND]", it also states that this is "often more difficult" for pupils with SEND and that local authorities should use "the full range of powers available to ensure that the education is suitable".
18. A new Education Otherwise Than At School (EOTAS) policy has been produced to give clarity between those receiving EOTAS and those where the parents had Elected to Home Educate their child.
19. The review of the EHE service will ensure that there is a match with SEND arrangements.
20. Children who are EHE and have an EHCP now have access to direct payments for support therapies or other learning aids.
21. The SEND Team and the EHE Service are developing a clear process to ensure that children's progress is tracked appropriately against their EHCP.
22. The SEND Team has identified a Senior SEND Case Officer who manages the cases of all EHE children with an EHCP. This officer is working closely with the Officer for EHE and GRT, and good working practices are being developed. Annual Reviews are

currently being worked through. This is having a positive impact, but it is putting added strain on capacity of the EHE officer.

Safeguarding Pupils

23. A situation in which a child is not receiving a suitable full-time education requires action by a local authority under education law. However, it is important to bear in mind that unsuitable or inadequate EHE can also impair a child's intellectual, emotional, social or behavioural development, and may present a safeguarding concern.
24. Local authorities should consider whether they ought to take action under safeguarding law, especially where the actions taken under education law have not been sufficient to address a risk.
25. Sections 10 and 11 of the Children Act 2004 give local authorities general duties for promoting the well-being and safeguarding of children, including those who are EHE.
26. The Officer for EHE and GRT works in partnership with social care colleagues to ensure safeguarding concerns are raised, and relevant information on individual children is appropriately shared.
27. There is no proven correlation between home education and safeguarding risk. In some serious cases of neglect or abuse in recent years, the child concerned has been home educated but that has not usually been a causative factor, and the child has normally been known anyway to the relevant local authority. However, a child being educated at home is not always being seen on a regular basis by professionals, such as teachers, and this logically increases the chances that any parents who set out to use home education to avoid independent oversight, may be more successful by doing so. Several recent Serious Case Reviews have illustrated this.
28. As required in guidance we approach all cases where the suitability of home education is in doubt using the powers in the Education Act 1996. We are ready to fully exercise our safeguarding powers and duties, to protect the child's well-being, which includes their suitable education.
29. As part of the service review we will review all policies and practices to ensure they are clear about the circumstances where safeguarding action is likely to be appropriate, in cases where a child is not receiving suitable education.
30. Workforce development needs and resources will also be reviewed to ensure we are able to meet the requirements and ensure children are suitably safeguarded.
31. Our policy on the use of Education Supervision Orders (ESO), under section 36 of the Children Act 1989, will also be reviewed to ensure it provides suitable safeguards for children who are not receiving a suitable education at school, and whose parents have

failed to respond sufficiently to action taken under Local Authority powers provided by the Education Act.

Health Support for EHE Pupils

32. We know that the social elements of school are important determinants of health and contribute to good wellbeing now and in the future. It is important to ensure that support is offered to EHE pupils to address these social influences on health and wellbeing.
32. The Head of Children and Young Peoples' Public Health commissions a School Nurse who specifically supports EHE pupils.

Year 11 Pupils

33. The Local Authority's Standard Operating Procedures (SOP) for pupil placement state that it will not place Year 11 children in school from September of that year, and this limited amount of school provision for Year 11 children remains a concern. The SOP has been reviewed, ready for September 2020, to ensure that Year 11 pupils achieve expected outcomes and are not missing from education with the risks this entails.
34. Arrangements have been agreed with Connexions to ensure that Year 11 EHE children are supported to access post 16 education / training / employment provision.
35. EHE remains an area that is largely unregulated by central government, and has recently been the subject of a Children's Commissioner report; 'Skipping school: Invisible children. How children disappear from England's schools'. The official response to this report is yet to be published and, without national government intervention, many of the issues that surround home education will remain.
36. The Local Authority is prioritising this area of education and will continue to review and strengthen its processes. The review of EHE Services will provide clear evidence of the additional steps we need to take to ensure children who are Electively Home Educated are safeguarded and have access to a suitable education.

