

Home education guidance: consultation

March 2022

Contents

Preface

Why we are consulting

How to respond to this consultation

Further engagement and next steps

Draft home education guidance for local authorities

Section 1 Introduction

Section 2 Relevant law

Section 3 Withdrawing a child from school

Section 4 Contact between home educating families and local authorities

Section 5 Good practice for local authorities

Section 6 Efficient and suitable education

Section 7 Information for parents

Section 8 Children with additional support needs

Useful contacts

Acronyms and Terms

Preface

Why we are consulting

This consultation seeks views on the draft updates to the existing [Home education guidance](#), published in 2007.

This guidance is published under Section 14 of the Standards in Scotland's Schools Act 2000, and local authorities are to have regard to the guidance.

The draft guidance sets out the roles and responsibilities of local authorities and parents in relation to home education. It provides information on the relevant law and the process for withdrawing a child from school. The draft guidance also offers information and guidance for local authorities and parents on developing positive relationships based on mutual trust that function in the best interests of the child or young person.

What has been updated

Although the numbering broadly matches the original document, each paragraph in this consultation document has been numbered separately to enable those being consulted to reference particular points and easier cross-referencing.

All legislation and references to guidance and organisations has been updated.

What has not been updated and why

A number of new issues relating to home education that were not covered in the previous guidance have been highlighted to the Scottish Government in advance of this consultation. These have not been added to the draft guidance, but questions on them are included where appropriate to gather respondees' views.

How to respond

We are seeking written responses to this consultation by 31 August 2022.

Please respond to this consultation using the Scottish Government consultation hub, [Scottish Government - Citizen Space \(consult.gov.scot\)](#) . Respondees can access and respond to this consultation online at [Home education guidance consultation - Scottish Government - Citizen Space \(consult.gov.scot\)](#). You can save and return to your response while the consultation is still open. Please ensure that your response

is submitted before the closing date of 31 August 2022. If you are unable to respond using Citizen Space, please email your consultation response and Respondent Information Form (available in the Supporting Documents) to homeeducation@gov.scot.

Please do not send a consultation response without a Respondent Information Form.

Further engagement and next steps

As part of the consultation process, Scottish Government will be meeting with representatives from a range of stakeholders.

After the consultation has closed, Scottish Government will consider all the responses and feedback gathered from meetings with stakeholders, and will publish a response to the consultation.

Following this Scottish Government will publish an updated home education guidance document.

Date of issue: 23 March 2022
Responses by: 31 August 2022

Draft Home education guidance for local authorities

Section 1 Introduction

1.1 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 child¹ to an education and Article 12 sets out the right for every child to have their voice heard in relation to the provision of their education. It is the duty of the parent² of every school age child to provide that education, either by sending the child to school, or by other means. Consideration of these articles forms context for this guidance on home education to families and local authorities³. For further discussion of the UNCRC please see Paragraph [1.8](#)

1.2 The choice to provide home education is a legitimate choice, alongside the option of sending a child to school. 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 as fairly, consistently, timeously, transparently and accurately as possible. It should uphold the rights of the child or young person and their family.

1.3 This guidance is issued under Section 14 of the Standards in Scotland's Schools etc. Act 2000⁴ and must be read in conjunction with that Act and the Education (Scotland) Act 1980⁵. Relevant legislation is set out in section 2.

1.4 This guidance applies to home education provided by parents where the child does not attend school. It 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. 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 further resources and information that is available from the Scottish Traveller Education Programme

¹ 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.

² 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' (Education (Scotland) Act 1980 - Section 135 (1))

³ The terms "Local Authority" and "Local Authorities" are used throughout this guidance to mean the education authority, being a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994. Where legislation is directly quoted the term education authority has been retained.

⁴ [Standards in Scotland's Schools etc. Act 2000 \(legislation.gov.uk\)](#)

⁵ [Education \(Scotland\) Act 1980 \(legislation.gov.uk\)](#)

(STEP)⁶. Only where children do not attend any school, and where the education is provided predominantly by the parents, should the arrangement be considered to be home education.

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 in relation to children who are home educated, and to encourage local authorities and home educating parents to work together 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 is being prepared following consultation with interested parties, and aims to reflect the changes to education policy and legislation over the last decade.

1.7 The guidance aims to reflect the changes to education policy and legislation since 2007. This includes the Additional Support for Learning Review⁷ which made recommendations on ways to enhance implementation of additional support for learning legislation and policy. See paragraph 2.15 for more information on how this 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 Promise⁸ 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 In March 2021, the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill was passed unanimously by the Scottish Parliament to incorporate the UN Convention on the Rights of the Child and Optional Protocols 1 and 2 into Scots law. On 12 April 2021, a reference of certain provisions of the Bill was made by UK Law Officers to the UK Supreme Court and a hearing before the UK Supreme Court took place on 28 and 29 June 2021. In October 2021, the Supreme Court ruled that certain parts of the Bill fell outwith the competence of the Scottish Parliament. The Scottish Government is carefully considering the implications of the Supreme Court judgment and how best to take that work forward. The Scottish Government remains committed to the incorporation of the UNCRC to the maximum extent possible as soon as practicable, and the majority of work in relation to implementation of the UNCRC can, and is, continuing. More detail on the articles of the UNCRC is set out at paragraph 2.3. These reviews along with the incorporation of the UNCRC aim to put children and young people at the centre of discussions on decisions that affect them, and to support children and young people to access the support and information they need to be fully involved in decisions about their learning.

