



CABINET - 21ST FEBRUARY 2024

**SUBJECT: SUPPORT FOR PUPILS UNABLE TO ATTEND SCHOOL
(FORMERLY KNOWN AS HOME TUITION)**

**REPORT BY: CORPORATE DIRECTOR EDUCATION AND CORPORATE
SERVICES**

1. PURPOSE OF REPORT

1.1 This report provides information to Members regarding the current model of 'home tuition' and seeks support for proposals for changes to existing delivery.

2. SUMMARY

2.1 Current provision for tuition in Caerphilly lies within the education other than at school (EOTAS) portfolio. Where children experience health factors that impact upon their attendance at any setting, the current model facilitates access to a tutor for a time limited period each day facilitated by the LA. Presently this involves LA employed staff and agency staff. This model can also facilitate support being provided to pupils excluded for 15 days or more in line with Welsh Government Guidance.

2.2 The proposed changes would support schools to retain direct control over decision making, provision and funding for pupils on role in their school and therefore ensure a consistent approach to meeting needs. Pupils who need support for identified medical / emotional mental health needs / barriers to accessing mainstream education will not be identified as EOTAS.

2.3 Each school will either receive funding to support this model or an element of funding and existing contracted staff who would transfer to the school as outlined in sections 8 and 9 below.

2.4 This model of schools supported by a designated tutor or with direct funding has been trialled in a number of schools and therefore the changes will be minimal for some schools and learners.

2.5 Initial consultation with existing tutors indicated some concerns regarding change to working arrangements and expectations of the role, transition arrangements for pupils, criteria used by schools, and individual capacity of tutors. The period of consultation was extended beyond the summer term to allow further engagement with the staff and

Trade Unions to support a collective response to this proposal.

- 2.6 Consultation with the agency sourcing the tutors for the LA resulted in a positive understanding about the proposed changes, potential opportunities to work with schools and an understanding about the need to continue with a very few of the existing arrangements as they are currently delivered given the specific nature of individual needs.
- 2.7 All families of children receiving home tuition were contacted and few requested more detailed information which addressed queries. Follow up discussions resulted in a very few more individualised discussions and consideration of current arrangements remaining in place for those completing formal education in 2023 / 2024 or for exceptional reasons.
- 2.8 Further discussions will be held with families for whom this is relevant in the academic year 2024/2025
- 2.9 Proposals align with responsibilities linked to The Education Act, The ALN Act, the EOTAS Framework for Action, and Exclusions from Schools and Pupil Referral Units guidance.

3. RECOMMENDATIONS

- 3.1 Members are asked to note the contents of the report and endorse the proposal to implement a revised model of supporting pupils who receive tuition directed by the school in order that they can be supported via the school.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 Members are asked to endorse the approach of the LA in order that the duties of schools / education provisions and the LA are effectively met, and all children will have their needs identified and met with appropriate provision.

5. THE REPORT

- 5.1 Whilst mainstream education will fulfil the needs of almost all pupils there are exceptions or specific sets of circumstances when mainstream education is not accessible at a given time. The aim is to identify accurately the presenting needs and appropriate interventions, enable access to the curriculum and facilitate the young person to make progress thus enabling them to return to mainstream / fulltime education.
- 5.2 The current model of home tuition provides support for pupils who:
 - experience an acute or chronic medical condition.
 - are unable to safely access school or any other provision despite appropriate and reasonable adjustments to the school curriculum or environment.
 - are experiencing significant emotional, psychological, or mental health needs that are proving to be a barrier to attendance and engagement in education / an education setting.

