Home Education Guidance

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Scottish Government
Riaghaltas na h-Alba

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Section 1 Introduction

1.1 The primary audience of this guidance is the relevant local authority, however we expect that the guidance will also be a useful resource for parents/carers and all those supporting a home educated child or young person.

1.2 It is the duty of the parent[1] of every school age child[2] to provide their child with education, either by sending the child to school, or by other means. This guidance applies to home education provided by parents where the child does not attend school. It is issued under section 14 of the Standards in Scotland's Schools etc. Act 2000[3] and must be read in conjunction with that Act and the Education (Scotland) Act 1980 ("the 1980 Act")[4]. Relevant legislation is set out in section 2 of this guidance.

1.3 The choice to provide home education is a legitimate choice, alongside the option of sending a child to school. However, in choosing to home educate, parents/carers should be clear on the implications of any decision to home educate – for example, in relation to additional support needs, or access to qualifications, as discussed later in this guidance. Each individual enquiry about home education, request to withdraw a child from school, or contact between a local authority and a home educating family should be dealt with by the local authority as fairly, consistently, timeously, transparently, and accurately as possible. It should uphold the rights of the child or young person and their family. Paragraph 3.11 of this guidance provides further details on the process to withdraw a child from school.

1.4 Every child has a right to an education and their views should be listened to when any decisions are made that will significantly affect them and their education. Article 28 of the United Nations Convention on the Rights of the Child (UNCRC) sets out the right of every child to an education and Article 12 sets out the right for every child and young person who is capable of forming his or her own views to express those views freely in all matters affecting them, with those views being given due weight in accordance with their age and maturity. Thus, a child or young person has the right to have their voice heard in relation to their education, should they wish to express their views. Consideration of these Articles forms the context for this guidance on home education issued to families and local authorities[5]. A child's rights based approach should be adopted in relation to home education. For further discussion of the UNCRC please see paragraphs 2.3 to 2.5 of this guidance.

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[1] The definition of a parent "includes guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to, or has care of a child or young person" (see Education (Scotland) Act 1980 - section 135(1)).

[2] A child is defined as being of school age (i.e. education must be being provided), broadly, if he or she has attained the age of 5 years but has not yet attained the age of 16 years. However, the exact rules surrounding school starting and leaving dates are complex and are set out in sections 32 and 33, respectively, of the Education (Scotland) Act 1980.

[3] Standards in Scotland's Schools etc. Act 2000 (legislation.gov.uk)

[4] Education (Scotland) Act 1980 (legislation.gov.uk)

[5] The term "local authority" is used throughout this guidance. Where legislation is directly quoted the term "education authority" (defined in legislation as a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994) has been retained.

1.5 The purpose of this guidance is to set out the relevant law, provide advice on the roles and responsibilities of local authorities and parents/carers in relation to children who are home educated, and to encourage local authorities and home educating parents to work together collaboratively to develop trust, mutual respect and a positive relationship that functions in the best interests of the child.

1.6 This revised version of the guidance will replace guidance from 2004 which was updated in 2007. It has been prepared following consultation with interested parties and aims to reflect the changes to education policy and legislation since the last iteration of the guidance.

1.7 The updated guidance aims to reflect the changes to education policy and legislation since 2007. This includes the Additional Support for Learning Act as amended 2009 and the Additional Support for Learning Review[6] which made recommendations on ways to enhance implementation of additional support for learning legislation and policy. See paragraph 2.19 for more information on how the Review can inform the development of positive and mutually respectful relationships between local authorities and parents. In addition, in 2020 the Independent Care Review published The Promise[7] which sets out Ministers' commitment to support shifts in policy, practice and culture so that Scotland can keep the promise it made to care experienced infants, children, young people, adults and their families – that every child grows up loved, safe and respected and able to reach their full potential.

1.8 The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 ("the UNCRC Act") was unanimously approved at Reconsideration Stage by Scottish Parliament on 7 December 2023 and received Royal Assent on 16 January 2024.[8] This Act requires public authorities when exercising functions conferred by an Act of the Scottish Parliament to act compatibly with the UNCRC requirements as defined in the UNCRC Act[9].

1.9 Functions carried out under Acts originating from an Act of the Scottish Parliament attract the duties of the Act but functions stemming from UK Acts are not in scope.[10] It should be noted that the 1980 Act is an Act of the Westminster Parliament and so authorities' functions and duties under the 1980 Act are not subject to the duties set out in the UNCRC Act. It is possible over time that functions currently out of scope of the Act will be extended in the event that the Scottish Government legislates for new Acts of the Scottish Parliament. The UNCRC Act also makes provision for Scottish Ministers to report on the actions to better or further effect the rights of children[11] and the Scottish Government remains committed to

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[6] Review of additional support for learning implementation: report - gov.scot (www.gov.scot)
[7] Home - The Promise
[8] The provisions in the UNCRC Incorporation (Scotland) Act 2024 require public authorities in Scotland to deliver their duties in a way that is compatible with the UNCRC requirements, when their duties have been conferred under an Act of the Scottish Parliament. It should be noted that the Education (Scotland) Act 1980 is an Act of the UK Parliament in Westminster.
[9] United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (legislation.gov.uk)
[10] Explanatory notes for the UNCRC Act are being updated and will assist here.
[11] Section 16(3(a) United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (legislation.gov.uk)

encouraging a child's rights based approach even where the duties of the Act do not apply.

1.10 This guidance does not apply to education being provided outwith school by local authorities. This guidance does not apply to "flexi-schooling", where a child attends school for some of the time, for example, on certain days or for certain subjects, and is educated elsewhere the remainder of the time. Flexi-schooling does not have any basis in Scottish education law but is an arrangement entered into between a local authority and a parent. It may be relevant to consider the duties that apply to local authorities to identify, provide for and review the additional support needs of children for whom they are responsible, under the Additional Support for Learning Act as amended in 2009. This may be a helpful route to further discussions in instances where a child or young person has an additional support need. This guidance is also not intended to extend to where a child is on a school roll and attending for part of the year but travels outwith the local authority at other times using means other than home education to maintain continuity in learning while travelling. Gypsy/Traveller families are one group who may fall within this category, and may benefit from the further resources and information available from the Scottish Traveller Education Programme (STEP)[12]. Only where children are not being educated in a school environment, local authority or independent, and where the education is provided by parents/carers, should the arrangement be considered to be home education.

1.11 As a result of the Covid-19 pandemic, schools in Scotland moved to remote learning for all pupils (with some exceptions) for periods of national lockdown. For some families this opportunity to experience learning outside of the school environment prompted consideration of a move to home education. Whilst remote learning which is facilitated and provided by a school with additional support from a parent is very different to home education, it is noted that the home learning experience during Covid-19 lockdowns prompted a number of parents and families to consider choosing home education. In addition, it may have prompted some parents to reconsider their own engagement with their children's learning.

[12] STEP - Providing Flexible Learning for Travelling Communities (ed.ac.uk)

Section 2 Relevant law

2.1 This section sets out legislation, and references case law and international law, that is relevant to home education. It covers:

- the statutory nature of this guidance;
- a child's right to an education;
- the parent's responsibility for providing that education;
- the need for consent to withdraw a child from a public school;
- a local authority's responsibility to satisfy itself that suitable and efficient education is being provided.

The law extracted and described below is up to date at the time of publication, and legislation, including any amendments to it, can be accessed on www.legislation.gov.uk.

Status of this guidance

2.2 As noted at paragraph 1.2, this guidance is issued under section 14 of the Standards in Scotland's Schools etc. Act 2000. This means that local authorities must have regard to the guidance.

Standards in Scotland's Schools etc Act 2000

14. Guidance to education authorities as to home education

The Scottish Ministers may issue guidance as to the circumstances in which parents may choose to educate their children at home; and education authorities shall have regard to any such guidance.