1.9 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

⁶ [STEP - Providing Flexible Learning for Travelling Communities \(ed.ac.uk\)](https://www.ed.ac.uk/step)

⁷ [Review of additional support for learning implementation: report - gov.scot \(www.gov.scot\)](https://www.gov.scot/review-of-additional-support-for-learning-implementation-report)

⁸ [Home - The Promise](https://www.independentcare.org.uk/the-promise)

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 look again at the home education option. There has been increased interest in these issues over the Covid-19 pandemic. In addition, for some parents it may have prompted them to consider afresh their own engagement with their children's learning. Additional resources are now available to support the provision of education remotely. Details of some of these can be found on the ParentZone website⁹, and Parent Club has further information available on digital resources to support learning at home.¹⁰

Question 1

The purpose of this guidance is to set out the relevant law, to provide advice on the roles and responsibilities for local authorities and families in relation to home education; and to encourage the development of trust, mutual respect and positive relationships.

Is this purpose sufficiently clear in the introduction?

Yes

No

Don't know

Question 2

The law does not foresee flexi-schooling, or make provision for it. Flexi-schooling is not the same as home education. Is this made sufficiently clear in paragraph 1.4? Please provide any comments on flexi-schooling that you may have.

⁹ [Learning at home | Parent Zone \(education.gov.scot\)](https://www.education.gov.scot/parentzone)

¹⁰ [Supporting your child's learning | Parent Club](https://www.parentclub.org.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; and 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 1.3, 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 no one article is more important than another. 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 UNCRC¹¹: are universal, inalienable, indivisible, and interdependent, articles 2, 3, 12, 23, 28 and 29 are the most relevant here, in addition to Article 2 of Protocol 1 of the European Convention on Human Rights (ECHR). These are set out below.

¹¹[OHCHR | Convention on the Rights of the Child](#)

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.

2.4 The UNCRC encourages families to offer guidance to their child to develop the child's understanding of their own rights, and 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 of the UNCRC requires all adults to think about how their decisions will affect children and to do what is best for the child. Local Authorities should consider how the individual and collective voices of home educated children can be heard.

2.5 In relation to education, thus far there is very little national or international case law to provide guidance as to the balance that must be struck between the views of the parent and child in relation to the child's education. It remains the duty of the parent to provide for the efficient and suitable education of their child, as set out in section 30(1) of the Education (Scotland) Act. Further consideration of an efficient and suitable education can be found at Paragraph 2.13.

2.6 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. Prospective amendments to this Act made in the Children (Scotland) Act 2020 further clarify that in considering a child's capacity of forming a view, the presumption should be that the child is capable of doing so. The Scottish Schools (Parental Involvement) Act 2006 does not apply to parents who are home educating their child.

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.

2.7 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 National Improvement Hub¹² on the Education Scotland website, and from the Children and Young People's Commissioner Scotland website¹³.

2.8 It should be noted that the UNCRC Articles 28 and 29 are both partially incorporated into Scots law by way of the Standards in Scotland's Schools etc. Act 2000 - Sections 1 and 2 cited below.

Parents are responsible for providing their child with an education

2.9 As set out at Paragraphs 1.1 and 2.5 of this guidance, it is the duty of the parent of every school age child to provide an education, either by sending the child to school, or by other means. Home education is a right conditional upon the parents providing an efficient education suitable to the age, ability and aptitude of the child. 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 decides to withdraw their child from school in order to home educate them, the parent must seek the consent of the relevant education authority. Sections 28(1) and 30 of the Education (Scotland) Act 1980 set out the duty of the parent 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, below:

Education (Scotland) Act 1980

28 Pupils to be educated in accordance with the wishes of their parents

(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.

30 Duty of parents to provide education for their children

¹² [National Improvement Hub | National Improvement Hub \(education.gov.scot\)](https://www.education.gov.scot/national-improvement-hub/)

¹³ [Child Rights | The Rights of Children and Young People - CYPCS](https://www.cypcs.gov.scot/)

(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 subsection (1) above.

Duties placed on local authorities

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

Question 3

How can local authorities hear the individual and collective voices of home educated learners?

Give examples of good practice.

2.11 Section 35 and Section 37 of the Education (Scotland) Act 1980 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 a public 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.

2.12 The Education (Additional Support for Learning) (Scotland) Act 2004 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. 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 Supporting Children's Learning Code of Practice¹⁴ 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

¹⁴ [Additional support for learning: statutory guidance 2017 - gov.scot \(www.gov.scot\)](http://www.gov.scot/Additional-support-for-learning-statutory-guidance-2017)

needs who are home educated. More information on accessing support for learning is set out in Paragraphs 5.5-5.8.

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.

Duty to provide efficient and suitable education

2.13 There is no statutory duty upon local authorities to 'monitor' ongoing home education provision, neither do Her Majesty's Inspectorate of Education (HMI) have a remit to inspect home education settings. However, in law local authorities have a duty to serve a notice on any parent who they are not satisfied 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 potential and prepares them for life in wider society. Despite a lack of clear definition of efficient and suitable education, the UNCRC Article 29 (set out at Paragraph [2.3](#)) does define the purpose of education. Paragraph 3.12 provides further information to

consider in supporting the assessment of a suitable and efficient education. Paragraph 6.5 offers some suggested characteristics of efficient and suitable education. In addition, there are two examples of case law from England and Wales which may be of assistance in the interpretation of this:

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.'

Equalities

2.14 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.

2.15 The Review of Implementation of Additional Support for Learning¹⁵ 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

¹⁵ [Review of additional support for learning implementation: report - gov.scot \(nrscotland.gov.uk\)](http://gov.scot/nrscotland.gov.uk)

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.”*¹⁶ 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

2.16 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. There may be support available for parents in such cases, for instance mediation may be available in suitable circumstances. The local authority may assist by signposting the appropriate services to the parents. Ultimately this may be a matter of child and family law.

Question 4

Please share examples of collaboration and involvement in the delivery of support and guidance for home educating families.

¹⁶ [Review of additional support for learning implementation: report - gov.scot \(nrscotland.gov.uk\)](https://www.gov.scot/resources/publications/2016/16/understanding-additional-support-for-learning-implementation-report-2016-17.pdf)

Section 3 Withdrawing a child from school

Why parents choose to home educate

3.1 Parents choose to home educate their children for many different reasons. Parents 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 parents intend to educate their children, 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 to go to school;
- 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 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. Discussions between parents and the authority should be encouraged, to try 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 and the authority.

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. Similarly, where a child cannot attend school 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 Education (Additional Support for Learning) (Scotland) Act 2004 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.

3.6 Further information for parents and carers is available from Enquire¹⁷, the national advice and information service for additional support for learning. Children and young people looking for further advice and support can access Reach¹⁸; a service helping pupils to understand their rights to feel supported, listened to, included and involved in decisions at school.

3.7 Guidance for schools and local authorities is provided through the statutory Supporting Children's Learning Code of Practice¹⁹.

Who needs consent?

3.8 Under Section 35 of the Education (Scotland) Act 1980, parents 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. It should be noted that while consent is needed for withdrawal from school, consent is not needed to home educate in itself.

Consent 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 parents to inform the local authority that they are home educating if they do not require consent. However, it is important that local authorities inform parents of the potential advantages in doing so. This includes so that the local authority can offer practical support and resources as set out in section 5. Local authorities may choose to do this in a range of ways, most simply this could be by providing contact details on the authority's website. Further, where a local authority is aware of the full number of home educating families in its area, the authority can better reflect their needs in policy development and resource considerations. Positive partnership between home educators and local authorities is helpful in regard to ensuring the interests of a child are met fully.

¹⁷ [How can I resolve disagreements with the school or local authority? - Enquire](#)

¹⁸ [Your right to additional support for learning - Reach](#)

¹⁹ [Additional support for learning: statutory guidance 2017 - gov.scot \(www.gov.scot\)](#)

Withdrawing the child from school - the process

3.10 Procedures for considering a family's request to withdraw a child from school should be fair, clear, transparent, consistent and should be carried out without undue or unnecessary delay. Local authorities should remember that home education is a legitimate choice, and that consent to withdraw a child from school should not be unreasonably withheld. 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. It must also be noted that sufficient time must be allowed for local authorities to take an informed decision on an important matter, which will have an effect on the child's future learning.

3.11 It is for parents to consider whether consent is required (with reference to the exemptions set out at Paragraph 3.8) and to then write to the local authority to request consent, if no exemptions apply. Parents should write as early as possible and, where reasonably practical, well in advance of the date they wish to withdraw their child from school. Parents may find it useful to consider the Enquire [factsheet on home education](#)²⁰, which sets out information on this process.

Question 5

Do you have any comments on sections, 3.1 – 3.11?

3.12 Local authorities may find it useful to gather the information set out below, to consider the parent's request to withdraw. It is recommended that this is cross-referenced to the information on a 'suitable and efficient' education set out at Paragraph 2.13 in terms of legislation, and the purpose of education set out in UNCRC Article 29 at Paragraph 2.3. It should be noted that, as set out in Paragraph 3.3, parents are not required to indicate the reasons that they are requesting to withdraw their child. In addition, it should be taken into consideration that in these early stages, parents' proposals may not be detailed and they may not yet be in a position to respond fully to all of the information requested:

- how the child's education will help to prepare them for life in modern society and achieve their full potential;
- ensuring the views of the child are heard, 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 support the child's needs, 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;

²⁰ [home-education-asl.pdf \(enquire.org.uk\)](#)

- if the child has additional support needs, information should include how the child will be supported with their learning and how this will cater for their individual needs. This may include details of the environment that they will learn in and the learning strategies and support that will be provided.

3.13 Parents should be given the opportunity to address any specific concerns that the authority has, within a reasonably practicable period, if the information submitted does not enable a decision to be made within the timescales set out at Paragraph 3.27. If no evidence exists of reasonable grounds to withhold consent, and parents have provided some indication of their educational objectives and proposed resources, consent can be granted immediately.

Withholding consent

3.14 The local authority may not unreasonably withhold 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 is withheld. Parents should then be given the opportunity, within a reasonably practicable period, to address the grounds for refusal and resubmit their request for reconsideration.

