
EDUCATION (SCOTLAND) ACT 2016 – LEARNING HOURS CONSULTATION

1.0 EXECUTIVE SUMMARY

1.1 This report provides details of a consultation being undertaken by the Scottish Government on their plans to set a legal minimum number of hours of school education school pupils should receive each year.

1.2 The consultation opened on 21st March 2023, and closes on 13th June 2023.

2.0 RECOMMENDATION

2.1 It is recommended that the Community Services Committee:

- (a) notes the terms of the draft consultation response, as prepared by officers and set out in full at **Appendix 1**; and
- (b) agrees that officers now formally submit that response to the Scottish Government, on behalf of Argyll and Bute Council.

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3.0 INTRODUCTION

- 3.1 Traditionally, Scottish primary schools provide around 25 learning hours per week, and Scottish secondary schools around 27.5 hours per week. However, whilst local authorities are required by statute to have their schools open for 190 days each year (Regulation 5 of the *Schools General (Scotland) Regulations 1975*), the number of learning hours is not currently legally prescribed.
- 3.2 The Scottish Government is now consulting on their plans to bring into force the existing provisions within the *Education (Scotland) Act 2016* which will enable Scottish Ministers to set the minimum number of learning hours in a school year, and propose to use this power to make regulations to that effect later this year.
- 3.3 As such, the consultation is intended as an opportunity for local authorities, parents, children and young people, and other stakeholders to provide views and evidence about the potential impact of the implementation of this policy. The Scottish Government state that they intend to use the responses to inform the regulations and non-statutory guidance that they plan to bring forward.

4.0 RECOMMENDATION

- 4.1 It is recommended that the Community Services Committee:
- (a) Notes the terms of the draft consultation response, as prepared by officers and set out in full at **Appendix 1**; and
 - (b) Agrees that officers now formally submit that response to the Scottish Government, on behalf of Argyll and Bute Council.

5.0 DETAIL

- 5.1 The [consultation](#) sets out the Scottish Ministers' proposal to set in law the minimum number of learning hours provided in public and grant aided schools, and invites views on this proposal and its implementation.
- 5.2 Section 21 of the *Education (Scotland) Act 2016* ("the 2016 Act") inserts section 2ZA into the *Education (Scotland) Act 1980* ("the 1980 Act") which makes provision about learning hours and gives powers to Scottish Ministers to make regulations to prescribe the minimum number of learning hours per academic year.
- 5.3 It is proposed that the regulations and guidance will specify the minimum number of learning hours per annum, how these should apply, including any variation where

appropriate, and effectively provide a statutory basis for the minimum number of learning hours which must be met by school each year.