The right to an education - international law

2.3 The UNCRC is one of the core international human rights treaties. It sets out the civil, political, economic, social, and cultural rights that all children, everywhere, are entitled to. The UNCRC articles are interdependent – the mutually-reinforcing nature of children's rights means that civil, political, economic, social, and cultural rights all have equal status and no one article is more important than another.

2.4 The UNCRC contains a number of provisions relating to rights to education, the right to play, the right to health and the right to respect for privacy and family life. The themes of the voice of the child and of supporting a child to reach their full potential underpin the articles and are relevant in the consideration of home education in this guidance. While the articles of the UNCRC[13] are universal, inalienable, indivisible, and interdependent**,** Articles 2, 3, 12, 23, 28 and 29 are the most relevant here, in

[13] OHCHR | Convention on the Rights of the Child

addition to Article 2 of Protocol 1 of the European Convention on Human Rights (ECHR). These are set out below.

European Convention on Human Rights - Article 2 of Protocol 1

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions.

UN Convention on the Rights of the Child - Article 2

Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

UN Convention on the Rights of the Child - Article 3

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

UN Convention on the Rights of the Child - Article 12

Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

UN Convention on the Rights of the Child - Article 23

Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

UN Convention on the Rights of the Child - Article 28

Parties recognise the right of the child to education.

UN Convention on the Rights of the Child - Article 29

Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2.5 The UNCRC encourages families to offer guidance to their child to develop the child's understanding of their own rights, and enshrines the right for every child to express their views and be involved in the decisions that affect them. Specifically, Article 12 of the UNCRC provides a right for children to express their views and for due weight to be given to those views, in accordance with the age and maturity of the child. Article 28 of the UNCRC states that all children have a right to an education and that primary education should be compulsory and free. Article 29 states that education should develop each child's personality and talents to the full. However, one of the underlying principles of the UNCRC is the best intentions of the child, and Article 3 requires all adults to think about how their decisions will affect children and to do what is best for the child. Local authorities and parents/carers should consider how the individual and collective voices of home educated children can be heard.

2.6 In relation to education, thus far there is little national or international case law to provide guidance as to the balance that must be struck between the views of the parent/carer and the views of the child in relation to the child's education.

The right to an education – domestic law

2.7 It remains the duty of the parent/carer to provide for the efficient and suitable education of their child, as set out in section 30(1) of the 1980 Act. Further consideration of an efficient and suitable education can be found at paragraph 2.13.

2.8 Section 6 of the Children (Scotland) Act 1995 sets out the responsibilities of the parent to have regard to the views of their child in relation to major decisions.[14] Prospective amendments to that Act made by the Children (Scotland) Act 2020

[14] The Scottish Schools (Parental Involvement) Act 2006 does not apply to parents who are home educating their child.

further clarify that in considering a child's capacity for forming a view, the presumption should be that the child is capable of doing so.

Children (Scotland) Act 1995, Section 6 (1)

(1) A person shall, in reaching any major decision which involves:

(a) his fulfilling a parental responsibility or the responsibility mentioned in section 5(1) of this Act; or

(b) his exercising a parental right or giving consent by virtue of that section;

have regard so far as practicable to the views (if he wishes to express them) of the child concerned, taking account of the child's age and maturity, and to those of any other person who has parental responsibilities or parental rights in relation to the child (and wishes to express those views); and without prejudice to the generality of this subsection a child twelve years of age or more shall be presumed to be of sufficient age and maturity to form a view.

2.9 All those working to provide education for children and young people can find out more on how to develop their understanding of children's rights from the Education Scotland website[15] and from the Children and Young People's Commissioner Scotland website[16]. Further guidance on the UNCRC Act can be found at Introducing the UNCRC (Incorporation) (Scotland) Bill - Taking a children's human rights approach: guidance - gov.scot (www.gov.scot).

Parents are responsible for providing their child with an education

2.10 As set out at paragraphs 1.2 and 2.7 of this guidance, it is the duty of the parent or guardian of every school age child to provide an education, either by sending their child to school, or by other means.[17] Home education is a right conditional upon the parents/carers providing an efficient education suitable to the age, ability, and aptitude of the child.

Education (Scotland) Act 1980 – Section 30

(1) It shall be the duty of the parent of every child of school age to provide efficient education for him suitable to his age, ability and aptitude either by causing him to attend a public school regularly or by other means.

(2) Section 1 of the Standards in Scotland's Schools etc. Act 2000 (right of child to be provided with school education by, or by virtue of arrangements made by, an education authority) is without prejudice to the choice afforded a parent by

[15] Children's rights in Scotland | Resource Themes | Education Scotland
[16] Child Rights | The Rights of Children and Young People - CYPCS
[17] Education (Scotland) Act 1980 (legislation.gov.uk)

subsection (1) above.

2.11 Sections 28(1) and 30 of the 1980 Act set out the duty of the parent/carer to provide education for their child, and the general principle that a child is to be educated in accordance with the wishes of their parents/carers, below:

Education (Scotland) Act 1980 – Section 28

(1) In the exercise and performance of their powers and duties under this Act, the Secretary of State and education authorities shall have regard to the general principle that, so far as is compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents.

2.12 Choosing to home educate a child does not require consent from the local authority if the child has not commenced attending a school at the point when they would have commenced a school education. Further details on where exemptions may apply are available at paragraph 3.8. However, if a parent/carer decides to withdraw their child from school in order to home educate them, the parent/carer must seek the consent of the relevant education authority.

Duties placed on local authorities

2.13 In all their educational responsibilities, local authorities should have regard to the views of parents/carers and the decisions that they make in relation to their child's education. Authorities should have regard to the views of parents/carers and to those of the child and seek to support families in the choices that they make by offering advice and clear, accurate information and resources where feasible.

2.14 Sections 35 and 37 of the 1980 Act make provision in relation to home education. Section 35 provides that the consent of the authority is required for a child to be withdrawn from an education authority school. Section 37 requires an authority to take action where they are not satisfied that an efficient and suitable education is being provided to a child.

Education (Scotland) Act 1980 - Section 35

(1) Where a child of school age who has attended a public school on one or more occasions fails without reasonable excuse to attend regularly at the said school, then, unless the education authority have consented to the withdrawal of the child from the school (which consent shall not be unreasonably withheld), his parent shall be guilty of an offence against this section.

Education (Scotland) Act 1980 - Section 37(1)

(1) Where a child of school age has not attended a public school in the area in which his parent is residing, or has attended such a school and has been withdrawn

therefrom with the consent of, or excluded by, the education authority, then, if the authority are not satisfied that the parent is providing efficient education for him suitable to his age, ability and aptitude, it shall be the duty of the authority to serve a notice on the parent requiring him within such time as may be specified in the notice (not being less than seven or more than fourteen days from the service thereof) either -

(a) to appear (with or without the child) before the authority and give such information as the authority may require regarding the means, if any, he has adopted for providing education, or

(b) in the option of the parent, to give such information to the authority in writing.

Education (Scotland) Act 1980 - Section 37(2)

If a parent on whom a notice has been served in pursuance of subsection (1) above fails to satisfy the authority that he is providing efficient education for the child suitable to his age, ability and aptitude or that there is a reasonable excuse for his failure to do so, the authority shall make an attendance order in respect of the child in accordance with the provisions of section 38 of this Act.

2.15 The Education (Additional Support for Learning) (Scotland) Act 2004, as amended in 2009 ("the 2004 Act") places duties on education authorities to identify, provide for and review the additional support needs of children and young people whose education they are responsible for. An additional support need can arise for any reason and be of short or long-term duration. Additional support may be required to overcome needs arising from: the learning environment; health or disability; family circumstances; or social and emotional factors. This includes exploring with the parents, children and young people reduced timetables and a flexible approach. Local authorities can ask other agencies (including social work services, health boards and Skills Development Scotland) for help in carrying out their duties under the Act. The Additional support for learning: statutory guidance 2017[18] explains the duties on education authorities and other agencies to support children's and young people's learning. However, as set out in below, authorities have very limited legal duties in relation to children and young people with additional support needs who are home educated, as responsibility for the education of these children and young people rests completely with parents/carers. More information on accessing support for learning is set out in paragraphs 5.6 to 5.8 of this guidance.