3.15 In the period between receipt of an application to withdraw the child 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 a child awaiting consent to be withdrawn from school.

3.16 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.

3.17 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.

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

Information held in the child's records

3.19 On receipt of a request from a parent, local authorities should consider carefully whether there is any existing evidence in an authority's own records indicating that there may be good reason to refuse consent to withdraw a child from school. Previous irregular attendance is not of itself a sufficient reason for refusing consent to withdraw. 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, or a Child Protection Order;
- 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.

3.20 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, than 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

3.21 Local authorities must ensure any personal data is processed in accordance with data protection law. The “UK GDPR” and the Data Protection Act 2018 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.

3.22 Personal data is information that relates to an identified or identifiable individual.

3.23 Personal data may also include special category personal data or criminal conviction and offences data. These are considered to be more sensitive and these may only be processed in more limited circumstances.

3.24 The [data protection principles²¹](#) 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.

3.25 [Individual rights²²](#) are set out in the GDPR, and local authorities must process personal data in accordance with them. 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.

3.26 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.

²¹ [The principles | ICO](#)

²² [Individual rights | ICO](#)

Question 6

Is it helpful for a local authority to provide a structure for parents to use to provide information on their education plans. For instance, broad questions or a template to support parents to think through their planned provision?

Yes

No

Don't know

Please give details, and any examples of good practice.

Timescales

3.27 Local authorities should aim to issue a decision on consent to withdraw within 6 weeks of the receipt of the original application.

3.28 The majority of applications 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 should be kept informed of the progress of the application, the reason for any delay, and the likely timescale to reach a decision. The authority should seek to issue a decision as soon as possible.

3.29 Local authorities should have regard to the individual circumstances of the child and any issues that they may be experiencing at school. 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.

Question 7

Does 6 weeks provide sufficient time for the Local Authority to issue a decision?
Please give further details.

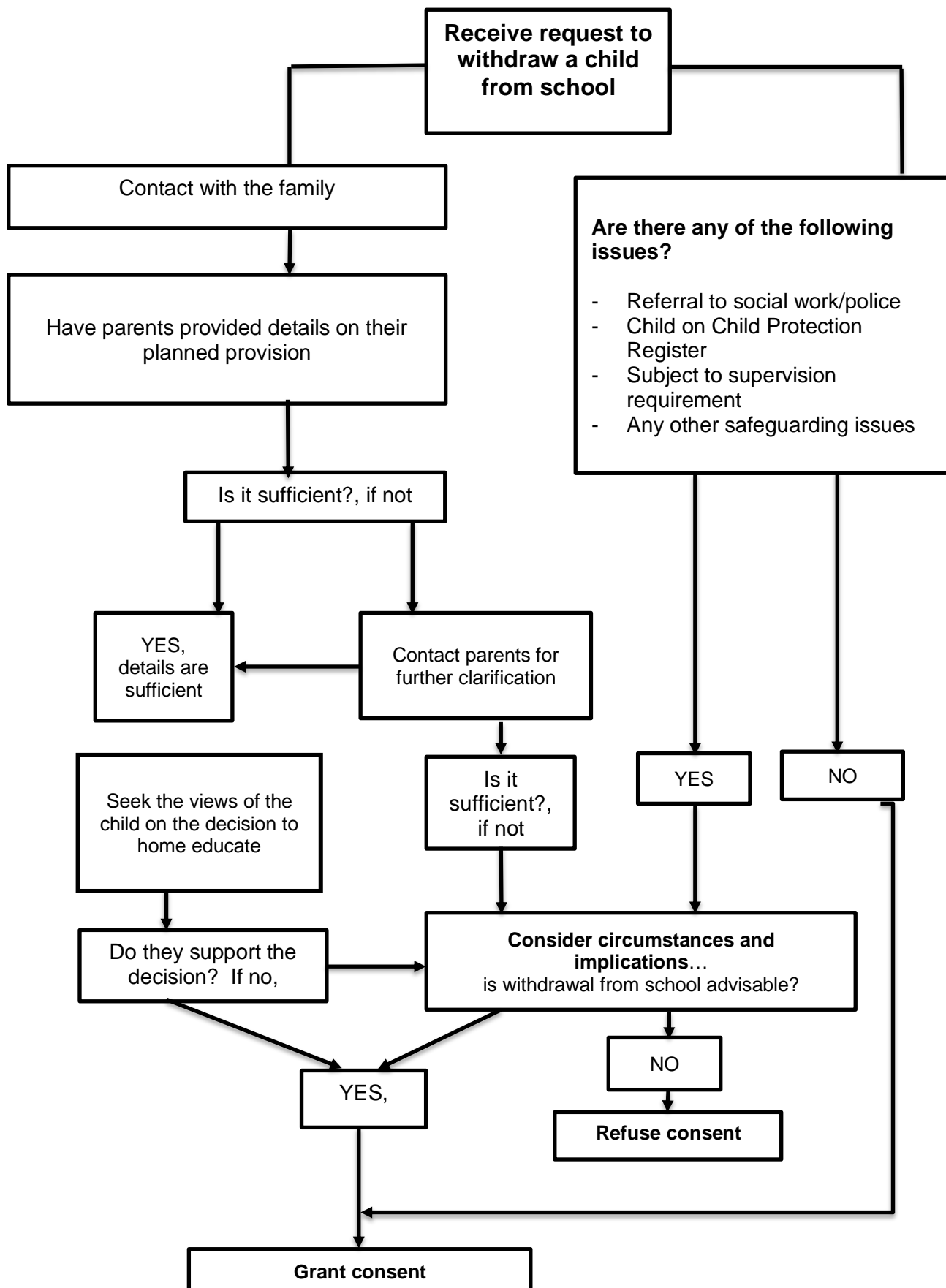
Resolving disputes and complaints

3.30 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 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 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, but they remain

