

CHILDREN AND FAMILIES OVERVIEW AND SCRUTINY PANEL 10 MAY 2019

CHILDREN WHO ARE EDUCATED ‘OTHERWISE’

Summary

1. The Assistant Director – Education and Skills and the Senior Education Adviser for Vulnerable Children have been invited to the meeting to brief Members on provision for children who are educated ‘otherwise’, with a specific focus on elective home education and alternative provision.

Background

2. In accordance with s7 Education Act 1996, parents are responsible for providing their child with a suitable education either by regular school attendance or otherwise¹ when their child reaches compulsory school age². In most cases parents choose to send their children to publicly funded schools but others may choose to send their child to Independent Settings or Elect to Home Educate (“EHE”) their child. In specific circumstances, for example where a child has an Education Health and Care Plan, has medical needs or the child has been Permanently Excluded from school, the Local Authority may have a duty to make alternative arrangements for the child but, unless subject to specific circumstances³, parents have the right to choose how to fulfil their duty.

3. There are currently no legal requirements on parents to inform the Local Authority of how they intend to educate their child; however, under s436A of the Education Act 1996 Local Authorities must make arrangements to identify, as far as reasonably possible to do so, children within their area who are not in receipt of a suitable education. This means that if a Local Authority receives information about a child residing in its area it must always confirm that the child is receiving a suitable education and where it cannot confirm the suitability arrangements it must undertake reasonable enquiry until it is satisfied that the child is in receipt of a suitable education.

4. In 2016 the Education (Pupil Registration) (England)(Amendments) Regulations 2016 came into force which required schools to inform the Local Authority of **any** child admitted or deleted from their register, in addition to periods of irregular school attendance and specific periods of absence. This has not only provided much greater opportunity for tracking and monitoring of individual children as well as earlier intervention but further enables Local Authorities to examine trends in local schools.

¹ The term ‘otherwise’ often refers to children who are not registered to a school but are in receipt of other forms of education such as Elective Home Education or Alternative Provision that is not registered with the DFE

² The Term after their 5th birthday until the end of the academic year (last Friday in June) in which the child reaches 16 year old

³ This includes Education Supervision Orders, School Attendance Order or any other Order imposed by the Courts.

5. In light of the changes the Department updated the Statutory Guidance for Local Authorities on Children Missing Education (2016). Whilst this is the primary guidance relating to children who may not be receiving a suitable education there are also other key guidance documents that the Local Authority must have regard to:

(i) Statutory

- Exclusions from Maintained Schools, Academies and Pupil Referral Units, England, 2017 (Statutory)
- Alternative Provision (2013)
- Ensuring a good education for children who cannot attend school because of health needs (2013)
- SEND Code of Practice (2015)
- School Attendance (2018)
- School Admissions Code (2014)

(ii) Non-Statutory

- Elective Home Education (2019)

Local Context

6. In response to the changes brought about by statute and relevant guidance, the Local Authority has been working towards centralising the referral point for any professional, schools and member of the public to make referrals to where there are educational concerns pertaining to a child's educational status.

7. In response to this we have set up a general email address and contact number for referrals to be made to: CME@worcestershire.gov.uk

8. On receipt of a referral, there is a Senior Children Missing Education Officer working under the direction of the Senior Education Adviser for Vulnerable Learners that takes responsibility for tracking and monitoring children but who also ensures that appropriate actions are being taken in response to such concerns. These include:

- Children who have been absent for 10 consecutive days in any given period
- Children with less than 90% attendance in any given period
- Children newly admitted to a school outside the normal point of admission (In year Transfers)
- Any child deleted from a school's register under one of the 15 Regulations
- Any child deleted from an Independent School
- Children who may not have secured a school place for when they reach compulsory school age
- Children who are without a school place
- Any other circumstances where there are concerns about a child's education (including where elective home education is not suitable)

9. Each 'contact' is recorded and depending on the nature of the 'contact' and level of concern, the following will be decided:

- That the child is currently in receipt of a suitable education and no further action is required.
- The child is at risk of becoming a child missing education and will require additional intervention and regular monitoring.
- The child is not confirmed to be in receipt of a suitable education and requires immediate action to be taken.

Summary of statutory notifications made by schools to the Local Authority.

10. Below is a table to outline the number of children referred to the Local Authority by schools under their statutory duty to notify the Local Authority. The Local Authority has assessed each referral to identify where a child is at risk of becoming/has been identified as a child missing education.

	2017/18	2018/19 ⁴		
		01/09/2018-01/02/2019	01/02/19-15/04/2019	Total
No. of Admissions to schools registers	347	1326	347	1673
No. of Children Deleted from a schools register (resulting in a being identified as a Child Missing Education)	683 (204)	1505	391	1896 (536)
Concerns about school attendance (10 day absences/ less than 90%)	0	184	135	319
In year Applications made to schools	0	0	103	103
	1120	3015	976	3991

(FIG 1: No. of Children Missing Education Enquiries)

⁴ Centralised reporting system became available and formal notification went to schools on 01/02/2019

11. The statistics above demonstrate that since the introduction of the Centralised Reporting system for concerns relating to children’s educational status the numbers have increased. Whilst this increase in itself is not cause for concern, it is enabling the Local Authority to have much greater scrutiny over referrals made and creates an opportunity for earlier intervention for the purpose of tracking and monitoring.

Elective Home Education (EHE)

12. In Worcestershire, during the academic year of 2017-18, there were 75,339 children registered to publicly funded schools; however, there were 944 registered as EHE throughout the year. In most cases these children had been deregistered from Worcestershire schools, a number were previously on roll to out of county schools and others had never previously attended school.