Duty to provide efficient and suitable education

2.16 There is no statutory duty upon local authorities to 'monitor' ongoing home education provision, neither do His Majesty's Inspectorate of Education (HMI) have a remit to inspect home education settings. However, local authorities have a duty to take action where they are not satisfied that a parent/carer is providing efficient education suitable to their child's age, ability and aptitude. Parents should ensure that their children receive an education that enables them to achieve their full

[18] Additional support for learning: statutory guidance 2017 - gov.scot (www.gov.scot))

potential and prepares them for life in wider society. There is no definition of what is "efficient" and "suitable" education in domestic legislation but Article 29 of the UNCRC (set out at paragraph 2.4 above) does set out the purpose of education.

2.17 Paragraph 3.13 provides further information to consider in supporting the assessment of a suitable and efficient education. Paragraph 6.6 offers some suggested characteristics of efficient and suitable education. In addition, there are several examples of case law from England and Wales which may be of assistance:

Harrison & Harrison v Stevenson. Appeal 1981 Worcester Crown Court (unreported)

The Judge defined the outcomes of a suitable education as

1. to prepare the children for life in a modern civilised society; and

2. to enable them to achieve their full potential.

R v Secretary of State for Education, ex parte Talmud Torah Machzikei Hadass School Trust. Judicial review 1985, The Times, 12 April 1985

Mr Justice Woolf said: "Education is suitable if it primarily equips a child for life within the community of which he is a member, rather than the way of life in the wider country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so".

Goodred vs Portsmouth City Council, [2021] EWHC 3057 (Admin) Judicial Review 18 October 2021

69. Mr Justice Lane said: "there are four elements to the duty conferred by section 7 of the 1996 Act on parents; namely, to (i) cause the child to receive (ii) an efficient, (iii) full-time and (iv) suitable education, having regard to age, ability, aptitude and any relevant special educational needs. If any one of those elements is absent, the duty imposed by section 7 is not being discharged. I consider this to be an accurate analysis of the section 7 duty.

70. I also agree with Mr Cornwell that the duty is, plainly, objective in nature. The parent is not the ultimate arbiter of whether, for example, the education being received by the child is suitable. The requirement in section 9 for the Secretary of State and the local authority to have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents has no direct impact upon the section 7 duty."

Equalities

2.18 Section 149 of the Equality Act 2010 places a general duty (known as the Public Sector Equality Duty (PSED)) on public authorities to have due regard to: eliminating discrimination, harassment, and victimisation; advancing equality of opportunity; and fostering good relations between persons who share a protected

characteristic and those who do not. Local authorities must comply with the PSED in delivering their responsibilities for education, including in developing their home education policy and handling requests for consent to withdraw a child from education. Scottish Ministers can supplement the general duty by placing specific duties on Scottish public authorities. Consequently, the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 were introduced to support Scottish public authorities to improve implementation of the PSED. Those duties require authorities to undertake a number of actions, including, for example, to: produce reports showing how equalities are being mainstreamed within the organisation; gather and use information about the recruitment, development and retention of employees with protected characteristics; assess the impact of proposed new or revised policy or practice and take account of the results in policy or practice development; and publish equal pay statements.

2.19 The Review of Implementation of Additional Support for Learning[19] heard from a range of groups and individuals about their experience of additional support for learning. It made a number of recommendations which seek to improve the experiences of children and young people with additional support needs. While the scope of this review did not include home education, where access to local authority support is discretionary (see paragraphs 5.5 to 5.8), its findings and recommendations can promote the development of positive relationships between parents, children and local authorities. The overarching recommendation of the review is one of collaboration and joint working between parents, children and local authorities: "*Children and young people must be listened to and involved in all decision making relating to additional support for learning. Co-creation and collaboration with children, young people and their families will support more coherent, inclusive and all-encompassing policy making, which improves implementation, impact and experience."*[20] Collaboration and involvement in the delivery of support and guidance for home educating families can promote positive relationships and enhanced communication between families and local authorities.

Divergent views between parents

2.20 Where there is disagreement between separated parents about a child's education, it will be primarily for parents to find agreement where that is possible in the circumstances. It is not for the local authority to try and resolve such disputes. The local authority may wish to remind both parents that their prime consideration should be the welfare of their child. It is generally better for the child that both parents are involved in the child's life but there may be cases, such as when one parent has displayed violent or abusive behaviour, where this is not the position. The authority may also wish to signpost to mediation. However, mediation may not be appropriate when there has been domestic abuse, coercive behaviour, sexual violence or gender based violence. For more information please visit Striving for a safer Scotland. Ultimately, if separated parents are unable to agree on how their children should be brought up and educated, they may need to go to the civil

[19] Review of additional support for learning implementation: report - gov.scot (nrscotland.gov.uk)
[20] Ibid

courts although parents should be aware that this can be lengthy, expensive and stressful.”

Section 3 Withdrawing a child from school

Why parents choose to home educate

3.1 Parents/carers may choose to home educate their children for many different reasons. Parents/carers do not have to give a reason for choosing home education when requesting to withdraw their child from school. Any reason given should have no bearing on whether or not consent is given, as the authority's interest lies in how the parent/carer intends to educate their child, not their reason for doing so.

3.2 The following reasons are common, but not exhaustive:

- The wish to follow a particular philosophy, including an educational philosophy;
- Religious or cultural beliefs;
- Dissatisfaction with the system;
- A child's reluctance or anxiety regarding attending school or other educational setting;
- Issues at school, e.g. bullying;
- Geographical - due to remoteness, or mobility for work or cultural reasons;
- The wish to support a child with additional support needs in a particular way;
- As a short-term intervention for a particular reason.

3.3 While parents/carers do not have to provide the authority with a reason for their request to withdraw their child from school, it may be helpful for the authority to understand the circumstances which have led to this decision. Parents/carers are strongly encouraged to engage in discussions with the local authority prior to making the choice to home educate in order to ensure that all options for the provision of education and any additional support, or strategies which may be of benefit to the child or young person, have been considered by their parents/carers and the authority. This will ensure that parents/carers have a clear understanding of what support their local authority may be able to provide to their child if the choice has been made to home educate.

3.4 For children and young people with additional support needs attending school, the local authority must provide them with the support they need to fully benefit from their education, as the local authority is responsible for providing the appropriate education for children being educated at a local authority school. Similarly, where a child cannot attend school temporarily due to a mental or physical health reason, the local authority must likewise provide the necessary support to aid their education. If parents are unhappy with the level or type of support that their child is receiving, they should raise their concerns with the school, or local authority, to try to come to a suitable resolution. Where concerns cannot be resolved through discussions with the school or local authority, the 2004 Act provides a number of ways in which parents can try to resolve concerns about the support that is being provided to their child at school.

3.5 If the child's current school cannot meet their needs, the local authority should explore other ways to provide the support. Home education should not be used as an alternative to the local authority providing a child or young person with the support

they need to stay in school or under the responsibility of the education authority. Home education should always be a choice made by families.

3.6 Further information for parents/carers is available from Enquire[21], the national advice and information service for additional support for learning. Children and young people looking for further advice and information can access Reach.scot,[22] which has advice and information for pupils to understand their rights to feel supported, listened to, included and involved in decisions at school. As set out elsewhere in this guidance, the duties on local authorities under the 2004 Act do not extend to children and young people who are not on the school roll of a school in that area. Where a parent/carer is considering requesting to withdraw their child from a school roll, it is important to discuss with the local authority what support may be available if their child is withdrawn from the school roll.

3.7 Guidance for schools and local authorities is provided through the Additional support for learning: statutory guidance 2017[23].

