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## **A. Introduction**

Every child has a right to an education and the responsibility for a child's education rests with their parent. Whilst most parents fulfil this responsibility by sending their children to school, others may choose to provide home-based education.

West Lothian Council recognises that home education is a key aspect of parental choice and is an equally valid choice alongside the option to send a child to school.

Home education is a right conditional upon the parents providing an efficient education suitable to the age, ability and aptitude of the child. Choosing the option of Home Education does not in itself require permission from the local authority. Permission from the local authority is required, however, to withdraw a child/young person from a local authority school. This is further explained in Section B below.

In December 2007, after consultation with interested parties, the Scottish Government published revised statutory guidance on home education and this guidance can be accessed through the following link:-

<http://www.scotland.gov.uk/Publications/2007/12/17133313/8>.

This guidance outlines suggested good practice for local authorities in dealing with home education and West Lothian Council is committed to the principles outlined in this document.

The Scottish Government highlights the following two main principles:

- Authorities should have regard to the views of parents and the decisions that they make in relation to their child's education; and
- Authorities should seek to build relationships with parents and children that support them in the choices that they make by offering advice, information and resources where feasible.

## **B. Purpose of Document**

The purpose of this policy is to provide clarity on the roles and responsibilities of West Lothian Council and parents/carers in relation to children and young people who are Home Educated. The aim is to develop positive relationships of trust and mutual respect to ensure an educational provision which is in the best interests of the individual child/young person.

The general legislative provisions relating to this policy are contained in the Education (Scotland) Act 1980.

## **C. Consent (Withdrawing a Child /Young Person From School)**

Parents of a child who has been attending a West Lothian Council school must seek West Lothian Council's consent before withdrawing their child from that school. The Council must not unreasonably withhold consent. For clarity, it should be noted that while consent is needed for withdrawal from school, consent is not needed to home educate in itself.

Consent to withdraw a child/young person from school is not needed in the following situations:

- The child has never attended a local authority school

- The child has never attended a West Lothian school
- The child is being withdrawn from an independent school
- The child has completed primary education but has not started secondary education
- The school the child has been attending has closed.

Whilst there is no statutory duty upon parents to inform the authority that they are home educating if consent to withdraw is not required, West Lothian Council would ask that home educators in their area, or moving into their area, contact them. In this way, positive relationships can be built and support provided where appropriate.

Parents choose to home educate their children for many different reasons. Parents do not have to give a reason when requesting to withdraw their child from school, but if they choose to do so, that reason should have no bearing on whether or not consent is given. West Lothian Council's interest lies in how the parents intend to educate their child, not their reason for doing so. The following examples are common but not exhaustive:

- The wish to follow a particular educational or ideological philosophy
- Dissatisfaction with the system
- Religious or cultural beliefs
- A child's reluctance to go to school
- A child's problems when at school, eg bullying
- Geographical – due to the 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.

When a parent offers an account of their dissatisfaction with the public system of education provision, West Lothian Council will investigate the situation and endeavor to use this information to improve its service if required.

#### **D. The Procedure (Withdrawing a Child /Young Person From School)**

The procedure for considering parents'/carers' requests to withdraw their child/young person from school requires to be fair, clear, consistent and without delay. This will provide a good foundation for the development of trusting relationships.

Home education is a key aspect of parental choice and consent to withdraw a child from school should not be unreasonably withheld. On the other hand, sufficient time should be allowed for the Council to take an informed decision on the important matter of withdrawal from school.

The procedure outlined below should be followed when dealing with a request from a parent/carer to withdraw their child/young person from school:

##### **Step 1: Request for Consent to Withdraw Child Young Person From School**

Parent/Carer establishes whether consent is required to withdraw their child/young person from school. If consent is required, he or she should write to request such consent to:

Education Services  
Home Education  
Education Services  
West Lothian Civic Centre  
Howden South Road  
Livingston, EH54 6FF

This request should, where reasonably practical:

- be submitted as early as possible and well in advance of the date the parent/carer wishes to withdraw their child/young person from school. This will avoid unsettling the child/young person unnecessarily as the child/ young person is required to attend school until consent to withdraw has been granted by the Council.
- include initial proposals as to how the parent/carer intends to provide an efficient and suitable education for their child. A template has been develop to assist parent/carers in this process. It is recognised that at this early stage, parents' proposals may not be detailed and that they may not yet be in a position to demonstrate all of the characteristics of efficient and suitable education.