- 5.3 Presently schools are required to refer to the local authority panel, providing supporting evidence to enable the panel to make a decision regarding any request. If a request is agreed the age weighted pupil unit funding (AWPU) is clawed back from the school.
- 5.4 The LA employs seven tutors who provide a specific function of supporting individual pupils at their homes and to reintegrate into school. Given the current model of individual support and the number of requests for support the LA also accesses agency support.
- 5.5 The net cost to the LA of the current tuition model is estimated at £1,021k in 2023-24. Within this figure 27% of tuition is provided by LA employed staff and 73% by Agency staff. The LA has a responsibility to ensure effective use of resources to support pupils of which EOTAS provision is part (see section 8 for further detail).
- 5.6 Tutors follow the curriculum set by individual schools as closely as possible. However, tutor feedback has indicated a variance in the availability of suitable resources from schools. This has resulted in some students following a path quite different from their contemporaries in school.
- 5.7 There is currently extensive variation in presenting needs and therefore no uniform measure of effectiveness or impact of tuition in terms of engagement, standards, and progress. Anecdotal evidence suggests increased engagement of students and positive feedback from parents / carers, as well as a few specific examples of successful progression for learners post 16 from the tutors themselves. Analysis of reintegration rates suggests that students remain at home for prolonged periods. The range of subjects accessed for learners in tuition is less than range of subjects accessed across mainstream schools. Results for 2023 / 2024 show that the average number of qualifications for learners in tuition is less than that for learners across EOTAS as a whole.
- 5.8 As at January 2024 there are 105 students who access home tuition linked to all secondary schools although the numbers vary across schools.
- 5.9 Since the pandemic when schools developed an approach to supporting learners remotely, there are opportunities to support pupils differently should access to the school environment be impacted for the reasons outlined above.
- 5.10 The proposal for the new model of tuition, that has been subject of consultation with all secondary Head Teachers, is that the provision remains directly under control of the school, allowing for consistent approach to meeting the needs of the pupils linked to the school, a wider coverage of the curriculum than presently offered, and effective monitoring of provision, standards and progress aligned with the approach taken within and across school. Pupils will remain on role and will not fall within the remit of EOTAS.
- 5.11 All secondary head teachers agree with the proposals. There will be no change in delivery for around 40% of the pupils who currently access tuition where this new model has already been trialled. It is recognised that where pupils will complete their formal education in 2024 / 2025 the existing arrangement may remain in place.
- 5.12 All parents of secondary aged pupils accessing tuition have been informed in writing of the proposals and offered opportunities to discuss. A few parents contacted the LA and more detailed discussions were able to facilitate an understanding of the way forward. In a very few cases existing arrangements may remain in place for those

completing formal education at the end of the academic year or in specific individual circumstances. Should the model of delivery change schools will liaise with each family / child to explain the approach for their child.

- 5.13 The views of secondary aged pupils have been gathered through feedback from parents / carers.
- 5.14 Benefits of the proposed model are perceived to be:
- enabling pupils to maintain a sense of belonging to their school.
 - effective collaboration with school staff, and potential to join lessons remotely.
 - broader curriculum coverage.
 - more effective planning.
 - maintaining consistency.
 - accessibility to school based and linked services.
 - development of bespoke packages of support to meet need.
 - effective sharing of curriculum and assessment information.
 - effective marking and feedback to inform next steps of learning.
 - improved outcomes.
 - accountability remaining within schools.
 - staff become part of a school team with access to school based professional learning, networking, and resources.
 - transfer of funding to schools and more effective use of resource (section 8).
- 5.15 Potential identified risks:
- change in the way support is provided and perception of effectiveness.
 - variable approaches across individual schools.
 - access to technology.
 - demand on schools managing a blended approach.
- 5.16 The approach can also contribute to ensuring that when a pupil is excluded from school, the school is able to ensure that appropriate learning is in place in line with the guidance for schools and LA.
- 5.17 Rather than clawing back AWPU schools will be provided with funding to support this more consistent approach thus making better use of resource.
- 5.18 Under this proposal currently contracted LA staff will transfer to schools and any HR issues supported as outlined in section 9.
- 5.19 The model of support for primary pupils will remain as it is presently since there are currently very few pupils. This will be reconsidered by the LA and schools following a review of the implementation of the model in secondary schools.
- 5.20 Further relevant information is identified in the integrated impact assessment (IAA), Appendix 2
- 5.21 The LA will draw up guidance outlining how this approach aligns with LA and schools' responsibilities in legislation, outlining financial responsibilities, expectations regarding a review of the process and end of year monitoring and evaluation reports to the LA.
- 5.22 Following the initial consultations and feedback received by the tutors and schools it

was agreed that the consultation period would be extended into the Autumn term 2023 thus enabling further consultation with tutors and a longer transition period for schools.

- 5.23 A number of meetings were held with and offered to the tutors during the extended consultation period that covered four months. This was both in groups and individually with the support of their Trade Unions to assist them to offer an informed and collective response to this proposal. These meetings offered opportunities to explore the role with the same function but managed by and located in a school with the support arrangements that a school can offer.
- 5.24 The initial consultation with existing tutors referred to in paragraph 2.5 indicated some concerns regarding change to working arrangements and expectations of the role, transition arrangements for pupils, criteria used by schools, and individual capacity of tutors. In this extended consultation, the perceived concerns remain for the tutors and alternative proposal(s) which include a 'middle ground' and a 'secondment arrangement' were raised.
- 5.25 The Trade Unions proposed a middle ground on behalf of their members as below:
- For the tutor team to continue to be employed by the Local Authority
 - For the tutor team to work from a designated base (Ty Penallta for example).
- 5.26 The view of the Chief Education Officer is that the middle ground position reflects the 'as is' position and the tutors and the pupils do not benefit from anything additional and in fact, being based at the LA base would exclude tutors from feeling part of a school team and from any development opportunities.
- 5.27 The Education Service did however give agreement to give further consideration to supporting a secondment arrangement for the staff to give the tutor team time to engage with the proposal.

