

PE1730/B

Deputy First Minister and Cabinet Secretary for Education and Skills submission of 19 October 2019

Thank you for the Committee's letter of 23 September 2019, seeking the Government's views on PE1730: Registration of home educated children in Scotland. I note this petition urges the Scottish Government to conduct a review to identify children who are not registered with an education authority in Scotland and are not receiving an education suitable to their age, ability or aptitude.

I wish to start my comments by stating that the Scottish Government supports the right of parents to choose to home educate their children. Home education is a key aspect of parental choice, and is an equally valid choice alongside the option to send a child to school. It is a right conditional upon the parents providing an efficient education suitable to the age, ability and aptitude of the child.

Section 30 of the Education (Scotland) Act 1980 (the 1980 Act) places a duty on the parents of every child of school age to provide an efficient education suitable for the age, ability and aptitude of the child and whether that be in a local authority school or by other means, including home education.

Local authorities and home educating families

If a parent wishes to withdraw their child from education being provided by their local authority, they must seek, in accordance with Section 35 of the 1980 Act, the authority's consent before doing so. As part of that process for withdrawing their child, the parent would be expected to outline their initial proposals for how they intend to provide an efficient and suitable education. In granting consent, the local authority has a duty to ensure that a suitable education is being delivered. This requirement for local authority consent does not apply where:

- 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- The child is being withdrawn from an independent school.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.

While consent is needed for withdrawal from school, consent is not needed to home educate in itself. Consent is not required, therefore, if the child has finished primary education in one school but has not started secondary education in another. Please note that this is specific to having completed primary education and not yet started secondary education. If a child is still enrolled in primary school or has already started secondary school, the consent process as outlined above would apply.

I can advise that there is no statutory duty upon local authorities to 'monitor' on-going home education or hold records on home educated children in their area. However, they do have a duty to ensure that the parents who are known to be home educating are providing their children with a suitable education. Where the local authority can reasonably conclude that they have insufficient information to satisfy themselves that the education is clearly efficient and suited to the age, ability and aptitude of the child, the authority is required to take appropriate action under Section 37 of the 1980 Act.

It is important to emphasise that these provisions on education are separate from any wellbeing concerns regarding the child or young person that is being home educated. Local Authorities have a duty to safeguard and promote the welfare of children in their area regardless of where they are educated. It is always the case that if a child is considered to be at risk of significant harm, then practitioners have a duty to take necessary and proportionate actions to address those concerns through child protection procedures.

Planned Review of the current Home Education Guidance

The legislation on home education is supported by statutory Home Education Guidance. This guidance, which supports local authorities and families regarding the processes that should be followed where a child is being home educated or that is under consideration, has not been updated since 2007. My officials have been engaging with a range of stakeholders with a view to consulting on new draft guidance. These revisions will update the guidance to reflect changes to education policy and legislation over the last decade. It is also an opportunity to understand concerns such as those raised in the Petition and, if appropriate, consider any additional guidance that can be provided to ensure that all children, including those that are home educated, receive an efficient and suitable education as required under the 1980 Act.

I will ensure that the consultation on new draft Home Education Guidance is shared with the Committee as soon as it is published.

I hope the information I have provided is helpful in clarifying the Scottish Government's position and updating the Committee on recent developments.