(It should be noted that parents are not required to indicate the reasons for their decisions but may do so if they choose.)

## **Step 2: Information Gathering**

On receipt of an application to withdraw a child from school, Education Services should acknowledge receipt within 3 working days;

- offer a meeting with relevant Education Services officers to discuss the parents' proposals or provision and provide an opportunity for the parents/carers to address any specific concerns which are raised about such provision. It is important that the meeting takes place in a mutually acceptable location. The child/young person should be given the opportunity to attend the meeting or otherwise be given an opportunity to express his or her views. The child/young person's attendance at such a meeting is not regarded as compulsory;
- ask the relevant school and all partner agencies if there is any existing evidence which indicates that there may be good reason to refuse consent. Partner agencies for this purpose include Social Policy, Police Scotland, Reporter to the Children's Panel and NHS Lothian.

## **Step 3: Determination of Decision**

Education Services will consider all relevant information in relation to the request to withdraw the child/young person from school.

This will result in one of the following determinations:

- there is no evidence of reasonable grounds to withhold consent to withdraw the child/young person from school and some indication from the parent/carer of their educational objectives and proposed resources.  
In this case consent will be granted as soon as administratively possible.
- there is evidence of reasonable grounds to withhold consent to withdraw the child/young person from school. It is important to note that previous irregular attendance is not of itself a sufficient reason to refuse consent.

Specific examples of such circumstances are:

- Where a child has been referred to Social Policy 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 the child is subject to a compulsory supervision order.

In this case consent to withdraw the child/young person from school will not be granted

- There is no evidence of reasonable grounds to withhold consent to withdraw the child/young person from school. There is, however, information which exists that casts doubt on whether an efficient and suitable education can be provided, or the parent/carer has failed to provide outline proposals on the proposed educational provision. In this case Education Services will seek to gather relevant information that will assist in reaching a decision. This will include seeking further information from the parent/carer about their proposed educational provision. Parents/carers will be given the opportunity to address any specific concerns identified by Education Services. The child/young person will also be given an opportunity to express his/her views.

In this case consent to withdraw the child/young person from school will only be granted when the Quality Improvement Manager is satisfied that an efficient and suitable education can be provided by the parent/carer.

#### **Step 4: Communication of Decision**

The decision in relation to the request to withdraw the child/young person from school is communicated to the parent/carer in writing as soon as is reasonably practicable.

If the decision is to refuse to grant consent then the decision letter:

- will outline the reasons for such refusal
- provide a timescale within which parent/carers can address the grounds for refusal and resubmit their request for re-consideration

#### **Step 5: Appeal Process**

There is no statutory right to appeal against a decision to withhold consent to withdraw a child from school. However, Education Services will internally review decisions to withhold consent on request. Decisions made by authorities under their statutory powers are also generally subject to external review by the Court of Session through the judicial review process.

Parents may make use of the independent mediation service (Common Ground Mediation Tel: 0131 664 9324) and/or may also make a complaint about a decision via the Education Services Complaints Procedure by contacting the following:

Customer Services Manager  
Education Services  
West Lothian Civic Centre  
Howden Road South  
Livingston.  
01506 281255.

Parents may also choose to pursue the matter with the Scottish Public Services Commissions (Ombudsman)

(Freephone 0800 377 7330 or call 0131 225 5300)

### **Step 6: Future Engagement with Families choosing to Home Educate**

Families choosing to home educate their child/young person are encouraged to make contact with the Education Services for support and advice at any time.

There is no statutory duty on West Lothian Council to investigate actively (ie monitor) ongoing home education provision. However, there is a legal duty that exists to serve a notice on any parent who West Lothian Council considers is not providing efficient education suitable to their child's age, ability and aptitude.