Who needs consent?

3.8 Under section 35 of the Education (Scotland) Act 1980, parents or guardians of a child who has been attending a public school must seek the local authority's consent before withdrawing their child from that school, and the authority must not unreasonably withhold consent to withdraw. It should be noted that while consent is needed for withdrawal from school, consent is not needed to home educate in itself. Parents/carers are however strongly encouraged to engage with the local authority regarding their intent to home educate, while local authorities are encouraged to respect the validity of the choice to home educate, and families' right to make this choice. Making the choice to home educate should not be viewed as a child protection concern unless there is reason to believe that concern is warranted.

Consent to withdraw a child from school is not needed in the following situations:

- The child has never attended a public school;
- The child has never attended a public school in that authority's area;
- The child is being withdrawn from an independent school;
- The child has finished primary education in one school but has not started secondary education in another;
- The school the child has been attending has closed;
- The child is not yet of school age.

3.9 There is no statutory duty upon families to inform the local authority that they are home educating if they do not require consent to withdraw from a school roll, however this guidance strongly encourages parents/carers to make known to their local authority their intention to home educate. The local authority should seek to promote collaborative relationships with home educating families by informing families about what support may or may not be available to them, and to offer

[21] How can I resolve disagreements with the school or local authority? - Enquire
[22] Reach - understand children's rights to education and support in Scotland
[23] Additional support for learning: statutory guidance 2017 - gov.scot (www.gov.scot)

practical support and resources as set out in section 5 of this guidance. Authorities are not legally obliged to provide any resources for home educated children or their parent/carer, as full responsibility for a child's education is held by their parent/carer after a local authority communicates their consent to withdraw the child from the school roll. The local authority may choose to provide support at their discretion. Local authority support may take a variety of forms and may simply be provision of contact details on the authority's website.

3.10 Home educators are strongly encouraged to make themselves known to their local authority and both parties are encouraged to form a collaborative and constructive relationship considering the best interests of the child. Positive partnership between home educating families and local authorities is considered to be in the best interests of the child. Where there are difficulties in this relationship it may be helpful to consider mediation. More information about mediation services in Scotland can be found from Scottish Mediation.[24] Additionally, where a local authority is aware of the full number of home educating families in its area, the needs of home educators in the area can be better reflected in future policy development and resource considerations.

Withdrawing the child from school - the process

3.11 The process for considering a parent/carer's request to withdraw a child from a school roll should be fair, clear, transparent and consistent. This process should be carried out without undue or unnecessary delay. Parents/carers should write as early as possible and, where reasonably practicable, well in advance of the date they wish to withdraw their child from school. It is for a parent/carer to consider whether consent to withdraw from the school roll is required (with reference to the exemptions set out at paragraph 3.8) and to then write to the local authority to request to withdraw from the school roll if no exemptions apply. Parents/carers may find it useful to consider the Enquire factsheet on home education[25], which sets out information on this process. Local authorities should have regard to the individual circumstances of the child and any issues that they may be experiencing at school. Local authorities should be aware that a request to withdraw from the school roll can be made at different points in the year, and that the expectation remains that a request should be proceeded without undue or unnecessary delay. The authority should endeavour to issue a response as soon as possible in circumstances where a child may be suffering distress or be experiencing difficulties as a result of continued attendance at school.

3.12 Local authorities should respect the decision to home educate as a legitimate choice, and be reminded that consent to withdraw a child from a school roll should not be unreasonably withheld. Local authorities should aim to issue a decision on consent to withdraw a child from school within 6 weeks of the receipt of the original request. It is expected that the majority of requests should be dealt with well within this timescale. However, in a small minority of cases it may not be possible for a decision to be issued within 6 weeks. The parent/carer should be kept informed of the progress of the request, the reason for any delay, and the likely timescale to

[24] Scottish Mediation – Turning Disagreement into Opportunity
[25] home-education-asl.pdf (enquire.org.uk)

reach a decision. While the time taken to process a request should be kept to a minimum, it is in the interest of all parties that sufficient time is allowed for the processing of each individual case.

3.13 The authority should seek to issue a decision as soon as possible. As set out in paragraph 2.4, local authorities should seek the views of the child in question as part of their consideration of the request, should the child wish to give their opinion. The child should not be required to give an opinion if they do not wish to do so. This is in line with Article 12 of the UNCRC, wherein a child must be provided the opportunity to share their opinion, should they wish to do so. Local authorities may find it useful to consider the aspects of education described below, to aid the process of considering the parent's/carer's request to withdraw their child from the school roll. It is recommended that this is cross-referenced with the information on a 'suitable and efficient' education set out at paragraph 2.17 in terms of legislation, and the purpose of education set out in UNCRC Article 29 at paragraph 2.3 of this document. It should be noted that, as set out in paragraph 3.3, parents/carers are not required to indicate the reasons that they are requesting to withdraw their child from the school roll. In addition, it should be taken into consideration that in these early stages, a parent's/carer's proposals may not be detailed, and they may not yet be in a position to respond fully to all of the information requested, which may include:

- how the child's education will help to prepare them for life in modern society and achieve their full potential;
- how to ensure that the views of the child are heard, should the child wish to provide them, including the views of the child on the decision to home educate;
- the approach to how the child will be home educated;
- how the education provided will take into account and support the child's individual needs, learning strategies, attitudes and aspirations;
- the kinds of resources and materials the child will have access to;
- how the child will have opportunities to interact with other children and adults;
- Information on physical activity;
- how the child will be involved in a broad spectrum of activities and be stimulated by their learning experiences;

3.14 Parents/carers should be given the opportunity to address any specific concerns that the authority has, within a reasonably practicable period.

3.15. If no evidence exists of reasonable grounds to withhold consent to withdraw from the school roll, and parents/carers have provided some indication of their educational objectives and proposed resources, consent to withdraw can be granted immediately.

Withholding consent to withdraw

3.16 The local authority may not unreasonably withhold their consent to withdraw a child from school. The local authority should notify the family in writing of their decision, setting out reasons and the grounds for refusal if consent to withdraw is withheld. Parents/carers should then be given the opportunity, within a reasonably

practicable period, to address the grounds for refusal and resubmit their request for reconsideration.

3.17 In the period between receipt of an request to withdraw the child from the school roll and a decision being issued, the local authority should take a reasonable approach to attendance procedures. In most cases it would be inappropriate to initiate or pursue attendance procedures, in respect of awaiting consent for the child to be withdrawn from school.

3.18 During this period, local authorities should continue to identify, provide, and review any additional support required by children and young people to support them with their learning. Where there are concerns about this support, authorities should continue to engage with parents to try to resolve these concerns. For further information on addressing concerns about support, please see the Additional support for learning: statutory guidance 2017 - gov.scot (www.gov.scot)

3.19 Local authorities should acknowledge that potential home educators come from a range of backgrounds and communities, and that these factors should not bear upon the authority's decision.

3.20 Parents are not required to have any qualifications or training to home educate their children.

Information held in the child's records

3.21 On receipt of a request from a parent to withdraw a child from school, local authorities should consider carefully whether there is any existing evidence in an authority's own records (including SEEMiS) or, where appropriate, from other services or agencies indicating that there may be good reason to refuse consent to withdraw the child from school. Previous irregular attendance is not of itself a sufficient reason for refusing consent to withdraw from school. Specific instances where such consent to withdraw a child from school may not be able to be granted immediately are:

- where a child has been referred to social work, police or health for child protection reasons, and the matter is being investigated;
- where a child is subject to a Child Protection Planning Meeting, has an Interim Safety Plan or a Child Protection Plan;
- where a child is subject to an Interim Compulsory Supervision Order, a Compulsory Supervision Order, or a Child Protection Order;
- where there is a history of domestic abuse in the family home;
- where a child is on the child protection register;
- where a child has been referred to the Children's Reporter on care and protection grounds, whether welfare or offence based, and the referral is being considered.