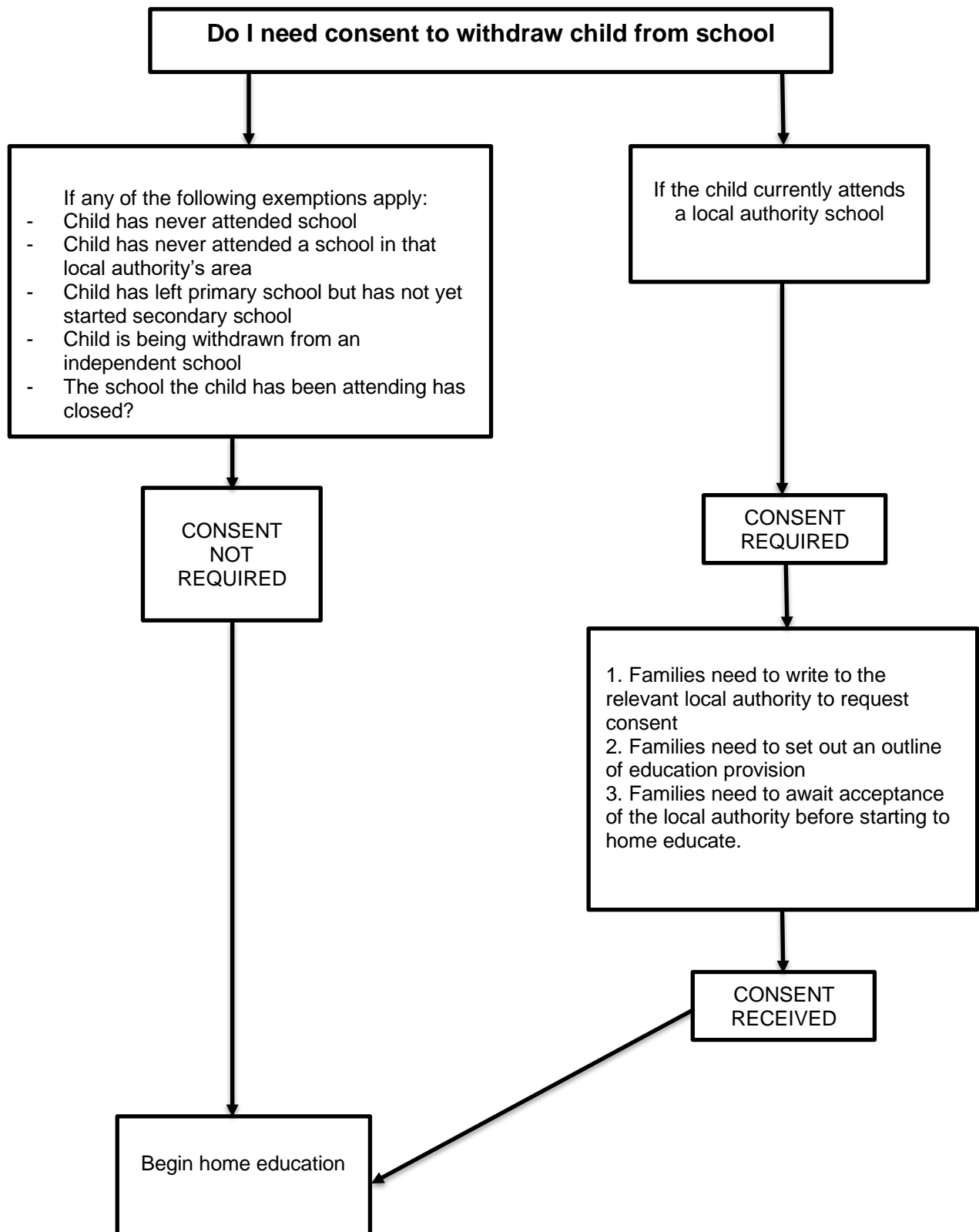
dissatisfied with the outcome, they can then choose to pursue the matter with the Scottish Public Services Ombudsman (SPSO²³). Decisions made by public authorities under their statutory powers may generally be subject to legal challenge in the Court of Session by way of Judicial Review.

²³ [Home | SPSO](#)

Withdrawing a child from school flowchart: Local Authority process:



Choosing to home educate flowchart: parent process:



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) they have a duty to serve a notice on any parent who they are not satisfied 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 parents' educational provision is suitable and efficient.

4.2 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 or not they have previously attended a local authority school in the area.

Contact

4.3 It is highly recommended that local authorities should ordinarily make contact at least once a year with those families they know to be home educating in their area. It is desirable that this contact be in person where possible. This annual contact 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 and in line with the parent's duty to provide education to their child under section 30 of the 1980 Act. Home educators and local authorities are encouraged to work together to develop trust, mutual respect and a positive relationship in the best interests of the child.