Following consultation with families who are known to be home educating their child/young person in the West Lothian area, Education Services will offer contact on an annual basis or more frequently if considered appropriate. The primary purpose of the contact is to satisfy the Council that suitable and efficient education is being provided. This can be done through a meeting at a mutually agreed location or through other means such as the submission of a written report. The important factor is whether the information can demonstrate that suitable and efficient education is being provided. There is no duty for parents choosing to home educate their child to engage in contact with the Council if they do not wish to do so.

Following the contact, Education Services will write to the family advising them of whether or not the educational provision was seen to be suitable and efficient. Where there are concerns about the efficiency and suitability of the education being provided, Education Services will write to the parents to clarify the nature of these concerns and provide support and guidance to address issues arising.

## **E. Legal Duty on West Lothian Council**

In circumstances in which the Education Services has reason to believe that a parent/carer is not providing an efficient and suitable education for a home educated child, it has a duty to intervene regardless of whether or not the child/young person has previously attended a local authority school.

If, from whatever source, the Education Services becomes aware of concerns about the home education of any child/young person, outwith the normal contact time, Education Services will gather the necessary information in order to form a view on whether those concerns are justified and whether the parent/carers are providing an efficient education suitable to the age, ability and aptitude of the child.

Learning takes place in a wide variety of environments and not simply in the home. Where the education is taking place in the home, Education Services may consider it desirable to have the opportunity to see the child in that learning environment, to observe the provision directly in order to make a decision as to whether suitable and efficient education is being provided. Education Services does not, however, have a right of access to the home and the child. Trusting relationships may need time to develop before a parent is willing to invite an Education officer to visit. Where a parent elects not to allow access to their home and the child, this does not in itself

constitute a ground for concern about the education provision. Although it is recognised that the learning environment can have a bearing on the effectiveness of learning, Education Services will offer to discuss and evaluate the parents' educational provision by alternative means. Parents might prefer, for example, to write a report, provide samples of work, either in hard copy or electronically or provide evidence in some other appropriate form.

Where Education Services has concerns about the education provision which are not allayed by the presentation of written or alternative forms of evidence and ongoing dialogue, and the only way clarification as to whether suitable and efficient education is being provided is to seek access to the home environment, then a request to do so will be made to the parent/carer. Education Services will outline the grounds of concern to the parent when requesting access to the home. In these exceptional circumstances, if the parent refuses to allow access to the home, Education Services may reasonably conclude that they have insufficient information to satisfy themselves as to the efficiency and suitability of the education provision. At this point, the Council may serve a notice on the parent in terms of section 37 of the Education (Scotland) Act 1980

## **F. Child Protection**

The welfare and protection of all children/young people, both those who attend school and those who are educated by other means, is a paramount concern and is the responsibility of the community as a whole. It is no more likely that child protection issues will arise in relation to home educated children than school educated children. However, if concerns do arise, they should be referred to the appropriate authorities using established protocols.

Parents may choose to employ other people to educate their child/young person though they themselves will continue to be responsible for the education provision. Parent/carers are also responsible for ensuring that those they engage are suitable persons to have access to children/young people. Parents/carers are advised to satisfy themselves for example by taking up appropriate references or requesting that a disclosures check is carried. Further information about disclosure checks is available from Disclosure Scotland ([info@disclosurescotland.co.uk](mailto:info@disclosurescotland.co.uk) tel: 0141 282 5000).

## **G. Making an Attendance Order**

West Lothian Council should make an Attendance Order where the parent/carer, on whom notice has been properly served, fails to satisfy the Council that efficient education is being provided, suitable to the age, ability and aptitude of the children or that there is reasonable excuse for his or their failure to do so.

Only in extreme cases should a notice under section 37 be served. This would be issued where the education is clearly not efficient and suited to the age, ability and aptitude of the child and this situation is not likely to be resolved by further ongoing dialogue, or where the authority has made every effort to secure the information required to enable it to satisfy itself that the education is efficient and suited to the age, ability and aptitude of the child and that information has not been provided by the parent. A section 37 notice will allow between seven and fourteen days for the parent/carer to provide the Council with whatever information it requires to be satisfied that the education is efficient and suitable. The parent may choose to do this by meeting with Education Services Officers in person or by supplying the information in writing.