3.22 Consideration should also be made as to whether the above applies to any of the child's siblings or other children resident in the home. If the child is subject to any of the above, then consideration should be given to requesting a multi-agency

meeting to discuss the request to home educate, and how this may be supported as part of the child's care plan.

Processing of data by local authorities

3.23 Local authorities must ensure any personal data processed as part of a request to withdraw a child from a school roll is processed in accordance with data protection law. This includes but is not limited to the processing of personal data when receiving and considering a request to withdraw a child from a school roll; and the processing of personal data in the retention of information about children known to be home educating within that local authority area. The "UK GDPR" and the Data Protection Act 2018[26] together provide the legal framework for data protection compliance ensuring that personal information is used fairly and lawfully. These privacy rules apply to every organisation processing personal data. Local authorities will wish to consider the use of a Data Protection Impact Assessment.

3.24 Personal data is information that relates to an identified or identifiable individual. Personal data may also include special category personal data or criminal conviction and offences data. These are considered to be more sensitive and can may only be processed in more limited circumstances.

3.25 The data protection principles[27] are at the heart of the data protection regime. The emphasis is placed firmly on the rights of people, with responsibility on organisations to incorporate data protection into their business. Compliance with the data protection principles and in particular fairness should be central to all processing of children's personal data.

3.26 Individual rights[28] are set out in the UK GDPR, and local authorities must process personal data in accordance with those rights. Children have the same rights as adults over their personal data, and they may exercise these rights on their own behalf if they have a general understanding of what it means to do so. The most common is the right of access, commonly referred to as a subject access request, which gives people the right to obtain a copy of their personal data.

3.27 This would include any potential disclosure of personal data to an internal or external partner(s)/agency/ies, where a lawful basis under the legislation must be identified to enable the disclosure and the personal data to be provided is kept to what is necessary and proportionate to meet the aim/purpose.

Resolving disputes and complaints

3.28 There is no statutory right to appeal against a local authority's decision to withhold consent to withdraw a child from school. However, local authorities should provide parents/carers with details about their complaints procedure, and all decisions should be reviewed internally by local authorities on request. Some local authorities may wish to recommend using their own mediation services to resolve

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[26] Data Protection Act 2018 (legislation.gov.uk)
[27] A guide to the data protection principles | ICO
[28] A guide to individual rights | ICO

issues, and the existence of these should be made known to home educating families. If the local authority complaints process has been pursued by a parent/carer, but they remain dissatisfied with the outcome, they can then choose to pursue the matter with the Scottish Public Services Ombudsman (SPSO[29]). Decisions made by public authorities under their statutory powers may generally be subject to legal challenge in the Court of Session by way of Judicial Review.

[29] Home | SPSO

Section 4 Contact between home educating families and local authorities

4.1 There is no statutory duty upon local authorities to monitor ongoing home education provision. However, in law (as set out in section 2 of this guidance) local authorities have a duty to take action where they are not satisfied that a parent/carer is providing efficient education suitable to their child's age, ability and aptitude. The law does not specify how, and to what extent, local authorities should actively seek the information that will inform them on whether home educating parent's/carer's educational provision is suitable and efficient.

4.2 A recommended process for gathering this information is set out below at paragraph 4.5. In general terms an open and collaborative approach to gathering this information will be in the best interests of the child.

4.3 Local authorities and home educators are encouraged to seek contact to foster positive relationships in the best interests of the child. However, where no concerns have been identified, local authorities must conduct the recommended annual contact with a parent/carer in a way that respects the privacy of the parent and child and their choice to home educate.

4.4 If the local authority has reason to believe that an efficient education is not being provided for a home educated child, they have a duty to intervene. This duty applies equally in relation to all children, regardless of whether they have or have not previously attended a local authority school in the area.

Contact

4.5 It is strongly recommended that local authorities and families known to them to be home educating should have contact in the form of a conversation at least once a year to discuss the progress of the child's education, and for this conversation to include the child, if the child wishes. This is in line with Article 12 of the UNCRC, which protects respect for the views of the child regarding matters which affect them. This annual contact by means of a conversation is not a statutory requirement. However, it is a recommendation as to how local authorities may reasonably inform themselves of the education that the child is receiving, in line with the principles of the right to an education in Articles 28 and 29 of the UNCRC Convention and in line with the duty of the parent/carer to provide education to their child under section 30 of the 1980 Act. Home educators and local authorities are encouraged to work together collaboratively to develop trust, mutual respect and a positive relationship in the best interests of the child.

4.6 To facilitate this positive relationship, it is recommended that annual contact is made initially in writing to the parent/carer by the local authority, seeking a meeting, or requesting an update on educational provision. The primary purpose of the contact should be for the local authority to satisfy themselves that a suitable and efficient education is being provided (as set out in paragraph 3.13). Whilst the format of the contact is flexible, it is recommended that a conversation, to include the child if they should wish to be included, is held as a part of the annual engagement. Where a child expresses the wish not to participate in a conversation with the local authority this should be respected. It is recommended that a conversation takes place, at a

mutually agreed location or via a digital medium; however, relevant information may also be provided through other means, e.g. the submission by the parent/carer and child of written, recorded or electronic material. Authorities should not be prescriptive about the format in which information can be submitted. The important factor is whether the information can demonstrate that suitable and efficient education is being provided.

4.7 Following this contact, the local authority should write to the parent/carer letting them know the outcome, i.e. whether or not the educational provision was seen to be suitable and efficient. Where there are no concerns with the educational provision, there will be no need for further contact until the following year unless mutually agreed. Where there are concerns about the efficiency or suitability of the education being provided, the local authority should make the exact nature of these concerns clear to the parent.

4.8 If, from whatever source, a local authority becomes aware of concerns about the home education of a child in its area outwith the normal contact time, they will need to gather the necessary information in order to form a view on whether those concerns are justified or whether the parent/carer is providing an efficient education suitable to the age, ability and aptitude of the child.

Access to the child and home or learning environment

4.9 It is important to acknowledge that learning takes place in a wide variety of environments and not simply in the home. Where the education is taking place in the home, it may be desirable for a local authority to have the opportunity to meet with the child in that learning environment in order to better understand the child's views, feelings and experience of home learning in context, should the child be content to do so. However, the authority does not have a right of access to the home or the child. There is no statutory basis for a local authority to seek access to a child as part of the annual contact with a home educator, however contact with the child is strongly recommended as a matter of good practice. Trusting relationships may need time to develop before a parent/carer is willing to invite an officer to visit. Where a parent/carer does not allow access to their home or their child, this does not of itself constitute a ground for concern about the education provision, and the local authority must not treat this as such. There may be occasions when a denial of access raises child protection concerns, in which case the general principle set out in paragraph 4.14 should apply.

4.10 Although it is recognised that the learning environment can have a bearing on the effectiveness of learning, local authorities should be able to discuss and evaluate the parent/carer’s educational provision by alternative means. Parents/carers might prefer to meet digitally or at a mutually agreed location or, for example, to write a report, provide samples of work, either in hard copy or electronically, or provide evidence in some other appropriate form.

Significant concerns

4.11 Where the authority has concerns about the education provision, which are not allayed by the presentation of written or alternative forms of evidence, and ongoing

collaborative dialogue, and the only way the authority can clarify whether suitable and efficient education is being provided is to seek access to the home environment, then they may request to do so. However, the authority must have demonstrable grounds for concern and must outline those grounds to the parent/carer when requesting access to the home. If, in these circumstances, the parent/carer refuses to allow access to the home, the authority might reasonably conclude that they have insufficient information to satisfy themselves as to the efficiency and suitability of education provision, and serve a notice on the parent/carer under section 37(1) of the 1980 Act (see section 2 of this guidance).