Data in Relation to EHE

37. As of 1 August 2020, Dudley has 440 pupils who are EHE against a whole school population of 47,500, which is 0.92%. This includes all pupils that have been EHE at any point during an academic year, including those that have returned to a school.

The table below shows the rise in EHE numbers since 1998:



Year	Dudley	No Previous School	Out of Borough	Total
1997/98	0	3		3
1998/99	0	3		3
1999/20	1	4		5
2000/01	2	9		11
2001/02	2	10		12
2002/03	4	11		15
2003/04	9	11		20
2004/05	19	16		35
2005/06	47	27		74
2006/07	64	41	1	106
2007/08	55	37	3	95
2008/09	102	40	2	144
2009/10	121	42	2	165
2010/11	119	42	3	164
2011/12	113	39	5	157
2012/13	187	48	10	245
2013/14	210	52	14	276
2014/15	198	56	17	271
2015/16	240	60	17	317
2016/17	312	57	17	386
2017/18	345	62	35	442
2018/19	357	54	29	440

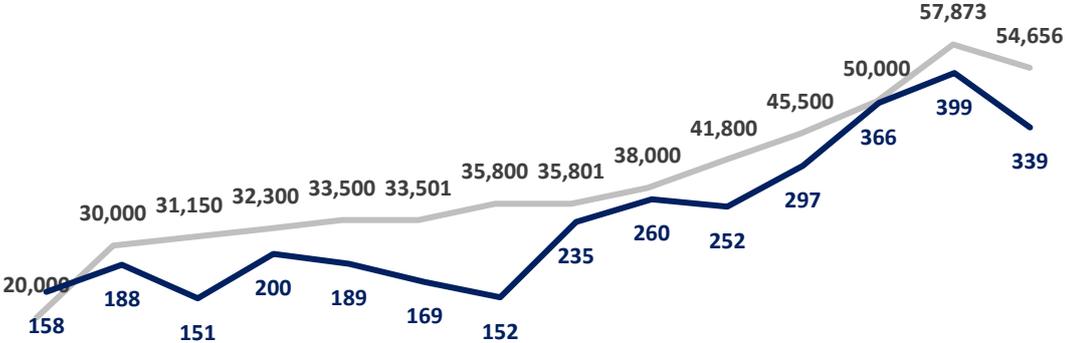
EHE Population in Dudley compared to national data

39. Nationally the figure for 2018 was around 0.72% (57,873 / 8M) but has risen slightly since then. Dudley was just below national levels in 2018 and has followed a very similar pattern of increase.

There is no current national data for EHE numbers to provide an updated comparison.

40. The chart below shows the relative rise in EHE numbers nationally and in Dudley over the past 14 years. As above, Dudley follows a very similar pattern to the national figures, including a decline over the last twelve months.

41.



Numbers for Dudley are in blue, with the national figures in grey.

42.

	Year 2017/18	% of EHE population	Year 2018/19	% of EHE population	Year 2019/20	% of EHE population
Reception	9	2%	9	2%	13	3%
Year 1	23	6%	28	6%	19	4%
Year 2	14	4%	35	8%	35	8%
Year 3	21	5%	23	5%	36	8%
Year 4	21	5%	31	7%	26	6%
Year 5	22	6%	24	5%	26	6%
Year 6	16	4%	29	7%	27	6%
Total Primary	126	33%	179	40%	182	41%
Year 7	40	10%	37	8%	40	9%
Year 8	37	10%	43	10%	41	9%
Year 9	54	14%	56	13%	50	11%
Year 10	57	15%	74	17%	60	14%
Year 11	73	19%	54	12%	70	16%
TOTAL Secondary	261	67%	264	60%	261	59%
Overall Total	387	100%	443	100%	443	100%

The table above shows EHE data per year group for the past 3 years. Whilst the reasons behind it relate to individual pupils, it is clear that an increasing number of primary children are involved.

