

EAST RENFREWSHIRE COUNCILEDUCATION COMMITTEE8 June 2023Report by Director of EducationEAST RENFREWSHIRE COUNCIL RESPONSE TO THE SCOTTISH GOVERNMENT'S
CONSULTATION ON PRESCRIBING THE MINIMUM ANNUAL NUMBER OF LEARNING
HOURS**PURPOSE OF THE REPORT**

1. The purpose of the report is to seek the Education Committee's approval of the proposed response to the Scottish Government's consultation on the prescription of the minimum annual number of learning hours of school education school pupils should receive each year.

RECOMMENDATION

2. Education Committee is asked to note and approve the Education Department's response to the Scottish Government's consultation on the prescription of the minimum annual number of learning hours of school education school pupils should receive each year.

BACKGROUND

3. In March 2023, the Scottish Government published a consultation seeking views on plans to set a legal minimum number of hours of school education school pupils should receive each year. More details are included in the [Scottish Government consultation paper](#)ⁱ.

4. Local authorities in Scotland are required to have schools opened for 190 days each year as defined by [Regulation 5 of the Schools General \(Scotland\) Regulations 1975](#)ⁱⁱ, as amended. This requirement is unaffected by this consultation.

5. However the number of learning hours that schools must provide annually is not defined in legislation. Furthermore a definition of learning hours and the types of school minimum hours would apply to is also not currently provided for.

6. [The Education \(Scotland\) Act 2016](#)ⁱⁱⁱ makes provision for Scottish Ministers to set the minimum number of learning hours in a school year however, until now this has not been enacted. It is in accordance with this legislation that ministers now propose to use this power to make regulations later this year.

REPORT

7. The consultation proposes to define learning and teaching hours as '...the period of teaching that learners receive within the school day.' not inclusive of break-times, extra-curricular activities or breakfast clubs etc. The minimum number of learning and teaching hours is proposed to be defined as 950 (25 per week) and 1045 (27.5 hours per week) for those in mainstream primary and secondary schools, respectively.

8. The expectation of the minimum number of learning hours also applies to special schools, however the consultation does recognise that in order to meet the needs of such children, planned learning does take place over break and lunchtimes and that learning hours in these circumstances need to be tailored to the individual's needs.

9. The proposal is only applicable to schools that are managed by local authorities or are grant aided schools, and does not apply to independent sector or those choosing to home educate.

10. The proposal does allow for the continuation of requests from local authorities to ministers for special exemption to the required number of learning hours in accordance with the provision of the [Education Scotland Act 1980](#)^{iv}. Such requests are often made for unavoidable ad hoc school closure days such as children transferring from an existing to new school building or to mark additional public holidays, such as the recent Queen's State Funeral.

11. In addition there are some exemptions to the defined number of learning hours which do not require ministerial approval, such as in the case of:

- a. specific learner's needs;
- b. matters out with an authority's control such as school closure for weather; and
- c. where other circumstances that ministers prescribe by regulations may apply.

12. This consultation is an opportunity for stakeholders to provide views and evidence about the potential impact of the implementation of this policy.

13. The consultation period is from 21 March 2023 to 13 June 2023.

14. The enactment of the minimum number of learning and teaching hours as defined in paragraph 7 is in line with East Renfrewshire Council's provision. Currently all ERC primary, secondary and special schools provide learning hours in accordance with the suggested number of minimum learning hours.

15. However, defining the minimum number of learning hours in statute further reduces the flexibility local authorities have to design education services and means that the Council will no longer be able to determine the appropriate number of learning hours to best meet the needs of its school aged children. In addition, the approach set out in the consultation paper lacks clarity in a number of areas and may result in longer-term financial and practical implications.

16. The Council's draft response to the consultation takes the position of not being in favour of implementing legislation to define the minimum number of learning hours and details the reasoning for this; the draft response is included as Appendix One.

CONSULTATION

17. Head teachers of early years, primary secondary and special schools have been made aware of the consultation following discussion at Head Teachers' meetings and encouraged to respond independently. The Parent Council Chairs have also been made aware of the consultation and encouraged to respond.

FINANCIAL AND EFFICIENCY IMPLICATIONS

18. As the proposed minimum learning hours are in alignment with the current provision across education in East Renfrewshire Council, there are no immediate financial implications the proposal.

19. However, as is noted in the draft response in Appendix One, the legislating of minimal learning hours will remove the Council's autonomy to determine the appropriate number of learning hours for its learners and context in future years. Given the significant proposals for change in Scottish Education that are likely to take place in coming years, it is likely that in order for the Council to meet such a statutory requirement as this, will result in a significant financial burden.

CONCLUSION

20. The proposed response to the consultation records the Council's position that it is not in agreement with the proposal to legislate for a standardised annual minimum number of learning hours that school age children should receive.