Attendance orders

4.12 A parent's/carer's wish to educate a child at home should be respected and, where possible, efforts should be made to resolve issues about educational provision by a process of ongoing dialogue before action is taken under section 37 of the 1980 Act. A notice must be served where:

- the education is clearly not efficient and suited to the age, ability and aptitude of the child, and this situation is unlikely to be resolved by further ongoing dialogue; or
- the local authority has made every effort to secure the information required to enable it to satisfy itself that the education is efficient and suited to the age, ability and aptitude of the child, and that information has not been provided by the parent/carer.

4.13 Under section 37, a notice will allow between 7 and 14 days for the parent/carer to provide the local authority with whatever information they require to satisfy themselves about the suitability of the education. The parent/carer may choose to do this by meeting with the local authority in person, or by supplying the information in writing. The local authority must make an attendance order where the parent/carer, on whom notice has been served, fails to satisfy the local authority that efficient education is being provided, suitable to the age, ability and aptitude of the child, or that there is reasonable excuse for his or her failure to do so.

Child protection concerns by local authority officers

4.14 The welfare and protection of all children, both those who attend school and those who are educated by other means, is of paramount concern and is the responsibility of the whole community. As with children attending school, child protection issues may arise in relation to home educated children. It should not be assumed that child protection issues are more likely to arise for children who are home educated. If any child protection concerns come to light in the course of engagement with children and families, these concerns should immediately be referred to the appropriate authorities using established protocols with reference to the National Guidance for Child Protection in Scotland 2021 – updated in 2023.[30]

[30] Supporting documents - National Guidance for Child Protection in Scotland 2021 - updated 2023 - gov.scot (www.gov.scot)

Section 5 Good practice for local authorities

Clear information

5.1 Local authorities should provide clear and accurate written information, including on their website, on home education. This should be framed in a way which is likely to be easily understood by parents/carers and by children, and anyone else who may be interested in home education. Contact details for home education support organisations should also be provided (see end of this guidance). All written information should be made available in community languages and alternative formats on request.

5.2 Local authorities should provide home educators and those considering home education with contact details for the official with responsibility for home education within the authority. This official will be familiar with home education policy and practice and hold an understanding of a range of educational philosophies. The local authority may wish to invite families to meet with a named officer to discuss their proposals or provision, and families are strongly encouraged to do so in order to create a culture of collaboration between home educators and local authorities. Any such meeting should take place at a mutually acceptable location. In line with Article 12 of the UNCRC it is recommended that the child is offered the opportunity to be included in that meeting, or otherwise to express his or her views, but the child's attendance and participation should not be seen as compulsory. Either during such a meeting, or otherwise, the parents and the authority should consider and agree what future contact there will be between them. In some cases, where parents have a clear idea of what home education entails and where there are no other concerns, such a meeting may not be necessary, although it is recommended that contact continues to support a collaborative relationship between the authority and home educators.

5.3 Local authorities should, as far as practicable, ensure that officials and staff who may be the first point of contact for a potential home educating parent/carer, e.g. answering telephone enquiries, understand the right of a parent/carer to choose home education, and that home educating in of itself is not a ground for child protection concerns. Local authorities should aim to ensure that parents/carers are provided with accurate information from the outset.

Record keeping and information management

5.4 Local authorities should keep a written record setting out any discussions, recommendations or agreements made with parents and, where relevant, the reasons for them. Any written report should be copied to the parents, and where appropriate, the child. In exceptional cases, where there is a reasonable concern that a passage in any written record might cause serious harm to the physical or mental health or condition of any person concerned, consideration should be given to withholding that part of it. The authority will be aware of the need to comply with the law and principles of data protection. Further information is available at paragraphs 3.23 to 3.27.

5.5 As a part of the updated guidance for home education, Scottish Government will work with local authorities to consider options for the collation of high-level information about the number of children and young people home educating in local authorities. The Scottish Government will continue to explore options for data collection to understand the needs of stakeholders, and inform policy development by the availability of a national picture of home education. The Scottish Government will work with stakeholders to ensure best practice and that the collation of high-level data is proportionate.

Practical support and resources

5.6 Authorities are not legally obliged to provide any resources for home educated children or their parent/carer, as full responsibility for a child's education is held by their parent/carer after a request for withdrawal is approved. However, a local authority may choose to do so at their discretion, particularly where there are minimal resource implications for the authority. Some of the ways in which authorities might choose to support home educating families include:

- Providing general advice;
- Allowing access to learning centre resources;
- Allowing access to school resources where feasible;
- Signposting families to curriculum-related resources which are freely available online to schools;
- Allowing access to centres accredited to deliver qualifications and awards, and to sit examinations, where feasible;
- Facilitating access to any discounted rates for educational materials;
- Providing access to local authority owned community and sports facilities on the same basis as for school children;
- Informing home educating families of any projects or programmes which might reasonably be accessed by home educated children.

5.7 Families are encouraged to engage with their local authority prior to making the choice to home educate, to ensure that they are fully informed as to what support may or may not be available to them following a decision to assume full responsibility for their child's education.

Providing support to children and young people with additional support needs who are home educated

5.8 The local authority does not have a legal duty to provide support to children and young people with additional support needs who are home educated. This is because the authority is no longer responsible for their education, and parents/carers have made the choice to withdraw their child from the local authority's educational provision. However, parents/carers who choose to home educate their child may ask their local authority to use their discretionary power to establish whether or not their child has additional support needs, and to assess what level of support they might need. Children (aged between 12-15, with capacity to make such a request) and young people (aged 16+) can also ask the authority to do this. More information for

children and young people on accessing additional support for learning can be found at My Rights, My Say.[31]

5.9 Home education should always be a choice, and should not be resorted to as a solution if a parent/carer feels that their child's needs are not being met within the school environment. Where there are concerns about the support that their child is receiving, parents/carers can raise these concerns with the school or local authority to try to resolve the issues and we would encourage the parents and carers to continue to engage in these discussions to try to come to a suitable resolution for their child. Where these concerns cannot be addressed through discussion with the school or education authority, the 2004 Act also provides mechanisms which parents/carers can access to try to resolve disagreements about the support that is being provided to their child at school. Information about these mechanisms can be found at the following links:

Mediation

Independent Adjudication

Additional Support Needs Tribunal

5.10 The local authority is not required to comply with a request for additional support or to provide any additional support. However, they may do so at their discretion. If the authority chooses to do this, they must provide the person who has made the request with information and advice about the additional support required. The support identified could include, for example, provision of learning and teaching support, resources or advice. As the authority is not required to provide any support to children and young people who are home educated, it is strongly recommended that parents/carers discuss this with the authority before making the choice to home educate, in order to ensure that they are informed of what support will and will not be available should they decide to move forward with home education.

5.11 There are a range of resources available to support children and young people with additional support needs who are home educated. Details of some of these can be found at Education Scotland's website[32].

Review

5.12 As a matter of good practice, local authorities should regularly review all of their procedures and practices, including in relation to home education. Effective reviews, together with the sensitive handling of any complaints, will help to secure effective partnership. This could focus on whether improvements could be made in the processing of requests to withdraw a child from school, and contact with home educating families, and generally to meet the needs of children and parents. Home education organisations and home educating parents should be involved in this process of review, and it should be considered whether a Child Rights and Wellbeing

[31] My Rights, My Say (myrightsmysay.scot)
[32] Resources search | Resources | Education Scotland

Impact Assessment (CRWIA) would need to be carried out. Further guidance on CRWIAs are available on the Scottish Government website[33].

Getting it right for every child

5.13 The wider wellbeing needs of children and young people who are home educated can be supported through Getting it right for every child (GIRFEC). GIRFEC is the national approach in Scotland to improving outcomes for children through promoting, supporting, and safeguarding their wellbeing. Children and young people need to grow up safe, healthy, achieving, nurtured, active, respected, responsible and included so that they can become confident individuals, effective contributors, successful learners, responsible citizens and realise their full potential. This is delivered through:

- a named person who is a clear point of contact for children, young people and parents to go to for initial support and advice; a named person can also connect families to a wider network of support and services so that they get the right help, at the right time, from the right people;
- a shared and holistic understanding of wellbeing and a single model of how this is considered and supported;
- a single, shared approach to planning for children and young people where support across services is needed, coordinated by a lead professional.