Trade Union Feedback

- 5.28 To assist Members, Officers have offered comment on Trade Union feedback below. The full consultation response to the proposal as submitted by the NEU and the NASUWT on behalf of the tutors is outlined in Appendix 1.
- 5.29 The Trade Unions believe that the 'decision by the Council to move these pupils and therefore the staff back into a school setting makes no sense' They 'fear that it will fail those pupils who cannot or will not attend'. They feel that they have 'not received an adequate response to questions raised about the support these pupils will receive, other than to be told that they will be in the school setting'.
- 5.30 Officers have clarified that they do not share this view. The proposal for provision to remain directly under control of the school will allow for a consistent approach to meeting the needs of the pupils linked to the school, a wider coverage of the curriculum than presently offered, and effective monitoring of provision, standards and progress aligned with the approach taken within and across school. Pupils will remain on role and will not fall within the remit of EOTAS.
- 5.31 Officers have further clarified that, in the meetings held to discuss this proposal, both in a group and individually, it has never been suggested that pupils who are unable to attend school will have to attend school to be taught. The main job purpose of the tutor remains to work with the learners identified by the school as requiring specific

support, such as those with ongoing medical needs, those with emotional based school avoidance, those who are persistent absentees, or those with long fixed term exclusions.

- 5.32 The Trade Unions have expressed concern about balance of workload, with the spread of pupils requiring support within the schools being uneven.
- 5.33 Officers have clarified that with the funding that underpins this proposal, the headteacher would take over the responsibility for the continuing education of the pupils as outlined in the proposal and this will mean engaging the tutor productively and appropriately to meet the needs of the pupil. The clarity of how the tutor would work with the School under the direction of the headteacher and the potential to allay any concern could have been discussed in a meeting between the tutor and their respective headteacher if the tutors had taken up this opportunity as part of the consultation. This offer still stands.
- 5.34 Officers have however listened to the concerns of the tutors in terms of potential workload and believe that a secondment arrangement could give the tutor confidence to engage with the proposal, which will hopefully allay any concerns they may have.
- 5.35 Officers have clarified that, under a secondment arrangement, if the tutor is being asked to work outside of the remit of the prescribed funding stream that is presented to meet the needs of these pupils, then they can report this to Officers in the Council in the same way that they would now. The Council would remain the sole employer under the secondment arrangement and thus responsible to undertake a workload impact assessment and liaise with the school as appropriate where concerns are raised.
- 5.36 Officers would support further consideration being given to a secondment arrangement and are of the view that a secondment arrangement would not undermine the progression of this proposal. This working arrangement could be considered further if it gives the tutor the confidence to proceed.
- 5.37 The Trade Unions have expressed concern in reference to the secondment arrangement suggestion that the tutors 'will no longer be employed by EOTAS, but rather by the Council direct, with the line management sitting with the Headteacher'.
- 5.38 Officers have clarified that operational line management would sit with the Headteacher under this proposal. This would also be the case under a secondment arrangement but there would be support from LA officers as outlined in paragraph 5.35.
- 5.39 The Trade Unions have expressed concern that the 'tutors would be subsumed into the school and utilised as cover staff as and when required, regardless of their own workload'. The officer's clarification as outlined in paragraph 5.35 would also apply to this concern.
- 5.40 The Trade Unions have offered an alternative solution which is for the tutors to be based in any other Council offices such as Ty Penallta or Cross Keys and to still be employed by EOTAS. The Trade Unions are clear that their members do not want to work in a school setting.
- 5.41 As previously stated, Officers are concerned that this middle ground position reflects the 'as is' position and the tutors and the pupils do not benefit anything additional from

attending a Council building. Being based at the Council would exclude tutors from being part of a school team and development opportunities.

