



Community Services: Education

Argyll House
Alexandra Parade
Dunoon PA23 8AJ

To: Heads of all Educational Establishments

Dear Colleague

Children Educated At Home

1. Introduction

- 1.1 This Circular outlines the position of Argyll and Bute Council in relation to children educated at home. It closely follows the Scottish Government guidelines of 2007 on this matter. (These can be accessed at www.scotland.gov.uk/Publications/2007/12/17133313).
- 1.2 This Circular applies to home education provided by parents and not to education being provided outwith school by local authorities.
- 1.3 Every child has a right to an education, and it is the duty of the parent of every school age child to provide that education, either by sending the child to a school, or by other means such as education at home. Where parents choose to educate their children at home Community Services: Education will acknowledge the right of parents to make this decision and will endeavour to support parents by offering them advice and information. It is hoped that in this way Community Services: Education will work together with home educating parents to develop trust, mutual respect and a positive relationship that functions in the best educational interests of the child.
- 1.4 Parents choose to home educate their children for many different reasons. However, in certain circumstances parents will have to obtain consent from the Council before they can embark on home education (see section 2 below). Parents are not required to give a reason for choosing home education when requesting to withdraw their child from school but it is helpful if one is provided. Any reason given will 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. The following reasons are common, but not exhaustive:
 - The wish to follow a particular educational or ideological philosophy.
 - Religious or cultural beliefs.

- Dissatisfaction with the system.
- A child's reluctance to go to school.
- A child's problems when at school, e.g. bullying.
- Geographical - due to remoteness, or mobility for work or cultural reasons.
- The wish to deal with a child's additional support needs in a particular way.
- As a short term intervention for a particular reason.

2. The Legal Responsibilities on Parents

- 2.1 Parents are responsible for providing their child or children with an education. (See Appendix 1 for the definition of a parent.) Section 30 of the Education (Scotland) Act 1980 places the duty on parents to provide an 'efficient education' for all their children of school age which is suitable to their 'age, ability and aptitude'. (See Appendix 2 for guidance on what is considered an efficient and suitable education). In general a child is defined as being of school age (i.e. education must be being provided) if he or she is 5 – 16 years of age.
- 2.2 The Act recognises that the vast majority of parents will fulfil this responsibility by sending their children to a local authority school but also allows this duty to be fulfilled through 'other means.' This might include sending children to an independent school or by pursuing a home-based 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.
- 2.3 In terms of Section 35 of the Education (Scotland) Act 1980) parents of a child who has been attending a local authority school must seek the local authority's consent before withdrawing their child from that school, and the authority must not unreasonably withhold consent. A flowchart of this process appears at the end of this Management Circular. It should be noted that while consent is needed for withdrawal from school, consent is not needed to home educate in itself.
- 2.4 Consent is **not** needed in the following situations:
- The child has never attended a local authority school.
 - The child has never attended a local authority 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.
- 2.5 Although there is no statutory duty upon parents to inform the local authority that they are home educating if they do not require consent, Community Services: Education would encourage home educators within the Authority area, or moving into their area, to notify Community Services: Education of their status as home educators. Contact information appears in Appendix 3. From time to time, known home educating parents will receive information on various matters which would support the education, health and wellbeing of their child(ren).

- 2.6 Upon receiving a parental request to home educate, Community Services: Education will consider whether there is any evidence which might indicate that there is a good reason to refuse consent. Information will be sought from the child's education records which will contain appropriate information from health and social work. Specific instances where consent may not be able to be granted immediately are:
- where a child has been referred to social work or the police for child protection reasons, and the matter is being investigated
 - where a child is on the child protection register
 - where a child has been referred to the reporter on care and protection grounds, and the referral is being considered
 - where the child is the subject of a supervision requirement.
- 2.7 If information exists casting doubt on whether an efficient and suitable education can be provided, or if the parent has failed to provide outline proposals on the proposed educational provision, Community Services: Education will seek further information from the parents about their plans for education provision. Parents will be given the opportunity to address any specific concerns that the authority has. The child will also be given the opportunity to express his or her views. 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 **within 6 weeks** of the receipt of the original application. The majority of applications can and will be dealt with well within this timescale. In a small minority of cases, where information has to be sought from various sources, 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.
- 2.8 It is accepted that 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. One approach is not necessarily any more valid than another. Although some parents may welcome general advice and suggestions about resources, methods and materials, Community Services: Education will not and cannot specify a curriculum which parents must follow and will not unreasonably withhold consent. Parents will be notified in writing of its decision, setting out reasons and the grounds for refusal if consent is withheld.
- 2.9 If consent is withheld, parents will be given the opportunity, within a reasonably practicable period, to address the grounds for refusal and resubmit their request for reconsideration.

Children with additional support needs

- 2.10 A parent's right to educate a child at home applies equally where that child has additional support needs. The fact that a child has additional support needs should not, in itself, be a reason to refuse consent to withdraw a child from school. Additional considerations do, however, apply. It is reasonable for the education authority to ask parents to indicate how they propose to cater for their child's additional support needs at home.

- 2.11 When considering a request for consent, or considering whether the education is suitable, taking account the age, ability and aptitude of the child, the authority may need to consider the environment in which a child with additional support needs is to be educated and its appropriateness for the individual child. With the agreement of the parents, an educational psychologist might be involved in assessing the proposed provision for a child with additional support needs.
- 2.12 Parents of home educated children have the right to ask their local authority to find out whether or not their child has additional support needs, and to assess what level of support they might need. A young person also has similar rights. The local authority can choose to agree with the request, and provide the necessary support, but it is under no legal duty to do so. Local authorities have no statutory obligation to provide financial or other support for the education of children with additional support needs whose parents elect to home educate.