5.14 The GIRFEC approach applies to all children, young people and their parents/carers, providing support if and when needed to address any wellbeing concerns, and to prevent any concerns getting worse. Where local authorities have a named person, this resource will be available to those who are home educated and home educating if they choose to use this service. As for all children, young people and parents/carers, there is no obligation to engage with a named person and it is important to emphasise that non-engagement is not in itself a cause for concern. Children and young people can also benefit from support which needs to be integrated across services through a child's plan coordinated by a lead professional.

5.15 The GIRFEC Practice Guidance 4 - Information sharing[34] is intended for practitioners and service leads in services who work with children, young people and families. The guidance promotes lawful, fair and proportionate information sharing, which complies with all relevant legal requirements. The guidance aims to clarify the circumstances in which information can be shared with another agency, the considerations that need to be taken into account to ensure sharing information with another agency is appropriate, and the importance of involving children, young people and families in the decision to share information with another agency.

[33] Children's Rights and Wellbeing Impact Assessment guidance - gov.scot (www.gov.scot)
[34] Getting it right for every child (GIRFEC) Practice Guidance 4 - Information sharing - gov.scot (www.gov.scot)

Section 6 Efficient and suitable education

Acknowledging diversity

6.1 This section should be read in conjunction with paragraph 2.18 on equalities, and with regard to Article 2 and Article 29 of the UNCRC Convention, on non-discrimination and right to education, respectively, as set out in paragraph 2.4.

6.2 Home educators' educational provision will reflect a diversity of approaches and interests. Some parents/carers may wish to provide education in a formal and structured manner, following a traditional curriculum and using a fixed timetable that keeps to standard school hours and terms, whilst others may decide to make more informal provisions that are responsive to the developing interests of the child. Some parents/carers may wish to follow and refer to Scotland's Curriculum for Excellence, although they should first familiarise themselves with what qualifications are available to home educating students, as some are not accessible unless in a school environment. Further information on Curriculum for Excellence can be found on the Education Scotland website.[35] Other parents/carers may consult and adopt curricular approaches from other countries. One approach is not necessarily any more valid than another. Although some parents/carers may welcome general advice and suggestions about resources, methods and materials, local authorities should not specify a curriculum which must be followed.

6.3 Children learn in different ways and at different times and speeds. It should be appreciated that those embarking on home education for the first time might require a period of adjustment before finding their preferred mode of learning. Parents/carers are not required to have any qualifications or training to provide their children with an appropriate education. Their commitment to providing an efficient education that is suitable for their child may be demonstrated by them providing some indication of their objectives and resources.

6.4 The approach home educating parents/carers take to assessing their child's progress is likely to be informed by their own philosophy or views, and in many cases, the absence of formal assessment may be a feature of the education provision. Progress, over the long term, may take a variety of forms.

Suggested characteristics of efficient and suitable education

6.5 There is no definition of suitable and efficient education set out in legislation. However, as set out in section 2 of this guidance, there are examples of case law which may be helpful in forming definitions.

6.6 In their consideration of parent's/carer's provision of home education, local authorities may reasonably expect the provision to include the following characteristics:

- Consistent involvement of parents/carers or other significant carers;

[35] About Curriculum for Excellence | Curriculum for Excellence | Education Scotland

- Presence of a philosophy or ethos (not necessarily a recognised philosophy), with parents/carers showing commitment, enthusiasm, and recognition of the child's needs, attitudes and aspirations;
- The opportunity for the child to be stimulated by their learning experiences;
- Involvement in a broad spectrum of activities appropriate to the child's stage of development;
- Access to appropriate resources and materials;
- The opportunity for an appropriate level of physical activity;
- The opportunity to interact with other children and adults.

6.7 It may also be useful to consider Curriculum for Excellence (including the resource Scotland's Curriculum for Excellence) when authorities are considering the characteristics of an efficient and suitable education along with families. The purpose of Curriculum for Excellence is to support young people (age 3-18) in developing four capacities deemed fundamental to being a citizen of 21st century Scotland. These are becoming a successful learner; confident individual; effective contributor; and responsible citizen. As Curriculum for Excellence focuses on delivering the aforementioned outcomes it is not prescriptive about how learning and teaching is delivered and instead provides educators with a flexible curriculum framework that can be adapted to meet the needs of individual learners. This chimes well with the philosophy of many home educating parents.

6.8 National Qualifications offered by the Scottish Qualifications Authority (SQA) are designed to articulate with Curriculum for Excellence.

Qualifications and awards for home educated children

6.9 While the majority of learners in Scotland's schools study towards National Qualifications offered by the SQA, there is no legal requirement for children to study toward a particular set of qualifications and/or awards. Home educated learners may choose to undertake SQA qualifications or other qualifications such as GCSEs/ A-Levels, International Baccalaureate, etc.

6.10 As noted in section 5 of this guidance, where the choice is made to home educate, a parent/carer assumes full responsibility for the provision of education for their child. This includes the arrangements and costs associated with qualifications which their child may wish to pursue.

6.11 If a home educating young person wants to take a particular qualification, they should investigate thoroughly whether, and how easily, they will be able to access examination and assessment arrangements. This should be done prior to making the decision to home educate so that parents/carers and home educating children and young people are aware of what may be involved in realistically achieving qualifications. It is important to give early consideration to the options and arrangements for qualifications, and to engage timeously with the local authority or relevant exam centres to consider what options may be available. In addition to, or instead of, an examination, a number of qualifications and awards may require learners to complete internally assessed units, projects, or assignments.

6.12 Entries for SQA qualifications or awards are required to be taken through an appropriately approved centre, usually, but not always, a school or college, or an approved training provider. It is for home educating young people or their parents/carers to identify an approved centre willing to enter them as a candidate. However, these are not the only types of qualification available, and parents/carers may wish to investigate alternative options which may be better suited to home education or a child's particular needs and aspirations, including options such as apprenticeships.

6.13 Home educated children and young people and their parents should consider their options and preferences in regards to qualifications sufficiently far in advance, in order to make appropriate arrangements in time. The Scottish Credit and Qualifications Framework[36] may be helpful in identifying these options.

6.14 Local authorities are not required to meet any costs associated with home educated children studying toward qualifications, or awards. However, local authorities should, where circumstances allow, take a reasonable approach and make available any resources or support that they can offer, and give information about alternative qualifications and the arrangements needed for children to take them, where applicable. Local authorities and home educators are encouraged to work together to establish a collaborative relationship which works for the best interest of the child, and local authorities may want to consider what support they can offer to families in accessing qualifications as part of this.

Study options for educational qualifications and awards

Enrolment at a College

6.15 Home educated children and young people are eligible to be considered for further education college courses. As with school pupils, it is a matter for the college concerned whether to enrol a home educated young person. Courses are usually part-time, though colleges may in exceptional circumstances enrol young people under the age of 16 on to full-time programmes. Young people under the age of 16 would require a letter of permission from their parent/carer to attend college.

6.16 Enrolment at college has the advantage that all the work and entry for qualifications is organised by the college, but it does require at least some attendance at classes which will not appeal to all home educating families. If a student enrols at a college, their parents/carers will be liable to pay all of the course fees themselves unless the education authority is willing to provide funding. Colleges also have the discretion to waive fees, which they tend to do for low-income families in accordance with Scottish Funding Council's fee-waiver policy.[37]

Self-Study

6.17 Many home educating families choose to work independently towards qualifications. Because of elements including internal assessment and assignments,

[36] Home | Scottish Credit and Qualifications Framework (scqf.org.uk)
[37] Publications - Scottish Funding Council (sfc.ac.uk)

there are some subjects, qualifications and awards which are not available to external candidates unless an appropriate arrangement can be made with an approved centre which meets with the examining board's requirements. Most centres and examining boards will not accept coursework which has been marked by a private tutor as they need to confirm that the work is the candidate's own and has been produced under the required conditions. The position should be checked with the relevant examining board and centre at an early stage to ensure that necessary arrangements are understood.

