

## Briefing for the Public Petitions Committee

**Petition Number:** [PE1730](#)

**Main Petitioner:** Kenneth Drysdale

**Subject:** Registration of home educated children in Scotland

Calls on the Parliament to urge the Scottish Government to conduct an urgent review to identify children who are not registered with an Education Authority in Scotland and are being denied a basic human right to access an education suitable to age, ability and aptitude.

### Background

There are no national data sources that report on the number of children in Scotland that are home educated. A [BBC article](#) from April 2018 notes<sup>1</sup> that 0.1% of children in Scotland (a total of 969 children) are home educated.

Current Scottish Government [guidance](#) on home education (published in 2008) states:

“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 school, or by other means. Home education is a key aspect of parental choice; and is an equally valid choice alongside the option to send a child to school. However, it is a choice which only a minority of parents make.”

The guidance goes on to highlight that parents do not have to give a reason for choosing home education when requesting to withdraw their child from school. And the reason given should not have a 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 [Education \(Scotland\) Act 1980](#) (“the 1980 Act”) states that the statutory responsibility for the provision of education rests with individual local authorities. This includes the option for parents to choose to home educate their children (Section 30).

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<sup>1</sup> The article is based on a freedom of information request sent to all local authorities across the UK. The article highlights that 177 local authorities responded to the request for data. It is not clear how many were in Scotland and how the figure reported in the article was arrived at.

Section 37 of the 1980 Act sets out the powers of the local authority where it is not satisfied that a parent is providing efficient education for their child. This section relates to home education both where a child of school age has not attended a public school or has been withdrawn with the consent of (or excluded by) the local authority.

If the local authority is not satisfied that the parent is providing efficient education to the child suitable to their age, ability and aptitude, Section 37 of the 1980 Act states: “it shall be the duty of the authority to serve a notice on the parent requiring [them] within such time as may be specified in the notice...” to appear before the authority to provide such information as may be required or to give such information in writing.

An attendance order can be issued where there is a failure to satisfy the above requirement (Section 38).

The 2008 guidance notes that the 1980 Act (Section 35) requires parents of a child who has previously attended a public school to seek the authority’s consent to withdraw the child from that school. The school must not unreasonably withhold that consent. Consent is not required in the following circumstances:

- 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.

The guidance goes on to say, “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.”

It also highlights that there is no statutory duty on local authorities to ‘monitor’ ongoing home education provision. While Section 37 sets out the power to intervene when the authority is not satisfied that the parent is providing efficient education suitable to the child’s age, ability and aptitude, the 1980 Act does not specify how, and to what extent, local authorities should actively seek the information that will assist it with assessing whether the education offered at home is suitable and efficient.

Recommendations on how contact should be approached by local authorities is set out in the 2008 guidance. The recommendation is that authorities make contact on an annual basis with families they know to be home educating in their local authority area. While not a statutory requirement, this proposal is intended to offer the authority an approach that can assist with fulfilling its duty under Section 37 of the 1980 Act.

The annual monitoring that is recommended within the 2008 guidance, offers one route to maintain checks on educational outcomes as well as an opportunity to address any child protection issues that may arise, the latter being an issue that the guidance makes specific reference to:

“The welfare and protection of all children, both those who attend school and those who are educated by other means, is of paramount concern and is the responsibility of the whole community. As with school educated children, child protection issues may arise in relation to home educated children. It should not be assumed that child protection issues are more likely to arise for children who are home educated. If any child protection concerns come to light in the course of engagement with children and families, these concerns should immediately be referred to the appropriate authorities using established protocols.”

### **Scottish Government Action**

A [letter from](#) the Deputy First Minister, John Swinney MSP to the Education and Skills Committee on 15 May 2019 on the subject of additional support needs (see below), notes that the current (2008) home education guidance “would benefit from significant updating to reflect changes to the education landscape in recent years”.

The letter states that Scottish Government officials will be reviewing the guidance during 2019 with a plan to engage with home education stakeholders as well as every local authority in Scotland.

### **Scottish Parliament Action**

The Education and Skills Committee did some work in 2017 and 2019 to look at [Additional Support Needs](#) in Scotland. This work raised issues with ASN pupils being home educated (or parents considering it) in circumstances where parent felt the [mainstream school](#) was not supporting the pupil or where the school was excluding pupils where they could not meet their support needs.

At the Committee meeting on [6 March 2019](#), witnesses raised issues around whether home education is a choice or a form of exclusion for pupils with ASN. The session also raised questions about the quality of education at home.

A [PQ \(July 2017\)](#) from Liz Smith MSP asked the Scottish Government what entitlement home educated children have to access SQA qualifications through SQA approved centres. The answer from John Swinney MSP stated:

“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 school or by other means. This includes home education.

Home educated young people can access Scottish qualifications but must be registered with a Scottish Qualifications Authority (SQA) approved centre (usually a school or college), accepting that all assessments and

assignments require to be appropriately carried out and monitored through an SQA approved centre...”

The response notes that Section 2 of the 2008 guidance sets out the legislative position and provides advice on the roles and responsibilities of local authorities and parents in relation to children who are home educated. Section 7.2 provides more detail on the process surrounding assessment of home educated children.

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19 July 2019

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Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP