
HOME SCHOOLING: SCOTTISH BORDERS COUNCIL SCRUTINY REPORT

Report by Service Director Children and Young People

EXECUTIVE COMMITTEE

20 October 2015

1 PURPOSE AND SUMMARY

- 1.1 This report proposes that the Executive Committee considers the decision of the Scrutiny Committee of 20 August 2015.**
- 1.2 Home Schooling was considered at the Scrutiny Committee providing facts on the number of children and young people currently Home Schooled in the Scottish Borders and the guidance and legislation around governance arrangements. An excerpt from the Minute of the Scrutiny Committee is attached as part of these papers.
- 1.3 Members of Scrutiny expressed concern around national legislation and “agreed to recommend that Scottish Borders Council write to the Scottish Government requesting that the 1980 Education Scotland Act be amended to give Local Authorities the power to enforce Section 37 of the Act in order to ensure that children who were being home schooled received a satisfactory education appropriate to their age and aptitude”.

2 RECOMMENDATIONS

- 2.1 I recommend that the Executive Committee agrees that an appropriate letter be sent by the Leader to the Scottish Government expressing concern about existing guidance and request consideration of an amendment to the 1980 Education Scotland Act, ensuring that children who are home schooled receive a satisfactory education appropriate to their age and aptitude**

3 HOME EDUCATION

3.1 The Scottish Government Guidance on Home Schooling 2007 is issued under Section 14 of the Standards in Scotland's Schools Act 2000 and must be read in conjunction with the Act and the Education (Scotland) Act 1980. The guidance sets out the legislative position, provides advice on the roles and responsibilities of Local Authorities and parents in relation to children who are home educated. The guidance can be accessed at the following link: <http://www.gov.scot/resource/doc/207380/0055026.pdf>

3.2 The Home Schooling guidance sets out that "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".

3.3 Duties of Local Authorities

The Scottish Government Home Education Guidance, Section 2.4 highlights "The Education (Scotland) Act 1980, Section 37(1)- (1) "Where a child of school age has not attended a public school in the area in which his parent is residing, or has attended such a school and has been withdrawn therefrom with the consent of, or excluded by, the Education Authority, then, if the Authority are not satisfied that the parent is providing efficient education for him suitable to his age, ability and aptitude, it shall be the duty of the Authority to serve a notice on the parent requiring him within such time as may be specified in the notice (not being less than seven or more than fourteen days from the service thereof) either:-

- a) To appear (with or without the child) before the Authority and give such information as the Authority may require regarding the means, if any, he has adopted for providing education, or
- b) In the option of the parent, to give such information to the Authority in writing."

3.4 The Education (Scotland) Act 1980, Section 37(2) states that,"If a parent on whom a notice has been served in pursuance of Sub-section (1) fails to satisfy the Authority that he is providing efficient education for the child suitable to his age, ability and aptitude, or that there is a reasonable excuse for his failure to do so, the Authority shall make an Attendance Order in respect of the child in accordance with the provision of Section 38 of this Act".

3.5 International law gives children a right to education. This right is enshrined in Scots Law in the Standards in Scotland's Schools Act 2000 and qualified by Section 30(2) of the Education Scotland Act 1980.

3.6 The Scottish Government Home Schooling Guidance, Section 3.2 sets out that while consent is needed for withdrawal from school, consent is not needed to home educate in itself. Consent is not needed in the following situations:

- a) The child has never attended a public school.
- b) The child has never attended a public school in that Authority's area.
- c) The child is being withdrawn from an independent school.
- d) The child has finished primary education in one school but has not started secondary education in another.
- e) The school the child has been attending has closed.

It states, "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."

- 3.7 At the Scrutiny Committee it was reported that there were 42 pupils currently being home educated, which is 0.28 per cent of the total school roll in the Scottish Borders. 50 per cent of those being home educated lived outwith a town or a village. However, there are children being home educated in addition with whom officers have had no contact due to the Scottish Government Guidance as set out in Section 3.6 above.
- 3.8 The view of the Scrutiny Committee is that Scottish Borders as a Local Authority has no method of exercising the powers set out in the Education (Scotland) Act 1980, Section 37(1), as detailed in Sections 3.3 and 3.4 of this report. For parents who have never sent their children to a Scottish Borders School, officers are unable to acquire any information as to whether the children who are being home schooled receive a satisfactory education appropriate to their age and aptitude.
- 3.9 The Scrutiny Committee recommends that Scottish Borders Council writes to the Scottish Government requesting that the 1980 Scotland Education Act be amended to give Local Authorities the power to enforce Section 37 of the Act. This would result in parents whose children have never attended a Scottish Borders school and are being home schooled, to provide evidence that their children are receiving a satisfactory education appropriate to their age and aptitude.

4 IMPLICATIONS

4.1 Financial

There are no costs attached to any of the recommendations contained in this report.

4.2 Risk and Mitigations

- (a) There is a risk that the Scottish Government will take no action in respect of the content of the letter.

4.3 Equalities

- (a) It is anticipated that there are no adverse impact due to race, disability, gender, age, sexual orientation or religion/belief arising from the proposals in this report. There may be increased opportunities for engagement with parents who home school and this may result in reduced isolation.

4.4 Acting Sustainably

There are no significant impacts on the economy, community or environment arising from the proposals contained in this report.

4.5 Carbon Management

There are no significant effects on carbon emissions arising from the proposals contained in this report.

4.6 **Rural Proofing**

This report does not relate to new or amended policy or strategy and as a result rural proofing is not an applicable consideration.

4.7 **Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to be made to either the Scheme of Administration or the Scheme of Delegation as a result of the proposals contained in this report.

5 **CONSULTATION**

- 5.1 The Clerk to the Council has been consulted and their comments have been incorporated into the final report.

Approved by

Jeanette McDiarmid **Signature**
Depute Chief Executive, Children & Young People

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Previous Minute Reference: Minute of Scrutiny Committee – 20th August 2015

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