Once an Attendance Order has been made, the parent/carers has Fourteen days to appeal to the Sheriff, who may confirm, change or annul the order. The decision of the sheriff is final.

#### **H. Examinations and School Course Availability for Home Educated Children/Young People**

There is no legal requirement for children/young people to sit a particular set of examinations. If parents/carers want a child/young person to take a particular qualification, they should investigate thoroughly whether, and how easily, their child/young person will be able to access examination and assessment arrangements. The Council is not required to meet any costs associated with home educated candidates taking examinations or other qualifications. The Council will however, where circumstances allow, take a reasonable approach and make available any resources, support, course provision and give information about alternative qualifications and the arrangements needed for children/young people to take them, where applicable.

In all cases, pupils enrolled at a West Lothian school will have priority for course and examination provision over members of the community, including home educated children and young people.

#### **I. Education Maintenance Allowances (EMAs)**

A home educated child/young person is eligible for EMAs, subject to the same criteria as set out for school educated children. EMAs are available to eligible young people who are undertaking full-time non-advanced level study by home education. The EMA programme is administered by the Council and applications should be made to:- [EducationCustomerServices@westlothian.gov.uk](mailto:EducationCustomerServices@westlothian.gov.uk).

Students applying for an EMA as a home educated student must have a history of home education prior to reaching their official school leaving date. The Scottish Government publish updated guidance annually in March. Parents should refer to the latest guidance for more details.

#### **J. Flexi-Schooling**

On occasion requests are submitted to withdraw a child part-time from school, e.g. for the child to attend school only on certain days, or for certain subjects. The feasibility of each request will be considered on its own merit, while taking into consideration that under Section 28 of the Education (Scotland) Act 1980 “so far as is compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents”. This arrangement within West Lothian Council is known as Flexi-Schooling. Only where children do not attend any school, and where the education is provided predominantly by the parents, should the arrangement be considered to be home education.



#### **K. Children/Young People with Additional Support Needs**

A parent's right to home educate a child/young person applies equally where that child has additional support needs. The fact that a child has additional support needs will not, in itself, be a reason to refuse an application for consent to withdraw a child/young person from school. It is reasonable, however, for West Lothian Council to ask parents to indicate how they propose to cater for their child/young person's additional support needs at home.

When considering an application for consent, or considering whether the education is suitable, taking account the age, ability and aptitude of the child/young person, the Council will consider the environment in which a child with additional support needs is to be educated and its appropriateness for the individual child/young person. With the agreement of the parents, the child's Educational Psychologist may be involved in assessing the proposed provision for a child/young person with additional support needs.

There is no statutory responsibility on West Lothian Council to provide financial or other support for the education of children/young people with additional support needs whose parents elect to home educate.

#### **L. Record Keeping**

Local authorities should keep a written record setting out any discussions, recommendations or agreements made with parents, and where relevant the reasons for them. Any written report should be copied to the parents, and where appropriate the child. In exceptional cases, where there is a reasonable concern that a passage in any written record might cause serious harm to the physical or mental health or condition of any person concerned, consideration should be given to withholding that part of it. The authority will be aware of the need to comply with data protection and freedom of information principles.

#### **M. Named Person**

From 31 August 2016 all home educated children in West Lothian will be have a Named Person Service made available to them.

The Named Person Service will be available to listen, advise and help home educated children and their parent/carers, provide direct support or help them to access other services. The Named Person Service is made available to all home educated children. Should home educated children or their parents/carers require to make use of those services then they should contact the Named Person Service to access any of the services on offer via the central email address and dedicated phone number outlined below from 31 August 2016.

Email: [namedpersonservice@westlothian.gcsx.gov.uk](mailto:namedpersonservice@westlothian.gcsx.gov.uk)

Phone: 01506 282064