



Advice and information about additional support for learning

## **Prescribing the minimum annual number of learning hours: consultation**

### **Enquire Response - 13<sup>th</sup> of June 2023**

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#### **About Enquire**

Enquire is the Scottish advice service for additional support for learning. We are managed by Children in Scotland – the national charity working to improve children's lives.

Enquire offer advice and information about additional support for learning for parents, carers and professionals via our phone, webchat and email helpline service. Our website provides a host of valuable resources, publications and guides on a range of topics related to additional support for learning and we offer free webinars and outreach throughout the year. We also provide dedicated advice and information for children and young people which can be found at [Reach.scot](https://reach.scot).

We work in partnership with Children in Scotland, Partners in Advocacy and Cairn Legal to deliver My Rights, My Say - the statutory support service required by Section 31A of the Education (Additional Support for Learning) (Scotland) Act 2004. My Rights, My Say supports 12-15 year olds with additional support needs to exercise their rights to have their voices heard and make decisions about their support in education.

Enquire, along with Children in Scotland, also support the work of The Inclusion Ambassadors, a group of secondary-aged school pupils with a range of additional support needs, who share their experiences of being a young person with support needs in Scottish education.

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#### **Why we are responding to this consultation**

Enquire welcomes this opportunity to comment on the proposal of setting a minimum number learning hours for pupils in Scotland.

Access to education is a topic regularly raised on our helpline and during our outreach work. We believe that setting minimum learning hours has positive potential, if accompanied with the right levels of flexibility and clear, rights-based guidance. It is also essential to have meaningful consultation on the views of children and young people, parents and carers. Given the impact this proposal would have on them, we were disappointed that children with additional support

needs (who make up around a third of the pupil population) and their families were not acknowledged in more detail within this initial consultation.

Our recent helpline data (included in the answers below) shows that many children and young people with additional support needs are regularly not accessing the same learning hours as their peers. This is echoed in reports such as *Not included, not engaged, not involved: A report on the experiences of autistic children missing school*<sup>1</sup>. It's vital that pupils who are not attending school full-time, for a wide variety of reasons, are central to any considerations in this area, particularly as they may be some of the most greatly affected by any legal changes.

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## Individual question responses

### Question 1

Should the Scottish Government set in law the minimum learning hours pupils in Scotland should receive?

Yes

No

**Not Sure**

Please explain your answer in the text box.

We see a range of possible positive and negative impacts that setting a minimum number of learning hours could bring to the families we hear from. We feel that if our concerns are addressed, via awareness of these issues and development of robust guidance and mitigations, setting minimum learning hours could be beneficial. We will outline the different ways in which we feel this proposal could impact children and young people with additional support needs and their families, based on what we hear via our helpline. All enquiry summaries or direct quotes reported in italics are from the last three months.

### Data from our helpline

In the period April 2022 to March 2023 Enquire responded to 1,601 enquiries from parents, carers and professionals about additional support for learning.

Of those who contacted us, 26% of queries related to children and young people out of school. This included when a child was not in attendance due to:

- part-time education
- school-related anxiety
- absence through ill health
- unlawful exclusion
- a parent/carers keeping them off due to concerns about support, safety or suitability of placement.

The top 4 factors giving rise to additional support needs in these enquiries were:

- Autism (55%)
- Anxiety (40%)

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<sup>1</sup> [Not Included, Not Engaged, Not Involved: A report on the experiences of autistic children missing school](#)

- ADHD/ADD (19%)
- Mental health issues (17%).

(NB: Many of our enquiries are about children with multiple needs, so some children will have more than one of these (and/or other) factors contributing to their support needs.)

We also hear of the specific issues with attendance experienced by young carers due to their responsibilities at home, and by others with challenges in their home lives such as those with care experience.

Of these enquiries, the following issues were raised most often:

- School related anxiety (37%)
- Level of support (31%)
- Out of school education provision (26%)
- Relationship difficulties with the school or local authority (24%).

In our 88 enquiries that were specifically about part-time education, two-thirds of these (67%) were about disagreements around the use of a reduced timetable (55% about its ongoing use, and 12% about the introduction of one). For the remaining third (33%), the parent/carer was in agreement with professionals that part-time attendance was in the child's best interests.

