



Education Service

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 the Education Service 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 the Education Service 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**, the Education Service would encourage home educators within the Authority area, or moving into their area, to notify the Education Service 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, the Education Service will work under a presumption that consent will be granted. However, it will consider whether there is any information from the child's education records which might indicate that there is a good reason to refuse consent. 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 a child is the subject of a supervision requirement.

2.7 As part of the engagement with prospective home educators, Education Officers will discuss parental plans to provide the child(ren) with an efficient and suitable education. This discussion will consider how the child(ren) will have opportunities to develop literacy, numeracy and social skills within the home education curriculum.

2.8 Flexi-Schooling Arrangements

Argyll and Bute Council occasionally receives a request to withdraw a child part-time from school, e.g. for the child to attend school only on certain days, or for certain subjects, often referred to as “flexi-schooling”. In line with the Scottish Government’s guidance on such requests, which themselves are informed by Section 28 of the Education (Scotland) Act 1980, each request will be considered individually and on its own merit by the council. The two main considerations influencing the authority’s decision on any such request are as follows:

- An overall assessment of the quality and breadth of the educational provision being offered for the period during which the child or young person is educated at home.
- Any unreasonable demand placed on local authority resources by the flexi-schooling arrangement.

Definition of Flexi-Schooling and Flexi-Schooling Guidelines

- Flexi-schooling is when parents/carers wish for their child’s education to be split between home and school. This will involve an agreed regular pattern of time divided between learning in school and learning at home. If agreed with the school and local authority, the child will therefore attend school in the normal way for a set number of days each week, and be educated at home for the rest of the time. The exact split between education in school and at home will be negotiated between parents/carers and the school.

For educational arrangements which are defined as flexi-schooling, the following guidelines will apply:

- A clear understanding will be agreed between the family and the school relating to the division of a child’s or young person’s education in school and education at home, including clarity about on which days of the week school will be attended. Such arrangements will apply consistently from week-to-week / month-to-month, and requests from parents/carers to change these arrangements at particular times will not normally be granted and will be at the discretion of the Head Teacher.
- When flexi-schooling arrangements are in place, schools will not be required to provide work or resources for the periods of the week when a pupil is not attending school.
- When flexi-schooling arrangements are in place, the child or young person will remain on the school roll, and will benefit from all educational provision and facilities available during the period spent in school. This will include all aspects of assessment and support

offered during the time spent in school, and reporting to parents on progress will continue for flexi-schooled pupils as for pupils in full-time school education.

- For pupils accessing flexi-schooling arrangements, teachers' professional judgement relating both to pupils' strengths and issues with progress will be reported to parents. There will be no obligation for schools to address gaps in learning which are judged to be the result of having not been in school when specific areas of learning were provided or specific topics covered.
- For pupils accessing flexi-schooling arrangements, school staff will observe the same established guidelines and processes for raising concerns about wellbeing or educational progress as for pupils educated full-time within school.

Below are some additional key points about flexi-schooling, including situations which are not considered to be flexi-schooling:

- Flexi-schooling arrangements will always be at the request of parents/carers. No school will, by itself, suggest a medium- to long-term, consistently applied pattern of dividing learning between school and home.
- Arrangements where a child or young person is not in school full time at the recommendation of the school, authority or its agency partners are not considered as flexi-schooling arrangements. Such circumstances will be the result of assessment of a particular pupil's educational and emotional needs within the context of the Getting it Right for Every Child (GIRFEC) framework, a key element of national educational policy. Formalised Flexible Learning Plans are an example of such GIRFEC-driven arrangements.
- Children or young people being educated full-time at home under the terms of the Scottish Government's Home Education policy does not constitute flexi-schooling provision, and there is no requirement in Home Education arrangements for regular or occasional input from the school.
- Arrangements for children or young people absent from school as a result of parents'/carers' concerns about COVID-19 are currently informed in Argyll and Bute by the Scottish Government's Home Education guidelines. Such arrangements are not classed as flexi-schooling. Additionally, children and young people who are self-isolating due to a positive COVID-19 test, awaiting the results of a COVID-19 test or who have been contacted as part of the COVID-19 Test and Trace programme are not considered to be in a flexi-schooling arrangement.
- When a child or young person is absent from school for an extended period of time as a result of health issues, teaching staff will, if appropriate, engage with the pupil at home to ensure continuity of learning. Such an arrangement is not classed as flexi-schooling.