21. Should the proposal be progressed:

- a. any additional financial costs associated with the introduction of the annual minimum learning hours, and any other future changes to the delivery of education as detailed in the draft response, must be fully funded by the Scottish Government.
- b. greater clarity of the definition of the term 'learning hours' is required in order to incorporate all of the types of activities and events which take place throughout a school day and year in which children and young people will be engaging in their learning;
- c. it should be made clear that learning hours are not only those delivered by registered teachers but also other appropriate support staff;
- d. local authorities should not be expected to ensure the minimum number of learning hours to children by extension of the school year;
- e. the recording of learning hours and requests for exemptions should not be overly bureaucratic and school leaders and local authorities should be trusted to use their professional judgement using provided guidance, to determine learning hours inclusion.

RECOMMENDATION

22. Education Committee is asked to note and approve the Education Department's response to the Scottish Government's consultation on the prescription of the minimum annual number of learning hours of school education school pupils should receive each year.

Convener Contact Details

Councillor Anderson, Convener for Education, Culture and Leisure
Tel: 07341 640 825
Tel: 0141 577 3107
andrew.anderson@eastrenfrewshire.gov.uk

Report Author

Joe McCaig
Head of Education Services (Provision)
Tel: 0141 577 3229
joe.mccaig@eastrenfrewshire.gov.uk

Background Papers

- ⁱ Scottish Government Consultation on the prescription of the minimum annual number of learning hours of school education school pupils should receive each year: <https://consult.gov.scot/learning-directorate/learning-hours-consultation/>
- ⁱⁱ Schools General (Scotland) Regulations 1975: <https://www.legislation.gov.uk/ukSI/1975/1135/contents/made>
- ⁱⁱⁱ Education (Scotland) Act 2016: <https://www.legislation.gov.uk/asp/2016/8/contents/enacted>
- ^{iv} Education (Scotland) Act 1980: <https://www.legislation.gov.uk/ukpga/1980/44/contents>

Appendix

Appendix 1 Respondent Information Form – Consultation Questionnaire

Respondent Information Form

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy: [Privacy - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Are you responding as an individual or an organisation?

- Individual
- Organisation

For individuals, are you responding as a:

- Learner
- Parent
- Teacher
- School Support Staff
- Education Practitioner
- Other, please state:

Full name or organisation's name

East Renfrewshire Council

Phone number

0141 577 3001

Address

Eastwood Park
Rouken Glen Road
Giffnock

Postcode

G46 6UG

Email Address

Joe.mccaig@eastrenfrewshire.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

Questionnaire

Question 1

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

- Yes
 No
 Not Sure

East Renfrewshire Council does not agree with the proposition of the Scottish Government to set in law the minimum number of learning hours for school pupils in Scotland. At the outset the proposal paper does not clearly define learning hours and the other learning experiences which should be included in the definition. The proposal does not provide any detail with regards to how the number of minimum learning hours will be recorded and reported upon, and the process by which local authorities can apply for exemption to the legislative hours.

The number of learning hours being proposed by the Scottish Government aligns with the current delivery models within the primary, secondary and special sectors across East Renfrewshire Council and so if these are the confirmed hours, this will not initially impact on the Council given current delivery model. However, whilst the current provision matches the proposed hours, this will limit the Council's ability in future to make any alterations to the delivery of school age education which the Council may feel is most appropriate to meet the needs of our learners and local circumstances/context, limiting flexibility. The introduction of this legislation undermines local authorities' autonomy to design and deliver services for their local communities.

Financially, any legislation which sets the minimum number of learning hours must be fully funded by the Scottish Government on a sustainable ongoing basis, as any additional costs now or in future which are associated with the legislation cannot be met from already stretched existing budgets. As indicated, the proposed hours will not impact on the Council's existing provision however, the introduction of these regulations in the current financial circumstances may see disproportionate cuts in the future on a range of services that all contribute to ensuring improved outcomes for children and young people.

Nationally there is a variety of developments that require to be considered alongside this proposal. There is now an expectation that local authorities maintain their teacher numbers and Pupil Support Assistant hours, based on the annual census in September 2022, on an ongoing basis. Regardless of any changes to school rolls or local decision making regarding educational approaches or local contexts, local authorities are required to maintain these staffing figures. Furthermore the Scottish Government has committed to reducing the number of pupil teacher class contact time (learning hours for teachers) from 22.5 hours per week to 21 hours per during this parliamentary term. Professor Hayward is currently undertaking an independent review of qualifications in Scotland that is likely to result in significant change to teaching and learning approaches as well as assessment, qualifications and certification. Combined, these developments, along with the removal of flexibility that legislating for minimum learning hours will bring, will result in significant financial, recruitment and logistical challenges to local authorities that must be considered by the Scottish Government collectively.

East Renfrewshire Council does recognise that the proposal indicates that there will be flexibility in the requirement to offer a set number of learning hours on the basis of occurrences which are: out with its control; on request to Ministers for adjustment to the hours; and on the needs of specific learners. For example it may be the case that a pupil will follow part-time timetable for a period of time to support that child appropriately, and it is right that schools are entrusted to make such decisions locally, overseen by education authorities. However there is a lack of detail in this regard in the proposal.

The Council also notes the recognition that learning hours of children who attend a special school will require to be flexible due to the needs of such learners and that learning does take place at times such as break and lunchtime. This will allow these children's need to continue to be met appropriately.

Please explain your answer in the text box.

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.

East Renfrewshire Council is not in agreement that the annual learning hours for the primary sector should be defined as 950 hours in statute.