### **Stories from our helpline**

Many of the families we speak to feel their child could access more learning with the right support in place:

*'Parent contacted us about their 16-year-old who attends special school on part-time timetable which has now been reduced further. This recent reduction is because of staffing issues. The parent is unhappy with this and wants to know if the school are allowed to do this. They asked us can [their child] get full time again?'*

Others feel that a decision has been made without taking on board their or their child's views:

*'Parent is unhappy with use of part-time timetable, feels instead of meeting his needs, the school are blaming his behavior and pushing him into part time learning, which he doesn't want to do. Parent says their young person feels unwanted and misunderstood, parent is sad and frustrated, also very stressed as she is struggling to balance work alongside this. School are not responding to meeting requests.'*

There is also a lack of clear national guidance on the use of part-time timetables, and how these should be implemented, reviewed and recorded. This can cause much uncertainty and confusion and results in a disparity in approach between individual staff, schools and local authorities:

*'[My] child is 11 and has been having school difficulties since P2. [My child] was privately diagnosed with ASD last year. [My child] attends school full-time Thurs- Fri and has 1 hour of interrupted learning on a Wednesday. For the first time in a long time things at school are going OK for [them].*

*Over the years we have done soft starts and other interventions all which have failed*

to get [them] back to full time schooling. We always fully cooperate with the school and have a good relationship. Recently [my child's] year head left and has been replaced. The new year head is not at all on the same page.

Today we had a school meeting and the Principal Teacher brought up that at the School Inclusion Meeting the only thing that was suggested was to put in a "notification of concern" [usually a referral to the children's reporter or social work]! I'm unsure what this would achieve and frankly I'm in shock.

I have voiced over the years that home schooling would be more appropriate. What help financially is available for this? I have asked the school and never have had an answer.

My child is happy with his current part time plan and feels more settled. We have had a private psychologist, school nurse and now an outreach worker. All who have tried various things. None which have worked. At one point [my child] was so low over school [they were] deemed as having depression. After that I have always said [my child's] mental health comes first no matter what.

I just want to know what options are on the table and where I legally stand. After today's meeting, I'm totally confused.'

Some decisions are also reported as being driven by budgets, or made by those who do not have close contact with the child:

'Autistic young person has been out of school since lockdown. Currently planning transition to secondary school next year. Multi-agency meeting had recommended an hour a day at the high school a few times a week to support young person to leave house and build some contact with adults. The primary and high school applied to the local authority board to fund staff for this. This has been refused so the schools organised it themselves for a temporary period and re-wrote application and resubmitted the IEP. Funding for staff has been refused again, so both schools are going to remove the support. Everyone at the multi-agency meeting agrees young person needs the support, but they can't deliver it without extra staff. This will lead to son having no education full-time again and no plan to help him get into school for longer when he moves up next year.'

We also speak to families who feel under significant pressure to send their children to school because they have been told they must be there full-time, despite the family or child feeling this could be detrimental to their wellbeing or mental health. Struggling families can feel threatened if non-attendance reaches the point of Children's Reporter referrals. Some have decided their only option is to home educate to allow their child more flexibility:

'My child is 14 and has autism has not attended school since 2022. The school have given us suggestions and options but my child will not engage.

We attended a meeting last week and were informed that [the local authority] team have given them a timeline until the end of the month to attend the school or we will be reported to the Children's Reporter.

My first instinct is to withdraw [my child] from school as they will (at the moment) definitely not attend as they are afraid of the environment and the pupils.

*They currently get a support worker on one morning who has seen great progress with them. At the moment my child comes with me on activities, plans the day, understands any issues and is a different person since not attending. [My child] understands they need an education but doesn't feel safe in school.'*

### **How this informs our view on minimum learning hours**

As evidenced above, we speak to a significant number of families whose children are not attending school full-time, for wide-ranging reasons. In principle, we feel that having a minimum number of learning hours as a standard to aim for could be beneficial for these children.

However, we are concerned that the exemption based on a pupil's wellbeing being adversely affected could significantly disadvantage children with additional support needs, including disabled children. The current proposal puts this decision in the hands of the school/local authority, with no clarity over how this will be applied, what evidence would be used to make this decision, how young people's and families' views would be heard and what opportunity for redress there would be if there is disagreement about its application.

In order to be beneficial, this exemption needs to have a clear process with a requirement to involve children and families in decisions, to follow certain procedures and keep clear records and opportunities for redress. Otherwise, we fear the policy could be used to make unilateral decisions that may not always benefit the child in the short- and/or long-term. Clear communication about expectations will also be needed so this new guidance does not disadvantage or pressurise already vulnerable families.

We also have some concerns about how a minimum number of learning hours will be provided in some circumstances. We know that there are challenges facing local authorities and schools around staffing and resources for children and young people with additional support needs. As shown in the examples from our helpline above, we know that some families are being told explicitly that the reason their child cannot attend school full-time is because there are not the staff available to support them in the way they need. While we know that in many of these circumstances alternative placements will be identified or support arranged within existing resources, we also know that this isn't always the case and that it can happen within specialist settings as well as mainstream. As the examples show, even applications and appeals made by the team working closely with the child, who recognise the need for additional resources or staffing, are sometimes not successful - leaving children in long-term part-time arrangements or out of school completely.

