

# **‘Home Education Guidance’**

## **Discussion Paper**

### **July 2019**

**Return from: Glasgow City Council Education Services**

**All questions, 1-17, have a response.**

**2 requests for comment (below) within body of Section 3 - *Withdrawing a Child from School* have a response within that section:**

1. “However, we would like to assess whether users of the guidance find this information clear and unambiguous”.
2. “We are aware this could be improved intend to make it more explicit and would be interested to hear any ideas as to how we could improve this or whether it is useful”.

#### **Annex B: Respondent Information Form**

##### Introduction

1. In order to help collate and analyse responses to the Home Education Discussion Paper we would be grateful if respondents provide their responses in the form below.

##### Respondent Information

Name:

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Are you responding as an individual or an organisation?

Organisation

## Questions

### *Section 1- Introduction*

#### **Question 1: What aspects of policy and legislation need to be reflected in to the introduction section of the guidance?**

##### **GIRFEC**

Children's rights need to have greater emphasis in HE Guidance and procedures. The aim of the [Children and Young People \(Scotland\) Act 2014](#) is to make Scotland the best place to grow up by putting children and young people at the heart of planning and delivery of services and ensuring their rights are respected across the public sector.

Authority officer for Home Education cannot be Named Person for home educated CYP when he/ she more often than not never meets CYP.

A high level of concern was noted across West Partnership HE Network that home educated CYP can be totally invisible with no Safeguarding in place for them.

##### **UN Convention on The Rights of the Child (UNCRC)**

The UNCRC makes it clear that children and young people have human rights.

**Article 28** I have the right to an education.

There is a need to ensure that CYP are given appropriate opportunity to express their opinion re home education as on the few occasions officers get to meet a CYP their parent is there and this can influence the CYP response. There is no clear guidance in current HR Guidance what procedure would be if the CYP and parent did not agree on decision to Home Educate.

Example 1 (demonstrates no recognition of rights of child in current guidance)  
June 2018 secondary pupil was unaware that parents had made HE application. In current Guidance, Authority officer cannot insist on meeting CYP if parent doesn't choose to involve YP in process and schools have minimal input to process. After HE application had been approved the YP learned to be home educated. Outcome in this case - parent enrolled YP in a different school in Glasgow in August 2018.

#### **Included, Engaged and Involved (Part 1) – attendance in Scottish schools**

##### **2.5 Education outwith school**

*Guidance on the Circumstances in which Parents may Choose to Educate their Children at Home* <http://www.scotland.gov.uk/Publications/2004/03/19061/34285>.

##### **2.9 Children missing from education**

Would be beneficial to have a section in Home Education Guidance explaining procedure an authority has to follow when a family's whereabouts are not known

***Children Missing from Education section of The Safe and Well Handbook,***  
<http://www.scotland.gov.uk/Publications/2005/08/0191408/14093>.

My Rights My Say Guidance  
Code of Practice 2017

Counter Terrorism and Security Act 2015 – Prevent Legislation within that places a duty on local authorities regarding education.

*Children Missing from Education* section of *The Safe and Well* handbook,  
<http://www.scotland.gov.uk/Publications/2005/08/0191408/14093>.

Education (Scotland) Act 1980 and 2016

Standards in Scotland's Schools etc Act 2000

Education (Additional Support for Learning) Scotland Act 2004

Children and Young People (Scotland) Act 2014

Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002

which is implementation Act for Pupils' Educational Records (Scotland) Regulations 2003

Equality Act 2010

Data Protection Act 2018 and GDPR

**Question 2: Should this guidance, which is primarily directed at local authorities, be accompanied by a version specifically aimed at parents who may wish to home educate their children?**

A 'parent/ carer' friendly version would be a positive step for home educators, providing clear guidance on parents' responsibilities.

## *Section 2 - Legislative Position*

**Question 3: Does the guidance set out the legal position, both in Scotland and internationally, as it applies to home education clearly enough?**

### **Section 2: Legislative Position**

#### **Current HE Guidance – “2.2 The right to an education**

##### ***Standards in Scotland's Schools etc Act 2000 - Sections 1 and 2***

2. (2) In carrying out their duty under this section, an education authority shall have due regard, so far as is reasonably practicable, to the views (if there is a wish to express them) of the child or young person in decisions that significantly affect that child or young person, taking account of the child or young person's age and maturity”.

Question 1, Example 1 above relevant here too. Need to ensure procedures in place to ensure CYP have opportunity to share their views.