EHE Pupils with EHCP (Number and % of the EHE Cohort)

43.

Date	Number	% of EHE Cohort
01 July 2018	14	4.4%
01 July 2019	17	4.8%
01 July 2020	19	5.5%

44. For comparison, 3.2% of all Dudley pupils have an EHCP. This means that the numbers of pupils with an EHCP that are EHE continues to rise and is still slightly above the average for all pupils.

Finance

45. If the current DfE consultation does result in an increased level of responsibility for local authorities to monitor Elective Home Education provision, then it would not be possible to deliver such requirements within the confines of the current staffing levels.
46. Within the Elective Home Education Service there is currently 1 FTE EHE Officer, costing approximately £63k per annum, which is funded from the Central School Services Block within the Dedicated Schools Grant (DSG).
47. The Department of Education requested additional staffing figures as part of the consultation and so funding from the DfE may be granted, however nothing has been announced as yet. If additional funding is not forthcoming from the DfE, then savings will have to be made from elsewhere within the Central Schools Services Block of the DSG to fund this additional resource requirement.

Law

48. The departmental guidance published the Department for Education in April 2019, entitled '*Elective Home Education*', recognises that under:
 - Section 7 of the Education Act 1996, parents of children of compulsory school age have a statutory duty to ensure that their child receives a suitable full-time education by attending school or otherwise; and under
 - Section 436A of the Act, local authorities have a duty to make arrangements to identify the children within their area that are not receiving a suitable education, contrary to section 7.
49. Once these children have been identified, other sections of the Act oblige local authorities to take the action that they deem necessary, to encourage parents to comply with their statutory duty, which can involve issuing School Attendance Orders and prosecuting parents in the Criminal Courts.
50. However, where a child is receiving a suitable education without attending school, by Elective Home Education, unless a local authority has issued the child with an Education, Health & Care Plan or has safeguarding concerns, it has no power to interfere with the arrangements being implemented by the child's parent.
51. Although legislation does not oblige local authorities to do so, the new guidance and the recent Department for Education consultation, indicates that central government believes that local authorities should be actively supporting families who elect to educate their children at home.
52. Therefore, as legislation and statutory guidance on this issue appears to be pending, it would be prudent for local authorities to identify the potential extent of the proposed

responsibilities, along with the structures, policies and procedures that will be required to meet them. This report is part of that process.

Equality Impact

53. All statutory school age children have a right to education, irrespective of their background or academic ability. Due to the vulnerability of SEND children it may be that without closer scrutiny of the delivery of their learning, they may be disadvantaged in gaining satisfactory education. Close monitoring is required to ensure children are progressing against their EHCP and that, where applicable, parents are supported in the delivery of education to their children. Regular SEND reviews and home visits must be completed, and if parents do not choose to engage with case officers, regular requests must be made and recorded. It is also recommended that an Equality Impact Assessment is carried out to assess the precise needs of these pupils.
54. Currently EHE data does not capture protected characteristics, other than disability, race and religion. Part of the new intelligence to support EHE provision will be a statistical breakdown of the EHE cohort to identify key trends.

Human Resources/Organisational Development

55. The recommendations within this report do not result in any human resources/service transformation implications.

Commercial/Procurement

56. There is no impact on the potential to commercially trade or a positive / negative impact on our customer base.

Health, Wellbeing and Safety

57. Parents / carers choose to home educate for many reasons and the needs of each young person will be different. Therefore it is important to consider the health, wellbeing and safety of all children educated at home, as well as their educational provision.

Helen Ellis

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Helen Ellis
Acting Director of Children's Services

Contact Officer: Jeremy Keeble
Telephone: 01384 812032
Email: jeremy.keeble@dudley.gov.uk

List of Background Documents

Dudley EHE Standard Operating Procedures September 2018:

Department for Education, Elective home education departmental guidance for local authorities April 2019:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791527/Elective_home_education_guidance_for_LAv2.0.pdf

Department for Education Children not in school consultation:

<https://consult.education.gov.uk/school-frameworks/children-not-in-school/>