4.4 To facilitate this positive relationship, it is recommended that contact is made by writing to the parent, seeking a meeting, or requesting an updated report. The primary purpose of the contact should be for the local authority to satisfy themselves that suitable and efficient education is being provided (as set out in Paragraph 3.12). This can be done either through a meeting, at a mutually agreed location, or through other means, e.g. the submission by the family 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.

4.5 Following this contact, the local authority should write to the parent letting them know the outcome, i.e. whether or not the educational provision was seen to be suitable and efficient. If there was no problem 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.

4.6 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 parents are providing an efficient education suitable to the age, ability and aptitude of the child.

Access to the child and home or learning environment

4.7 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 (in reference to Paragraph 2.4 on UNCRC Article 12). 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 would be made as a matter of good practice. Trusting relationships may need time to develop before a parent is willing to invite an officer to visit. Where a parent does not allow access to their home or their child, this does not of itself constitute a ground for concern about the education provision. Depending upon the circumstances, there may be occasions when a denial of access raises child protection concerns, in which case the general principle set out in Paragraph 4.12 should apply.

4.8 Although it is recognised that the learning environment can have a bearing on the effectiveness of learning, local authorities should, in the vast majority of cases, be able to discuss and evaluate the parents' educational provision by alternative means. Parents might prefer to meet 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

4.9 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 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 when requesting access to the home. If, in these circumstances, the parent 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 under the Education (Scotland) Act 1980, Section 37(1) (as set out in Section 2).

Attendance orders

4.10 A parent's wish to educate a child at home should be respected and, where possible, efforts should be made to resolve issues about provision by a process of ongoing dialogue before Section 37 is invoked. 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.

4.11 Under Section 37, a notice will allow between 7 and 14 days for the parent to provide the local authority with whatever information they require to satisfy themselves about the suitability of the education. The parent may choose to do this by meeting with the authority in person, or by supplying the information in writing. The authority must make an attendance order where the parent, on whom notice has been served, fails to satisfy the 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

4.12 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](#).²⁴

Question 8

Do you consider in-person contact between the local authority and home educating family to be important?

Please give examples of the types of contact that have worked well and in the best interests of the child.

²⁴ [National guidance for child protection in Scotland 2021 - 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 and 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 details of the official with responsibility for home education within the authority. This contact will be familiar with home education policy and practice and hold an understanding of a range of educational philosophies. The authority may wish to invite families to meet with a named officer to discuss their proposals or provision. Any such meeting should take place at a mutually acceptable location. The child should be given the opportunity to attend that meeting, or otherwise to express his or her views, but the child's attendance 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.

5.3 Local authorities should, as far as practicable, ensure that staff who may be the first point of contact for a potential home educating parent, e.g. answering telephone enquiries, understand the right of a parent to choose home education. Authorities should aim to ensure that parents 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 3.21 – 3.26.

Question 9

How can local authorities best keep general data on the numbers of home educated children and young people within their area?

The subject of a national register of home educated children and young people is one that has been discussed by a previous Scottish Parliament Education Committee ([Petition to Parliament PE01730](#)) and an England-wide register forms part of the recommendations of the Westminster Select Committee on Education report, [Strengthening home education](#), published July 2021.

There may be advantages and disadvantages to a national register. A register may be seen to be advantageous as a means to better understand the number, demographics and spread of home educated children and young people in Scotland, and to better reflect their needs in wider policy making. However it may be seen as disadvantageous to require local authorities and home educating parents to maintain an accurate register of children and young people.

Question 10

What is your opinion of a national approach to information management, for example, a national register?

Practical support and resources

5.5 Authorities are not legally obliged to provide any resources for home educated children or their parents. However, they may choose to do so, 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;

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

5.6 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. However, parents who choose to home educate their child may ask their local authority to use their discretionary power to find out 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](#).²⁵

5.7 The local authority is not required to comply with the request 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 educated at home, parents are encouraged to discuss this with the authority before they make a request to withdraw their child from school.

5.8 There are a range of resources available to support children and young people with additional support needs who are educated at home. Details of some of these can be found at [Education Scotland's National Improvement Hub](#)²⁶.

Review

5.9 As a matter of good practice, local authorities should regularly review all of their procedures and practices, including in relation to home education. 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 Children's rights and wellbeing impact assessment (CRWIA) would need to be carried out. Further guidance on CRWIAs are available on the Scottish Government [website](#)²⁷. Effective reviews, together with the sensitive handling of any complaints, will help to secure effective partnership.

²⁵ [My Rights, My Say \(myrightsmysay.scot\)](#)

²⁶ [National Improvement Hub | National Improvement Hub \(education.gov.scot\)](#)

²⁷ [Children's rights and wellbeing impact assessments: guidance - gov.scot \(www.gov.scot\)](#)

Getting it right for every child

5.10 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, and 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; and,
- a single, shared approach to planning for children and young people where support across services is needed, coordinated by a lead professional.

5.11 The GIRFEC approach applies to all children, young people and their parents, 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, there is no obligation to engage with a named person and this 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.