#### **Current HE Guidance – “2.3 Parents are responsible for providing their child with an education**

Home education is a right conditional upon the parents providing an efficient education suitable to the age, ability and aptitude of the child, and choosing this option does not in itself require permission”.

Adult ability to provide the above can be impeded by their academic ability and/ or their personal health & wellbeing. Parents/ carers are often assisted with their initial contact with local authority (for example by organisations which promote home education) which can give an inaccurate impression of parent/ carer's ability to provide an efficient education suitable to the age, ability and aptitude of the child. The reality of this situation is often not apparent until at least one year later when the authority requests an annual HE update.

#### **Example 2 (demonstrates above) 2017-2018**

YP lived with grandmother. History of poor attendance and gran elected for home education and was supported in her application. Eventually enrolled in secondary school after authority started process of issuing Attendance Order (not required as gran agreed to

enrol in school) as there was no evidence of efficient education suitable to the age, ability and aptitude of the child provided.

**Current HE Guidance – “2.5 Efficient and suitable education”**

Two examples of case law from England and Wales:

Harrison & Harrison v Stevenson, and

R v Secretary of State for Education ...”

Use examples from Scotland, if available.

As an authority has no right of access to a home or where the education is being delivered, authority officer cannot assess quality of education being provided by parent or hear child’s view.

**Current HE Guidance – “2.6 International Law**

UN Convention on the Rights of The Child – Article 28

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”.

Again, Question 1, Example 1 above relevant here too. Need to ensure CYP views are heard.

**Question 4: Are there any helpful areas of case law that would be helpful or instructive to include in a revised guidance document?**

Not aware of any.

Sottish based examples would be welcomed.

Officers in the West Partnership felt that case law that provides clarity of what constitutes an efficient education. However, there is recognition that this could be challenging given the wide variety of approaches which could be deployed depending on the needs of the child.

*Section 3 - Withdrawing a Child from School*

“However, we would like to assess whether users of the guidance find this information clear and unambiguous”.

**Current HE Guidance – “3.2 Who needs consent?”**

Replace ‘public school’ with ‘local authority school’ and replace ‘independent school’ with ‘private school for parents’ understanding.

Above is defined in S135 Education (Scotland) Act 1980

There are situations which can arise within the legislation where the child becomes unknown, i.e. an outcome of reasons below can be ‘invisible’ children.

Consider placing a duty of parent to notify an authority when they leave/ move into area to prevent ‘invisible’ children.

“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 child has never attended a public school in that authority’s area”

Difficulties/barriers - for example, issues with data sharing? Would it help if an authority has a duty to inform the next authority? When children move school the authority must pass pupil’s records to the new school if requested. If this was extended to home education, would it assist?

***Pupils' Educational Records (Scotland) Regulations 2003/581***

***5.— Requirement to disclose pupils' educational records***

*7) Where a pupil transfers to another school, the responsible body shall transmit a copy of the pupil's educational records to the body responsible for the management of that school, free of charge, if that body so requests, and within 15 school days of receiving the request.*

In the reviewed guidance - ensure clarity, for both parents and authorities, around sharing of information between authorities.

Example 3 (demonstrated family moving authority to avoid agency intervention)

Family were under SW investigation due to school referral re care & welfare and not attending school. Parent then applied to home educate. When informed application could not progress at this time as a SW investigation was underway, family moved out with our authority to try to avoid returning to school (SW & HE liaised with other authority to ensure family were located).

**Current HE Guidance – “3.2 Who needs consent? ...**“Although there is no statutory duty upon parents to inform the local authority that they are home educating if they do not require consent, many authorities would prefer home educators in their area, or moving into their area, to contact them”.

In the reviewed guidance – suggest change underlined above to read “the Government and authorities would prefer” in order to give this statement more weight if Government are unable to change this to a requirement due to current statute.

“We are aware this could be improved intend to make it more explicit and would be interested to hear any ideas as to how we could improve this or whether it is useful”.

Graphics are dated. Simpler layout would be clearer.

Add flowcharts for following to ensure parents/ carers understand their responsibility in liaising with an authority:

- annual reviews
- moving home
- returning to a school
- Safeguarding

**Question 5: Are there other reasons for parents choosing to home educate their children that it would be helpful to include in this guidance?**

Child’s health needs.

Our biggest concern is safeguarding so consideration should be given to having a requirement for parents to provide a reason for their decision to home educate.

Or could this be turned around and suggest that it would be good if the guidance could explain when home education should not be used and the consequences if parents use it for the wrong reasons?