- 2.9 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, the Education Service 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.

- 2.10 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, the Education Service 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.
- 2.11 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

- 2.12 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.
- 2.13 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.
- 2.14 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 The Education Service 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 the Education Service 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 the Education Service have ongoing serious concerns around the quality of home education being provided and after ongoing engagement between the home educating parent(s) and the Education Service.

4. Contact between home educating families and the local authority

- 4.1 Education Officers (EOs) 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. An EOs duties include making annual contact with home educating families. Any contact between an EO 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 Education 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 an EO 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 EO 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 EO visit.

5 Children unknown to the Local Authority

- 5.1 In the event that the school becomes aware of a child within the community who is not registered within any local schools, public school or is registered as being educated at home, they should contact their Education Officer who will make further enquiries.
- 5.2 Education Officer will liaise with partner agencies to establish status and inform Head of Service and school of outcome.

Yours sincerely

Douglas Hendry

Executive Director of Education
June 2021

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
Argyll House
Alexandra Parade
Dunoon
PA23 8AJ
01369 704000

Oban Education Office
Dalintart Drive
Oban
PA34 4EF
01631 569192

Appendix 4 Sample parent contact form

Argyll and Bute Council
Comhairle Earra Ghàidheal agus Bhòid

Executive Director – Customer Services

Douglas Hendry



Education

Education Office,

Tel:

Fax:

If phoning or calling please ask for:

e-mail: @ea.argyll-bute.sch.uk

Date

To the Parent or Guardian of:

Address

Dear

Education at Home

I am the Education 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 Officer

Education Management Circular 3.16 (reviewed September 2021)



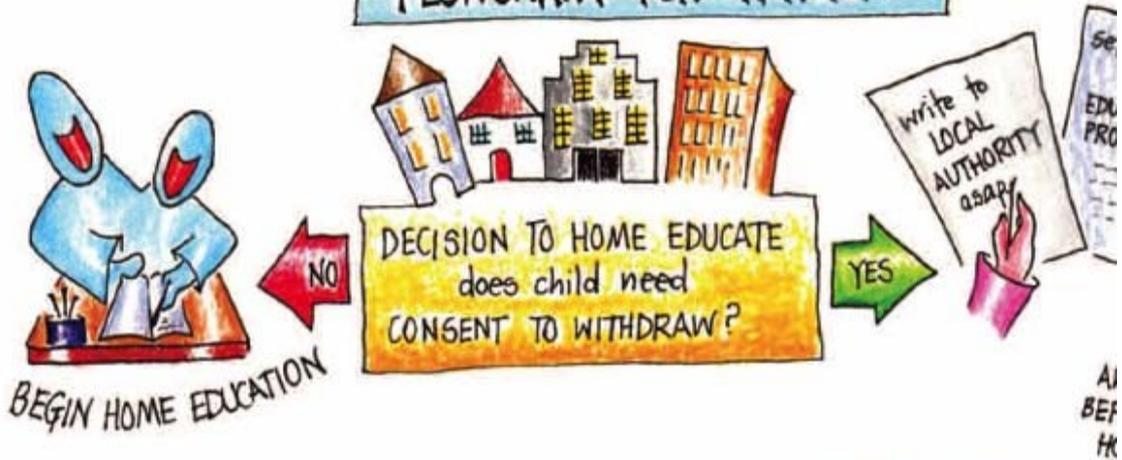
Education at Home Visit Record

Name & Designation	Date	Name & Address of Family

Child's Name(s)	
Reason for Visit	Annual Visit
Issues discussed	<ul style="list-style-type: none"> • Organisation of home education experience • Social interaction with other children • Future education
Further Action Required	
Other Comments	
Follow up Visit?	
Duration of this visit	

WITHDRAWING A CHILD FROM SCHOOL

FLOWCHART FOR PARENTS



FLOWCHART FOR LOCAL AUTHORITY



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