- 5.4 The key driver behind the proposal to set the minimum number of learning hours in legislation is to ensure that similar and equitable provision is available to pupils, wherever they go to school in Scotland.
- 5.5 The consultation paper also acknowledges that there are differences in local delivery, for example, with some areas/schools operating an asymmetric week with some longer and some shorter days. There is no intention to constrain this local variation, provided that those schools are able to achieve the minimum number of learning hours each week.
- 5.6 A definition of “*Learning hours*” is proposed at Paragraph 2.1 of the Consultation Paper as the period of teaching that learners receive within the school day. In most cases, they do not include lunch and other break times or extra-curricular activities or provision such as breakfast clubs that may take place around the core school day. However, within the answer to Question 4 of the consultation response (**Appendix 1**), officers have suggested that the proposed definition of “learning hours” should be strengthened in order to clarify whether any periods of remote online learning (for whatever reason) would count towards the minimum learning hours. The definition as presently set out at Paragraph 2.1 does not explicitly prescribe the format in which learning hours can be delivered.
- 5.7 It has been accepted practice for at least the last 40 years that around 25 hours per week (or 950 hours per academic year) of teaching time is made available in most local authority run primary schools; and 27.5 hours per week (or 1045 hours per academic year) in most local authority run secondary schools. It is proposed that the learning hour regulations would apply to primary schools, secondary schools and to special schools.
- 5.8 Section 21 of the 2016 Act, once fully commenced, would insert Section 2ZA into the 1980 Act - making the following provision for learning hours:
- to require education authorities and the managers of grant-aided schools to secure the provision of no fewer than the prescribed learning hours for each pupil for whom the authority/managers are responsible;
 - to confer a power on the Scottish Ministers to prescribe by regulations (subject to the affirmative procedure) the number of learning hours in each school year. These regulations may make different provision for different purposes and make different provision for different types of pupil. Before making any such regulations, the Scottish Ministers must consult such persons as they consider appropriate;
 - to provide that education authorities/grant-aided schools may provide fewer than the prescribed learning hours to a pupil in certain circumstances (including where the pupil's wellbeing would be adversely affected; matters outwith the authority's control; other circumstances Ministers may prescribe by regulations); and
 - to amend the mechanism in section 133(4) of the 1980 Act so that the Scottish Ministers may by direction disapply or modify the application of the duty to provide the prescribed learning hours where it would be unreasonable that it should apply or apply unmodified.
- 5.9 At Paragraph 8.1 of the consultation paper, the Scottish Government advises that in preparing the regulations, they shall consider what the impact of the regulations would be on any local authorities or schools not currently providing the minimum learning hours, and whether transitional arrangements or other measures may be necessary to assist them to adjust to the new requirements.

- 5.10 Following this consultation exercise, the Scottish Government propose to prepare regulations that prescribe the minimum number of learning hours that must be provided in local authority and grant aided schools in an academic year; prescribe the number of learning hours at 950 hours for primary schools and 1045 for secondary schools; and prescribe the circumstances where fewer than the prescribed number of learning hours may be delivered.
- 5.11 In terms of the present position within Argyll and Bute's schools, officers have reviewed the situation and concluded that only five of our primary schools, and two of our secondary schools are presently short of the minimum number of learning hours that are being proposed. However, none of them are significantly short of the proposed minimum, and the Education Service anticipate that it would be relatively straightforward to increase the learning hours for those schools to the proposed minimums by way of internal mechanisms ([Education Management Circular 1.41 \(argyll-bute.gov.uk\)](https://www.argyll-bute.gov.uk/education-management-circular-1.41)).
- 5.12 Officers are in agreement with the proposals to introduce a statutory minimum number of learning hours within the Council's schools. They have generally been adhered to, by convention, for a number of decades – and officers believe that enshrining the minimum number of learning hours in legislation will help to secure equity of provision to all learners in our schools.

6.0 CONCLUSION

- 6.1 Officers have drafted a response, attached at **Appendix 1**, which is in favour of the proposals being consulted on. Members are invited to adopt this draft response; and agree that officers formally submit it to the Scottish Government, on behalf of Argyll and Bute Council, and in advance of the consultation closing on 13th June 2023.

7.0 IMPLICATIONS

- 7.1 **Policy** – At present, whenever an alteration to school hours is being considered internally, Education Management Circular 1.41 (see link at Paragraph 5.11, above) shall be applied.
- 7.2 **Financial** – None within this report.
- 7.3 **Legal** - The proposal being consulted on is to prescribe in legislation the minimum number of learning hours that would apply to schools run by the Council. Should regulations be made to that effect, the Education Authority would be under a statutory duty to adhere to the minimum number of learning hours stipulated therein.
- 7.4 **HR** – None within this report.
- 7.5 **Fairer Scotland Duty** – None within this report.
- 7.5.1 *Equalities: Protected Characteristics* – None within this report.
- 7.5.2 *Socio-Economic Duty* – None within this report.
- 7.5.3 *Islands* – None within this report.
- 7.6 **Climate Change** – None within this report.

7.7 **Risk** – None within this report.

7.8 **Customer Service** – None within this report.

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APPENDICES

Appendix 1 – Draft Consultation Response