**Question 6: Is the explanation of the process local authorities follow when considering a request from a parent to withdraw their child(ren) from school sufficiently clear and could it be improved?**

Explanation in current guidance clear.

At West Partnership meeting with Government representatives in Sept 2018 the following four suggestions re application process were put forward:

1. Introduce a panel for all authorities, involving school SLT along with Health/ SW, as required, as part of application process.
2. Introduce a minimum requirement re detail that has to be provided by parent/ carer in their initial proposals.
3. **“Point to bear in mind ...** In reaching a decision the authority may wish to have regard to the suggested characteristics of an efficient and suitable education set out in Section 6 of this guidance. However, authorities should bear in mind that, in these early stages, parents' proposals may not be detailed and they may not yet be in a position to demonstrate all of the characteristics suggested”.  
It suggests that a parent doesn't need to have a proper plan at the beginning.
4. To ensure CYP are involved in process make it a requirement that authority rep must meet & talk with CYP and a requirement that YP, over age of 12, are given opportunity to speak (briefly) without parent/ carer present

West Partnership felt more guidance required for both authorities and families.

*Section 4 - Contact between home educating families and local authorities*

**Question 7: The current guidance advises that the local authority should meet with home educating parents at least once a year. Is this an appropriate recommended frequency of contact or should it be increased?**

While the current guidance may suggest this should happen the reality is different. Therefore, we are unable to answer this question as parents/ carers rarely opt to meet local authority officer for annual update. The vast majority of parents send the annual update by post/ email and so an authority officer often never meets family at any point in the child's home education.

Example 4 - Session 2018–2019: 4 families opted to meet with authority officer (5 children) for annual update. (At 28.6.19 authority had 131 CYP in home education).

If a requirement for both parent and child to meet the authority officer is introduced, then timescales could be reviewed further down the line. Introducing this requirement would also go a short way to provide a safeguarding check. However, this would also have a resourcing requirement which given the scale of Glasgow may not be able to be met.

The process is illogical and can only be changed through statutory intervention. Section 4 is detailed. It is 3½ pages long but it makes it clear that although the authority has the power to serve an attendance order and a duty to serve same on a parent who is not “providing efficient education for the child” there is no duty to monitor and nothing to compel a family to inform the authority that they are home educating (for example if a child has not attended a public school the authority may not be aware of his or her existence). If a parent chooses not to engage from the outset the authority may never be aware of safeguarding or wellbeing issues. Changing the guidance alone will not provide the authority with further powers required to enforce and gather evidence of an efficient education/child safety

It should be noted that currently there is no legal obligation for parents to engage with an authority, only authority’s obligation to pursue.

**Question 8: Is the explanation of the process local authorities follow if they have concerns about the suitability of education being provided sufficiently clear and could it be improved?**

**Current HE Guidance – Section 4.5 Making an attendance order and Section 4.6 Child protection concerns by local authority officers**

Clear for local authority officer.

If parent/ carer version of guidance produced it may be helpful to include this process in flowchart format to ensure clarity of steps in process

### *Section 5 - Good Practice for Local Authorities*

**Question 9: Are there examples of best practice from local authorities in Scotland (or elsewhere) that it would be helpful to reflect in this section?**

[Glasgow Museums Schools Programme Policy for non- Glasgow School Groups](#)  
[Glasgow Museums Pre-visit Information for Home Schooling Groups](#)

(both attached)

**Question 10: Are there additional resources that local authorities could make available to provide support to home educating parents and their children?**

Authority officers could be linked in with local and national initiatives so they are notified, along with schools, when free resources/ workshops etc become available e.g. Book Bug/ Immunisation Service/ Road Safety/ Read Write Count etc

To effectively alert home educating families to available resources, make it a duty on parents’ to notifying a local authority when they are home education within authority

Scottish Government should take responsibility re information re resources in guidance. E.g. use Parentzone; provide links to a regularly updated government site.

### *Section 6 - Efficient and Suitable Education*

**Question 11: Are there any further characteristics of a “efficient and suitable” education that should be included in this guidance?**

Parental version of Guidance should include exemplars of what constitutes an efficient and suitable education to ensure initial proposals and annual update reports are robust. Key areas should include: Literacy; Numeracy; Health & Wellbeing, including socialisation.

Reviewed Guidance should demonstrate a minimum level that is accepted as an “efficient and suitable” education and a requirement to show progress over time. In planning requirement consideration should be given to following: CfE 4 Capacities; Key Principles; SQA Core Skills; SHANARI

Perhaps, Education Scotland should have a role in monitoring? Inspection of home education similar to independent schools?