5.12 GIRFEC Information Sharing Guidance is in development. This guidance will promote necessary, appropriate and proportionate information sharing, which complies with all relevant legal requirements, by clarifying:

- 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 parents in the decision to share information with another agency.

Section 6 Efficient and suitable education

Acknowledging diversity

6.1 This section should be read in conjunction with paragraph 2.14 on equalities, and with regard to Article 2 and Article 29 of the UNCRC on non-discrimination and right to education, respectively, as set out in paragraph 2.3.

6.2 Parents' educational provision will reflect a diversity of approaches and interests. Some parents may wish to provide education in a formal and structured manner, following a traditional curriculum and using a fixed timetable that keeps to school hours and terms. Other parents may decide to make more informal provisions that are responsive to the developing interests of their child. Some parents may wish to follow and refer to Scotland's Curriculum for Excellence. Other parents may consult and adopt curricular approaches from other countries. One approach is not necessarily any more valid than another. Although some parents may welcome general advice and suggestions about resources, methods and materials, local authorities should not specify a curriculum which parents must follow.

6.3 Children learn in different ways and at different times and speeds. It should be appreciated that parents and children embarking on home education for the first time might require a period of adjustment before finding their preferred mode of learning. Parents 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 take to assessing their child's progress is likely to be dictated 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, there are examples of case law which may be helpful in forming definitions.

6.6 In their consideration of parents' provision of home education, authorities may reasonably expect the provision to include the following characteristics:

- Consistent involvement of parents or other significant carers;
- Presence of a philosophy or ethos (not necessarily a recognised philosophy), with parents 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 Curriculum²⁸](#)) 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 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.

To summarise, those attributes are as follows:

Successful Learners with:

- enthusiasm and motivation for learning;
- determination to reach high standards of achievement; and
- openness to new thinking and ideas.

Able to:

- use literacy, communication and numeracy skills;
- use technology for learning;
- think creatively and independently;
- learn independently and as part of a group;
- make reasoned evaluations; and
- link and apply different kinds of learning in new situations.

Confident Individuals with:

- self-respect;
- a sense of physical, mental and emotional wellbeing; and
- secure values and beliefs.

Able to:

- relate to others and manage themselves;
- pursue a healthy and active lifestyle;
- be self-aware;
- develop and communicate their own beliefs and view of the world;
- live as independently as they can;

²⁸ [Scotland's Curriculum for Excellence \(scotlandscurriculum.scot\)](http://scotlandscurriculum.scot)

- assess risk and take informed decisions; and
- achieve success in different areas of activity.

Effective Contributors with:

- an enterprising attitude;
- resilience; and
- self-reliance.

Able to:

- communicate in different ways and in different settings;
- make informed choices and decisions;
- work in partnership and in teams;
- take the initiative and lead;
- apply critical thinking in new contexts;
- create and develop; and
- solve problems.

Responsible Citizens with:

- respect for others; and
- commitment to participate responsibly in political, economic, social and cultural life.

Able to:

- develop knowledge and understanding of the world and Scotland's place in it;
- understand different beliefs and cultures;
- make informed choices and decisions;
- evaluate environmental, scientific and technological issues; and develop informed, ethical views of complex issues.

The Curriculum is defined as the totality of all that is planned for children and young people from early learning and childcare, through school and beyond. That totality can be planned for and experienced by learners across four contexts of:

- Opportunities for personal achievement;
- Interdisciplinary learning;
- Ethos and life of the school as a community;
- Curriculum areas and subjects;

The eight curriculum areas are:

- Expressive arts;
- Health and wellbeing;
- Languages (including English, Gàidhlig, Gaelic learners, modern languages and classical languages);
- Mathematics;

- Religious and moral education (including Religious and moral education and Religious education in Roman Catholic schools);
- Sciences;
- Social studies;
- Technologies.

Section 7 Information for families

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)

7.1 Home educated young people may be eligible to receive EMAs, 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](#)²⁹.

Best Start Grant

7.2 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](#).³⁰

Scottish Child Payment

7.3 The Scottish Child Payment is set to be rolled out in full to eligible children under 16 by the end of 2022-23. This payment will be available to low income families where they are in receipt of reserved benefits. Further information on the Scottish Child Payment can be found at [Scottish Child Payment - How it works](#)³¹.

Free School Meals

7.4 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. Scottish Government continues to explore how to provide access to these benefits.

Free Period Products

7.5 The Period Products in Schools (Scotland) Regulations 2020 places a duty on local authorities and grant-aided schools to provide free period products for pupils. These Regulations will be superseded by the Period Products (Free Provision) Scotland Act 2021 (“the Act”) when it comes into force.

²⁹ [Apply for or renew EMA - mygov.scot](#)

³⁰ [Best Start Grant and Best Start Foods - mygov.scot](#)

³¹ [Scottish Child Payment - mygov.scot](#)

7.6 The Act will ensure that everyone in Scotland who menstruates can have reasonably convenient access to period products, free of charge, as and when they are required. The Act will come fully into force by January 2023 at the latest. In advance of this, free products continue to be available through local authority voluntary provision and under the Regulations above.

7.7 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.