6.18 Parents/carers of a child who wishes to study for qualifications or awards from home will need to:

- Contact the relevant qualifications provider early to find out about their requirements;
- Identify and register with an approved centre which is willing to make the arrangements necessary for their child to be presented for the qualification;
- Pay a registration fee for each subject their child will take.

Correspondence and online courses

6.19 Correspondence and online courses can offer additional options for students who prefer to work independently, though they will be required in most cases to follow a structured curriculum and programme of work. Such courses offer a wide range of qualifications at different levels and the organisations offering these courses will advise about arrangements which need to be made for registering with an examination centre and for marking and authenticating coursework. The cost of this option varies depending on the organisation and the qualification chosen but can prove expensive.

Tutors – parental responsibility

6.20 Parents may choose to employ other people to educate their child, though they themselves will continue to be responsible for the education provided. They will also be responsible for ensuring that those they engage are suitable persons to have access to children. They will therefore wish to satisfy themselves, for example, by taking up appropriate references, or requesting that a Disclosure check is carried out. Further information about Disclosure checks is available from Disclosure Scotland (contact details at end of guidance).

Section 7 Information for families

7.1 This section contains general information that may be of use for home educating families and should not be considered an exhaustive list of the support or resources that are relevant to home educated children and young people.

Financial support for home education

Education Maintenance Allowances (EMA)

7.2 Home educated young people may be eligible to receive an EMA, subject to meeting the EMA eligibility criteria and providing that the course of non-advanced education at home has been approved by the education authority. Applications should be made to, and administered by, the local authority in which the home education is based. Students applying for an EMA as a home educated student must have a history of home education prior to reaching their official school leaving date. Further information on EMA can be found at Apply for or renew EMA.[38]

Best Start Grant

7.3 Home educators may be eligible to receive the Best Start Grant, provided they meet the eligibility criteria. Applications can be made online or via telephone. Further information on the Best Start Grant can be found at Best Start Grant and Best Start Foods.[39]

Scottish Child Payment

7.4 Scottish Child Payment (SCP) is a weekly payment of £26.70, paid every 4 weeks, that you can get for every child you look after. These payments provide financial support direct to eligible families and carers to help towards the costs of supporting their child. SCP is available for eligible families with children under 16. In order to qualify for SCP, you must be in receipt of a qualifying reserved benefit, such as Universal Credit or Child Tax Credits. Further information on the Scottish Child Payment can be found at Scottish Child Payment - How it works[40].

Free School Meals

7.5 There are some current benefits linked to a child's attendance at school – such as Free School Meals and School Clothing Grants – for which there is no equivalent for home educating families.

Free Period Products

7.6 The Period Products (Free Provision) Scotland Act 2021 came in to force in January 2023 and ensures that everyone in Scotland who menstruates can have

[38] Apply for or renew an Education Maintenance Allowance (EMA) - mygov.scot
[39] Best Start Grant and Best Start Foods - mygov.scot
[40] Scottish Child Payment - mygov.scot

reasonably convenient access to period products, free of charge, as and when they are required.

7.8 As set out in the Act, local authorities must undertake a consultation process and produce Statements on how they will exercise their functions under the Act. Following the consultation, it is for individual local authorities to decide what works best in their area, delivering to respond to local need and circumstances.

7.9 Guidance which accompanies the Act, states that "This duty applies to all primary and secondary schools in Scotland (including independent, special and grant-aided schools) as well as all publicly-funded Scottish colleges and universities. Children and young people who are not attending school for any reason will be able to obtain products through arrangements put in place by local authorities under Section 1, but local authorities may wish to consider putting in place specific arrangements for children and young people who are home-schooled." This guidance can be accessed at Guidance for responsible bodies.[41]

[41] Period Products (Free Provision) (Scotland) Act 2021: guidance – September 2021 - gov.scot (www.gov.scot)

Useful contacts

Home Education Organisations - Scotland

Home education organisations also have local branches affiliated to them. Further information available from the individual organisations.

Scottish Home Education Forum

Email: via info@scothomeed.co.uk
Website: www.scothomeed.co.uk

Home Education Scotland

Email: contact@homeeducationscotland.org.uk
Website: www.homeeducationscotland.org.uk

North of Scotland Home Educators

Email: norscothe@hotmail.co.uk

Home Education Organisations - UK wide

Please note that some of the information relevant to other parts of the UK may not apply in Scotland.

Education Otherwise

Education Otherwise Association
61 Bridge Street,
Kington,
HR5 3DJ

Tel: 0300 1245690
Email: enquiries@educationotherwise.org
Website: www.educationotherwise.org

Home Education Advisory Service

PO Box 98,
Welwyn Garden City,
Herts
AL8 6AN

Tel: 01707 371 854
Email: enquiries@heas.org.uk
Website: www.heas.org.uk

Further information

Disclosure Scotland

Disclosure Scotland,
PO Box 250,
Glasgow
G51 1YU

Tel: 0300 020 0040
Email: info@disclosurescotland.co.uk
Website: www.disclosurescotland.co.uk

Education Scotland

The national body in Scotland providing advice and support for all matters on the curriculum, and providing a wide range of online services and resources.

Official Correspondence Unit
Education Scotland
Denholm House
Almondvale Business Park
Almondvale Way
Livingston
EH54 6GA

Tel: 0131 244 4330
Email: enquiries@educationscotland.gov.scot
Website: www.education.gov.scot

Enquire

The national advice and information service for parents on additional support for learning.

Website: www.enquire.org.uk
email: info@enquire.org.uk
free confidential helpline: 0345 123 2303

Scottish Government Learning Directorate

Victoria Quay,
Edinburgh
EH6 6QQ

Tel: 0131 556 8400
Email: homeeducation@gov.scot

Scottish Qualifications Authority (SQA)

The national body in Scotland responsible for the development, accreditation, assessment, and certification of qualifications other than degrees.

The Optima,
58 Robertson Street,
Glasgow
G2 8DQ

Telephone Helpdesk: 0345 279 1000
Email: Customer@sqa.org.uk
Website: www.sqa.org.uk

Scottish Credit and Qualifications Framework

The SCQF is the national qualifications framework for Scotland.

201 W George Street
Glasgow
G2 2LW

Tel: 0141 225 2922
Email: info@scqf.org.uk
Website: www.scqf.org.uk

Skills Development Scotland (SDS)

Skills Development Scotland (SDS) is Scotland's national skills body.

Skills Development Scotland
Monteith House
11 George Square
Glasgow
G2 1DY

Tel: 0141 285 6000
Email: via www.skillsdevelopmentscotland.co.uk/contact-us/
Website: www.skillsdevelopmentscotland.co.uk

ParentClub

Website: www.parentclub.scot

Scottish Council of Independent Schools (SCIS)

Website: www.scis.org.uk/

Colleges Scotland

For details of all colleges in Scotland

Argyll Court, Castle Business Park
Stirling, FK9 4TY
United Kingdom

Email: policy@collegesscotland.ac.uk
Website: www.collegesscotland.ac.uk/

Acronyms and Terms

ASN	Additional Support Needs
ECHR	European Convention on Human Rights
EMA	Education Maintenance Allowance
GIRFEC	Getting It Right For Every Child
GDPR	General Data Protection Legislation
PSED	Public Sector Equality Duty
SCQF	Scottish Credit and Qualifications Framework
SQA	Scottish Qualifications Authority
STEP	Scottish Traveler Education Programme
UNCRC	United Nations Convention on the Rights of the Child

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