3. Legal Duties Placed on the Local Authority regarding Home Education

- 3.1 Section 35 and Section 37 of the Education (Scotland) Act 1980 are the relevant provisions in relation to home education. Section 35 stipulates that the consent of the authority is required for a child to be withdrawn from a 'public'(ie local authority) school. Section 37 requires an authority to take action where they are not satisfied that an efficient and suitable education is being provided.
- 3.2 Community Services: Education has a number of duties placed upon it to ensure that every child is receiving an efficient and suitable education. These duties extend to those children receiving a home-based education. The main duties placed on Community Services Education are;
- A duty to ensure that home-based educators are providing an efficient education suitable to the age, aptitude and ability of those children receiving such an education. (Section 37(1) Education (Scotland) Act 1980) If the Council have concerns around the quality of education being provided by home educators, it is under a duty to investigate these concerns by serving a notice on the parent to provide information on the delivery and content of this home-based education.
 - A duty to make an attendance order in respect of that child if not satisfied that parent is providing an efficient education for a child being home educated (Section 37(2) Education (Scotland) Act 1980) Granting of an attendance order will place a child in a specified school. However this will only be done where Community Services: Education have ongoing serious concerns around the quality of home education being provided and after ongoing engagement between the home educating parent(s) and Community Services: Education.

4. Contact between home educating families and the local authority

- 4.1 Quality Improvement Officers (QIOs) are the point of contact between the local authority and home educating families and are responsible for dealing with matters relating to home education within a local area. A QIOs duties include making annual contact with home educating families. Any contact between a QIO and home educating parents should be made with the intention of building effective

relationships that are grounded in mutual understanding, respect and trust. A sample contact letter can be found in Appendix 4.

- 4.2 The local authority does not have a right of access to the home and the child and if a parent is uncomfortable about the prospect of a home visit then a meeting could be arranged in an alternative venue such as a Council office.
- 4.3 Quality Improvement Officers will endeavour to engage positively and productively with home educating families and can offer support and advice where possible. Items for discussion could include ;
 - The curriculum that is being followed and possible resources which could be used
 - A typical timetable or range of experiences including social experiences
 - Organisation and outcomes of the home education programme
 - Future plans
- 4.4 The welfare and protection of all children, both those who attend school and those who are educated at home is of paramount concern. It is no more likely that child protection issues will arise in relation to home educated children than school educated children. However, if a QIO has any concerns around any child protection issues then he/she is under a duty to follow the relevant child protection procedures and report these concerns. The education service will also review the appropriateness of the home education provision.
- 4.5 Following any meeting with home educating families, the partnership QIO will complete a visit record form. A sample visit form can be found in Appendix 5. A completed copy of this form should be shared with the home educating family within a reasonable timescale following the QIO visit.

Appendix 1

Definition of a Parent

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

The definition of a parent 'includes guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of Section 1(3) of the Children (Scotland) Act 1995) in relation to, or has care of a child or young person'.

Appendix 2

What is an efficient and suitable education?

There is no definition of efficient and suitable education in statute law, however, 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.'

Appendix 3

Contact information for parents of children who are home educated or for those parents who wish more information on home education.

School Support	Oban Education Office	Colgrain Education Office
Argyll House	Dalintart Drive	Redgauntlet Road
Alexandra Parade	Oban	Helensburgh
Dunoon	PA34 4EF	G84 7TZ
PA23 8AJ	01631 564908	01436 658984
01369 704000		

Appendix 4 Sample parent contact form

Argyll and Bute Council
Comhairle Earra Ghàidheal agus Bhòid

Community Services

Director: Cleland Sneddon



Head of Service: Carol Evans

Education

Tel:

Fax:

If phoning or calling please ask for:

e-mail:

www.argyll-bute.gov.uk

To the Parent or Guardian of:

Address

Dear

Education at Home

I am the Partnership Quality Improvement Officer for the schools in XXXXX.

My remit on behalf of Argyll & Bute Council is to support parents/carers as home educators and to develop an understanding of the provision that they are making for their children.

With this in mind I would like to visit you/ meet with you, to discuss XXXXX's education and the arrangements you have in place for *her/him*.

I will be in touch, by phone, week beginning XXXX to arrange a convenient place and time for our meeting. The contact number I have for you is XXXXXXXX. Would you please advise my office if it is incorrect.

I very much look forward to meeting with you and trust that our discussion will be of value to you.

Yours sincerely



Education at Home Visit Record

Name & Designation	Date	Name & Address of Family

Child's Name(s)	
Reason for Visit	<input type="checkbox"/> Response to EAH1 (please complete comments section below) <input type="checkbox"/> Annual Visit
Issues discussed	<ul style="list-style-type: none"> • Organisation of home education experience • Social interaction with other children • Future education
Comments <small>(If visit is in relation to submission of EAH1 form please comment on proposed home education programme)</small>	
Further Action Required?	<input type="checkbox"/> NO <input type="checkbox"/> YES (If YES please detail below)
Duration of this visit	

WITHDRAWING A CHILD FROM SCHOOL

FLOWCHART FOR PARENTS



FLOWCHART FOR LOCAL AUTHORITY



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