7.8 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](#).³²

Qualifications and Awards for home educated children

7.9 There is no legal requirement for children to study toward a particular set of qualifications and/or awards. If a home educated learner wants to take a particular qualification, they should investigate thoroughly whether, and how easily, they will be able to access examination and assessment arrangements. 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. Entries for Scottish Qualifications Authority (SQA) qualifications, or awards require to be taken through an appropriately approved centre, usually, but not always, a school or college. It is for home educated learners or their parents to identify an approved centre willing to enter them as a candidate. However, these are not the only types of qualification available and parents 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. 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 (SCQF) may be helpful in identifying these options. Paragraph 5.3 provides further information for local authorities to consider in ensuring good practice.

7.10 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

³² [Period Products \(Free Provision\) \(Scotland\) Act 2021: guidance – September 2021 - gov.scot \(www.gov.scot\)](#)

about alternative qualifications and the arrangements needed for children to take them, where applicable.

Study options for educational qualifications and awards

Enrolment at a College

7.11 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(s)/guardian(s) to attend college.

7.12 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 enrolls at a college, their parents 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. This is automatic for all full-time Scottish-domiciled students (either native or have lived three or more years in Scotland), and those on benefits and tax credits who study part-time courses.

Self-Study

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

7.14 Families who study for qualifications or awards from home will need to:

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

Correspondence and Online Courses

7.15 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

7.16 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 8 *Children with additional support needs*

This section has been updated and moved completely to Section 2 to sit with other legislation.

Question 11

What factors can facilitate home educated learners to access qualifications? What barriers or solutions may there be to accessing qualifications? Please give details.

Useful contacts

Home Education Organisations - Scotland

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

Schoolhouse Home Education Association

Address:

PO Box 18044,

Glenrothes,

Fife

KY7 9AD

Tel: 01307 463 120

Email: info@schoolhouse.org.uk

Website: www.schoolhouse.org.uk

Scottish Home Education Forum

Email: via <https://scothomeed.co.uk/about/contact>

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

Education Otherwise

61 Bridge Street,

Kington,

HR5 3DJ

Tel: 0300 1245690

Email: enquiries@educationotherwise.org

Website: www.education-otherwise.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

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

Contact:
*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.

Contact:

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.

Contact:

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.

Contact:

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

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

Home education guidance: consultation

Respondent Information Form

Please Note this form must be completed and returned with your response.
To find out how we handle your personal data, please see our privacy policy:
<https://www.gov.scot/privacy/>

Are you responding as an individual, group or an organisation?

- Individual
- Group
- Organisation

If responding as an individual or group, which of the following best describes your role in the education system?

- | | |
|---|--|
| <input type="checkbox"/> Parent / Carer | <input type="checkbox"/> Child / Young Person |
| <input type="checkbox"/> Teacher / Lecturer / Practitioner | <input type="checkbox"/> Support Staff |
| <input type="checkbox"/> School / Centre Leader | <input type="checkbox"/> National Agency Officer |
| <input type="checkbox"/> Local Authority / Regional Officer | <input type="checkbox"/> Employer / Industry |
| <input type="checkbox"/> Other, please state: | |

Full name or group name

Organisation name
(if applicable)

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response.

Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, in the analysis report.

We may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

Consultation Questions

If you require additional space for your answer please include this where necessary.

Section 1 - Introduction

1. The purpose of this guidance is to set out the relevant law, to provide advice on the roles and responsibilities for local authorities and families in relation to home education; and to encourage the development of trust, mutual respect and positive relationships.

Is this purpose sufficiently clear in the introduction?

- Yes
- No
- Don't know*

2. The law does not foresee flexi-schooling, or make provision for it. Flexi-schooling is not the same as home education. Is this made sufficiently clear in paragraph 1.4?

Please provide any comments on flexi-schooling that you may have.

Section 2 – Relevant law

3. How can local authorities hear the individual and collective voices of home educated learners?

Give examples of good practice.

Section 3 – Withdrawing a child from school

4. Please share examples of collaboration and involvement in the delivery of support and guidance for home educating families.

5. Do you have any comments on sections, 3.1 – 3.11?

6. Is it helpful for a local authority to provide a structure for parents to use to provide information on their education plans. For instance, broad questions or a template to support parents to think through their planned provision?

- Yes
- No
- Don't know

Please give details, and any examples of good practice.

7. Does 6 weeks provide sufficient time for the Local Authority to issue a decision? Please give further details.

Section 4 – Contact between home educating families and local authorities

8. Do you consider in-person contact between the local authority and home educating family to be important?

Please give examples of the types of contact that have worked well and in the best interests of the child.

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Section 5 – Good practice for local authorities

9. How can local authorities best keep general data on the numbers of home educated children and young people within their area?

10. What is your opinion of a national approach to information management, for example, a national register?

The subject of a national register of home educated children and young people is one that has been discussed by a previous Scottish Parliament Education Committee ([Petition to Parliament PE01730](#)) and an England-wide register forms part of the recommendations of the Westminster Select Committee on Education report, [Strengthening home education](#), published July 2021.

There may be advantages and disadvantages to a national register. A register may be seen to be advantageous as a means to better understand the number, demographics and spread of home educated children and young people in Scotland, and to better reflect their needs in wider policy making. However it may be seen as disadvantageous to require local authorities and home educating parents to maintain an accurate register of children and young people.

11. What factors can facilitate home educated learners to access qualifications? What barriers or solutions may there be to accessing qualifications? Please give details.



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