We also speak to families whose child is in a mainstream school and is attending part-time only, who feel that their child could access full-time meaningful learning in specialist provision. Although there may be an argument that it would be detrimental for the child's wellbeing to be in the mainstream setting full-time, there is currently no clear process for considering whether they could be accessing full-time hours elsewhere or with additional support in the current setting.

It would be worth considering how exemptions will apply in different scenarios. For example, if a child's wellbeing might be adversely affected if they attended full-time

due to either the current setting being unsuitable, or a lack of support in place, could the wellbeing exemption be used? And is there a danger that some situations related to this could be classed as a 'matter out with the authority's control', for example a local authority being unable to recruit into a Pupil Support Assistant post that's needed to facilitate full-time attendance? We would have concerns about the implications of this for children's right to an education, as identified in Article 28 of the UNCRC, and the right to the additional support they require. Similarly, we feel there would need to be robust accountability and due process, with meaningful involvement of the child and their family, and options for appeal.

This would be another benefit to having clear guidance on process around reduced attendance and use of the exemptions, with requirements on:

- recording the reasons for the reduction, and why it is in the child's best interests
- time-limiting any agreements
- setting clear dates for reviews, which include consideration of whether further assessments of needs are required, and whether alternative supports or placements should be explored
- involving the child and their parent/carer(s)
- keeping clear records of attendance on SEEMIS
- recording agreed actions to increase/ensure access to learning, if appropriate for child's state of health (whether by attending school, or accessing out-of-school education)
- routes that can be taken if there are disagreements about reduced attendance.

Clear record keeping and process would also lead to a more honest and accurate reflection of attendance than is currently available. Data on how many children are not being provided with the minimum number of learning hours would be extremely valuable, alongside records of the reasons for this. This would help identify what actions might need to be taken on a wider scale, for example at school, local authority, or national level, to improve things for those children that are consistently not accessing the same amount of education as others.

### **Question 2**

Do you agree that the minimum annual learning hours should be 950 hours for primary schools?

Yes

No

**Not Sure**

Please explain your answer in the text box.

### **Question 3**

Do you agree that the minimum annual learning hours should be 1045 hours for secondary schools?

Yes, no changes should be made

No, changes should be made

**Not Sure**

Please explain your answer in the text box.

#### Question 4

Do you agree with the suggested definition of learning hours set out at paragraph 2.1 above?

Yes, no changes should be made

**No, changes should be made**

Not Sure

Please explain your answer in the text box.

We feel more clarity is needed on what is meant by 'period of teaching'. It would also be beneficial for guidance to provide clarity over what constitutes meaningful learning hours.

We know from the experiences of many of those who contact us that their child may physically attend school but is not learning. Clear expectations and standards could help tackle issues where children are present in education settings, but the other cornerstones of inclusion are not being met – participating, engaged or included.

We are aware of children spending most of their day alone with a single staff member in rooms or otherwise segregated from peers and are unclear whether these would count as periods of teaching.

Alternatively for some children, inclusion in breakfast clubs and extra-curricular activities will be providing social learning and inclusion. It is not clear whether 'period of teaching' includes alternative settings and other forms of more flexible learning. We feel there could be positives to allowing non-traditional forms of learning hours to be counted and considered, so long as this is clearly defined.

More than a quarter of our enquiries about children not in full-time education relate to issues with out-of-school education provision. We are also aware that many children and young people who are unable to physically attend can struggle to get access to the amount of learning that they wish to do and are capable of. This is another issue echoed in the *Not Included, Not Engaged, Not Involved* report.

As such, we believe it is worth considering when learning for a child who is accessing education outside the school setting (such as online learning or tutoring) would be included or not within the definition of learning hours.

We therefore feel it would be helpful to set out how learning hours align with GIRFEC and a broader definition of achievement, learning, wellbeing and inclusion.

#### Question 5

Apart from the exemptions outlined in this paper are there any other circumstances where a variation to the number of learning hours provided may be needed?

Please set out your response in the box below

As above, our main recommendation is for clearer guidance around the application of any exemptions that are proposed. There is such a huge breadth of reasons why some children and young people may not be able to access full-time education.

This needs to be clearly acknowledged with helpful, real-life examples. We know that it is not possible to list the full set of reasons, just as it is not possible to list a full set of possible additional support needs, however we feel there needs to be specific acknowledgement of those with mental or physical health needs, disabled pupils, young carers, and those with care experience. These children can be some of the most likely to struggle with full-time attendance.

Children with additional support needs are also significantly overrepresented in exclusion figures. We believe there should be further consideration and consultation around the proposed exemption for pupils who have been temporarily excluded, particularly in light of the commitment resulting from The Promise to end exclusions for looked after pupils.

**Question 6**

Are there any further views you wish to share regarding this proposal?  
Please set out your response in the box below

**For more information, please contact:**

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