**Question 12: Do you find the table with examples of case law provided within this section helpful?**

Use examples from Scotland, if available.

The 2 cases quoted are 34 and 37 years old. They are English cases. They may be persuasive in Scotland. They are general in approach.

The definition provided in Standards in Scotland’s Schools etc Act 2000 could apply more generally to the level of education that every child is entitled to receive. However this specifically applies to schools at the moment and not home education:

**2 Duty of education authority in providing school education**

(1) Where school education is provided to a child or young person by, or by virtue of arrangements made, or entered into, by, an education authority it shall be the duty of the authority to secure that the education is directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential.

(2) In carrying out their duty under this section, an education authority shall have due regard, so far as is reasonably practicable, to the views (if there is a wish to express them) of the child or young person in decisions that significantly affect that child or young person, taking account of the child or young person’s age and maturity.

*Section 7 - Information for Parents*

**Question 13: Are there any other programmes (government or voluntary sector funded) that it would be helpful to reference in this guidance?**

Employability/ Careers Scotland/ Skill Development Scotland – My World of Work

**Question 14: Given the development and accessibility of the internet is there scope to reflect the broader range of distance learning options available for home educated children?**

Home educating families hold responsibility for sourcing such supports. It would be helpful to families for reviewed guidance and the parental version to contain guidance on supports.

There are increasingly commercial organisations which provide distance-learning resources which are suitable for home education. These organisations often charge and are easily sourced on the internet.

### *Section 8 – Children with additional support needs*

#### **Question 15: In what ways could this section be improved and reflect developments in support of children with additional support needs?**

The [amendments to the Education Scotland Act 2016 are detailed in this Keeling Schedule](#). Since January 2018 children aged 12 to 15 have rights which should be reflected throughout the guidance.

Consider Code of Practice – co-ordinated support plans

### *Useful Contacts*

#### **Question 16: Are there any additional sources of help and support that should be reflected in this section?**

Review and update information in current guidance.  
Employability/ Careers Scotland/ Skill Development Scotland – My World of Work

### *Other Issues*

#### **Question 17: Are there any other issues which have not been addressed which you think would be useful to include during the review of the guidance?**

##### **Legislative position**

Education authorities have duties but no powers.

Where do home educated parents lie within the named person service if this particular legislation comes into force?

There is a need to ensure that the Scottish Government Home Education guidance reflects all current government policy e.g. GIRFEC, Rights of the Child, Child Protection, Named Person Service, Additional Support Needs legislation, Data Protection (especially taking into consideration that special category data shared is likely to be the child's data, not the parent's data..

The rights of the child must be addressed throughout the document.

##### **Contact between home educating families and local authorities**

Local authority education officer has no right to see a child or visit the family at home.

Potential issues re Safeguarding as well as learning.

Going forward, could a young person who feels they have not had the best opportunities because of their home education challenge Government/ local authority for failing them? Local authorities need to place child protection and wellbeing before all other considerations.

Parental duties in terms of education need to be specified in the legislation. A parent in terms of the 1980 Act is much wider than a person with parental rights and responsibilities.

**Child Protection/ Safeguarding**

Major concern for those responsible for home education within local authorities.

Safeguarding children needs to be paramount. Current HE procedures do not ensure safeguarding procedures in place for all.

Pupils in transition - between stages, between authorities or private school can slip through the net and be 'invisible'.

Robust procedures needed and clarity for both authority and families re safeguarding responsibilities and procedures.

Framework and clarity needed for inter authority contact/ sharing of home education information

Rights of child must be addressed.

## **How to respond and how we will handle your response**

Please return your response by 30 August 2019:

1. By email to:

[homeeducation@gov.scot](mailto:homeeducation@gov.scot)

2. By mail to:

Scottish Government  
Learning Directorate  
School Organisation Team  
Area 2B North  
Victoria Quay  
Edinburgh  
EH6 6QQ

Please complete and return the respondent form attached at Annex B of this document so we know how to handle your response.

We would be grateful if you could clearly indicate in your response which questions or parts of the discussion paper you are responding to as this will aid our analysis of the responses received.

### **Handling your response**

We will analyse the responses to this discussion paper which will then inform the revision of the guidance that we will undertake during the autumn term. As the Home Education Guidance has a statutory basis we will then conduct a full consultation process later this year with a view to publishing a final revised version of the guidance in 2020.