13. Whilst the numbers of children being registered as EHE continues to increase year on year as shown in Fig 2. (which is reflective nationally) it is currently difficult to fully understand the reasons as to why.

	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Total no. of new referrals as EHE ⁵	101	136	125	132	144	115	190	191	236	293	296	438	444
% difference by academic year	-	34.6	-8.8	5.6	9.1	20.1	65.2	0.5	23.5	24.1	1.02	48.0	1.36
Total no. of children currently registered at end of year ⁶	136	168	188	188	218	219	166	221	287	325	381	530	673
% difference by academic year	-	23.5	11.9	0	16.0	0.45	-24.2	33.1	29.9	13.2	17.2	39.1	26.9
Total number of Children Registered within the academic year	-	272	293	320	332	333	409	357	457	580	621	819	944
% difference by academic year		-	7.7	9.2	3.8	0.3	22.8	-12.7	28.0	26.9	7.1	31.9	15.3

(Fig 2: No. of Children Electively Home Educated in Worcestershire)

14. Regardless of the reason(s) for a parent considering home education, we must ensure that those who have elected to do so have access to appropriate information, advice and guidance prior to making such a decision, so that they are able to make suitable arrangements. It is also important to ensure that parents are not coerced into making such a decision by schools. Furthermore, the Local Authority must ensure it promotes high standards in schools and makes arrangements for pupils who may not otherwise receive a suitable education if such arrangements were not being made for them.⁷

15. The Local Authority provides impartial information, advice and guidance to parents who are considering EHE through a range of publications including the School Admissions Policy, but it also encourages parents to seek impartial advice through

⁵ Includes year 11s within the relevant year

⁶ Does not include year 11 within the relevant year

⁷ S19 Education Act 1996

support services including Special Educational Needs and Disabilities Information Advice and Support Service (SENDIASS). Whilst SENDIASS are predominantly focused on providing support for parents of children with SEND they are also concerned with providing parents with information advice and guidance about non-curriculum matters.

16. Once a parent has made the decision to home educate, they will be referred to the EHE Officer situated within Babcock Prime. The parent will then be offered a home visit within 12 weeks, which will provide the EHE Officer with the opportunity to make a judgement of the suitability of the education being made for the child in accordance with their age, aptitude, ability and any special educational needs they may have.

17. Whilst there is no definition of a 'suitable' education in English statute law, the decision made regarding the provision of 'suitable' education will be based on the particular circumstances of each child and the evidence of the education provided. As a minimum, the EHE Officer would expect to see evidence of arrangements for the development of numeracy, literacy and opportunities to adopt some other mode of living, and to be capable of living on an autonomous basis so far as he or she chooses to do so.

Alternative Provision ("AP")

18. 'Alternative Provision' is the broad term used where children are accessing provision for a specific purpose. For school it is used by schools for three main purposes:

- A short term intervention used to 'modify' a pupil's behaviour.⁸
- A short term intervention used in response to a child's medical needs.
- A longer term arrangement to 'compliment'⁹ a child's programme of study.

19. Alternative Provision is arranged by the Local Authority, however, has a much wider use but each circumstance will satisfy s19 Education Act 1996 ("S19"): *a Local Authority's duty to arrange provision which is pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education.*

20. In all instances, both schools and the Local Authority **must** ensure that the provision is suitable and regularly monitored and appropriate safeguard checks carried out. This includes ensuring that provision is good quality, registered and compliant with Statutory Guidance and local policies. There are instances, for example for students with medical needs, where the provision may not be registered and it is therefore important that those responsible for commissioning Alternative Provision have regard to their wider safeguarding duties, especially in relation to unregistered schools.

21. Within Worcestershire, there are 6 core registered Alternative Provision Academies and Pupil Referral Units (PRU) that are commissioned by schools and the Local Authority and are for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education. It includes education arranged by schools for pupils on a fixed period exclusion and pupils being directed by schools to off-site provision to improve their behaviour. They are:

⁸ S100/S29 Education Act 2002 Maintained Schools/General Powers set out in Clause 5 of the Articles of Association for Academies- no parental consent required

⁹ Schools duty to provide a 'broad and balanced' curriculum- consent required

- The Beacon Primary PRU
- Perryfields Primary PRU
- Aspire Alternative Provision Secondary Free School
- Continu Plus Alternative Provision Secondary Free School
- The Forge Secondary PRU
- Newbridge Alternative Provision Academy.
- Medical Education Service delivered by Babcock Prime

22. However, there are other institutions that schools and the Local Authority use for example, Independent schools, Online Tuition Services and Bespoke provision which are commissioned individually to meet specific needs.

23. The Local Authority currently has responsibility for identifying children who require provision made for them under 'S19' and monitoring the children in the setting/ provision they have been referred to. This year we have received 153 referrals (15/04/2019) requiring arrangements to be put in place for students and this is summarised below:

"S19"	No. of children
Permanent Exclusion (6 th day provision)	85
Provision arranged for children with Medical Needs	20
Other Circumstances requiring LA intervention to ensure suitable arrangements are in place	48
Total	153

24. Not every referral has resulted in the need to access to alternative provision; instead some cases have required, additional funding to be given to schools or alternative transport has been put in to meet specific needs; however, in all instances this has prevented children from becoming Children Missing Education.

Purpose of the Meeting

25. The Children and Families Overview and Scrutiny Panel is asked to:

- consider the information in the report;
- determine whether it would wish to carry out any further scrutiny and what the focus of this scrutiny should be; and
- agree whether it would wish to make any comments to the Cabinet Member with Responsibility for Education and Skills.

Specific Contact Points for this report

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Background Papers

In the opinion of the proper officer (in this case the Director of Children, Families and Communities) there are no background papers relating to the subject matter of this report.