- 5.42 The Trade Unions have expressed concern that they 'have yet to receive justification for moving the EOTAS Home Tutors into schools. The current system is working, with staff and pupils being supported and knowing their roles and responsibilities. Workload is high but is being managed. This change will serve only to increase workload, stress and lack of support for the vulnerable pupils'.
- 5.43 Officers have clarified the perceived benefits of this proposal as outlined in paragraphs 5.10 and 5.14. Also as outlined in paragraph 5.17, Schools will be provided with funding to support a more consistent approach and make better use of resource under this proposal.
- 5.44 The Trade Unions have conveyed that they 'have yet to receive an explanation as to how the proposals to fundamentally change the role and contract of the home tutors will be carried out unless there is agreement from the home tutors to do so. They advise that this is only adding to the anxiety of their members'.
- 5.45 Officers have clarified that they do not share the view of the Trade Unions that the proposal fundamentally changes the role or the contract of the tutor. The tutors are qualified teachers paid on the teachers' pay scale and in receipt of teachers' terms and conditions of employment. The pupils that the tutors teach now are the pupils that they would continue to teach under this proposal. These are the pupils requiring specific support, such as those with ongoing medical needs, those with emotional based school avoidance, those who are persistent absentees, or those with long fixed term exclusions. The operational direction and support will come from the School. The need however will remain to teach those pupils who for whatever reason cannot attend school. This way of working is already being trialled in two schools.
- 5.46 Officers acknowledge that if the proposal is approved and implemented, there is no collective agreement reached amongst the tutors to implement the proposal from an agreed date. Following legal advice, the Officers' view remains that this is not a redundancy situation for the reasons stated in paragraph 5.45. Individual consultation will follow. It is the Officers' understanding that some tutors may welcome moving forward with the proposal under a secondment arrangement whilst others may not. If following the exhaustion of the consultation process, the tutor chooses to refuse the new terms (if deemed reasonable), then a likely outcome would be termination of the contract of employment with an offer to re-engage on the new terms.

5. 47 CONCLUSIONS

- 5.47.1 The proposal consulted on is that pupils who require support outside of school for the reasons outlined are supported by their school thus ensuring they remain connected with their school and support is contingent with the curriculum offer of their school.

6. ASSUMPTIONS

- 6.1 In considering the recommendations assumptions have been made in relation to ensuring that the responsibilities of LAs and schools are met, kept under review, and in ensuring that needs of all pupils are met.

7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT

- 7.1 The integrated impact assessment (Appendix 2) helps support the Council in making informed and effective decisions whilst ensuring compliance with a range of relevant legislation. This highlights that the proposal seeks to focus on most efficient and effective use of resource to meet the needs of pupils who cannot attend school for health reasons at a given point in time, or where they have been excluded and according to guidance require access to work. The proposal does not identify any negative impacts in relation to the Equality Act and socio-economic duty. The proposal aligns with the Corporate Plan, the Well-being of Future Generations Act, and the Welsh Language Measure. Should any issues arise mitigations will be put in through ongoing engagement between schools, LA, parents, and pupils.

8. FINANCIAL IMPLICATIONS

- 8.1 In 2023-24 it is estimated that the net cost to the Authority of supporting the current model is circa £1,021k. It is proposed that an allocation of £880k (across 12 secondary and 1 special) to schools will support the new model.
- 8.2 In the short-term it is proposed that the potential “saving” estimated at £141k, is retained within the EOTAS budget (Education Other Than at School). This provision is currently under review with the development of provision at the old Pontllanfraith Comprehensive site, as part of the Authority’s Sustainable Communities for Learning Strategy.

9. PERSONNEL IMPLICATIONS

- 9.1 The Personnel implications are included in this report.
- 9.2 The structure of teaching under this proposal is changed so that those staff who are now employed by the Council will be employed by the School (each tutor is already allocated to a school as part of their current employment). The Council would remain the overarching employer.
- 9.3 A secondment arrangement for the seven tutors may alleviate the tutors’ continuing concerns which are outlined in paragraphs 2.5 and 5.24 and in the ‘Trade Union Feedback’ encompassing paragraphs 5.28 – 5.46. The tutor contract would remain with the Council for the period of the secondment.
- 9.4 If following the exhaustion of the consultation process, the tutor chooses to refuse the new terms (if deemed reasonable), then a likely outcome would be termination of the contract of employment with an offer to re-engage on the new terms.
- 9.5 The Council has relied on agency workers to support the EOTAS provision and the funding that will be allocated to schools reflects this.
- 9.6 Under regulation 13 of the Agency Worker Regulations (AWR), an agency worker has, during an assignment, the right to be given the same opportunity as a comparable contracted worker to find permanent employment with the hirer. No new employments are being created by the Council in relevance to this proposal, but the funding arrangement that is offered under this proposal could mean that schools seek to hire

additional support. Agencies have been alerted to the change of potential hirer if this proposal is supported.

10. CONSULTATIONS

- 10.1 The consultation responses have been taken into consideration within this report. The written feedback from NEU and NASUWT is attached at Appendix 1.

11. STATUTORY POWERS

- 11.1 Additional Learning Needs and Tribunal Act (Wales) 2018
Well-being of Future Generations (Wales) Act 2015
Education Act 1996
Equality Act 2010
Social Services and Wellbeing Act (2014)

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Appendix 1: . The written feedback from NEU and NASUWT

Appendix 2: Integrated Impact Assessment.