As noted previously, currently primary school children attend East Renfrewshire's schools for 950 hours per annum, on the basis of 25 hours teacher contact time per week, distributed equally across the 5 days of the week. Furthermore, pupils across all stages who attend East Renfrewshire primary schools are provided with 25 learning hours from the commencement of the P1 school year. This allows for the continuation of a similar length of day as children experience in the early years, as part of the 1140 hours provision and we believe that this is the optimum number of hours for our learners' needs and our context, at this time.

However, whilst the Council believes that this number of learning hours, at this time, is the most appropriate for children at these stages, the Council may consider in future years that this number of learning hours is no longer most appropriate for its learners and its context. Consequently, the Council does not agree with the removal of local autonomy on deciding the most appropriate learning hours for primary aged children and that 950 hours of learning hours should be set in statute.

The proposal paper indicates that the number of learning hours offered in Scotland is already significantly above the OECD average, which suggests there is no need to legislate on such a matter. The proposal paper also does not provide any evidence that 950 hours is the most appropriate number of teaching hours for the country or the impact that legislating as such will have on learners, with no reference to other fundamental factors such as the quality of learners' experiences, the workforce and its development, the curriculum etc. and outcomes for learners.

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.

East Renfrewshire Council is not in agreement that the optimum number of annual learning hours for the secondary sector should be defined as 1045 hours in statute.

East Renfrewshire Council currently delivers 1045 hours of learning annually to secondary pupils to overtake their entitlement to the entirety of the broad general education but also to overtake the demands of the academic and vocational offering in the senior phase. This number of learning hours also allows for time for students to take part in wider school events and extra-curricular activities and the Council believes that this is the optimum number of learning hours for its learners' needs and context, at this time.

As noted in response to question 1, other national agendas are likely to have a significant impact on the Council and the removal of the Council's autonomy to make decisions on the number of learning hours which meets the specific needs of its learners and context, is not welcomed.

As per response to question 2, the proposal paper indicates that the number of learning hours offered in Scotland is already significantly above the OECD average, which suggests there is no need to legislate on such a matter. The proposal paper also does not provide any evidence that 1045 hours is the most appropriate number of teaching hours for the country or the impact that legislating as such will have on learners, with no reference to other fundamental factors such as the quality of learners' experiences, the workforce and its development, the curriculum etc.

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.

'Learning hours are the period of teaching that learners receive within the school day. In most cases, they do not include lunch and other break times or extracurricular activities or provision such as breakfast clubs that may take place around the core school day.'

Considered solely on its own, East Renfrewshire Council generally agrees with the sentiment of the learning hours definition. It is accepted that in such a definition there should be a compulsory attendance element to the defined learning hours excluding non-compulsory elements, such as breakfast clubs and extracurricular activities. In addition, the Council agrees with the non-inclusion of break and lunchtimes for mainstream schools, but with the caveat of inclusion for special schools where appropriate.

As pupils may not attend school for many reasons on any given day, the wording of the definition of learning hours should be changed to:

*'Learning hours are the period of teaching that learners are **offered** within the school day. In most cases, they do not include lunch and other break times or extracurricular activities or provision such as breakfast clubs that may take place around the core school day.'*

Furthermore, the definition/legislation must be clear on 'period of teaching' - does this mean time spent with a General Teaching Council (GTC) regulated school teacher or more widely with other support staff. Any suggestion of learning hours being defined as solely time spent with a GTC registered teacher is not in keeping with modern pedagogical approaches, or in the best interest of learners.

See further comments in response to questions 5 and 6.

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

How exemptions would work in practice has not been outlined in the proposal paper and so this makes it difficult to respond fully.

It is assumed that the definition of learning hours extends to include school/education authority organised events at which pupils will be accompanied by teacher(s)/other school or council staff, which take place during the school day, such as school trips and longer term residential stays. This must be clarified.

Other events take place throughout the school year where children / young people may not be accompanied by a member of teaching staff, such as further and higher education open events and vocational work experience opportunities; such events should also be regarded as learning hours.

Young people in the senior phase will at times not attend school as consequence of National Qualifications and in particular during examination periods. This period of time for these pupil should be included as learning hours.

In the circumstances where a child is not able to attend school due to prolonged ill health or where it is appropriate for a child to attend for part of the school week based on their needs, the school and education authority will ensure that where possible, a student is able to continue with their education in some form. In these situations the continuous provision of education, in whichever ever is the most appropriate form and regularity, should be recorded as learning hours.

These examples do not cover all potential events that we would expect to be included as learning hours and so school leaders and local authorities will require to be provided with flexibility and be trusted to use their professional judgement using provided guidance, to determine learning hours inclusion.

Question 6

Are there any further views you wish to share regarding this proposal?

Please set out your response in the box below

In early learning and childcare, every child is entitled to the entirety of 1140 hours provision, even in the case where there have been an exceptionally approved closure days such as the Queen's State Funeral. The flexibility in the offer of early learning and childcare in East Renfrewshire means that in such situations we are able to offer those families who wish to access the lost hours of provision, their full entitlement. This is also possible by having family centres that are open for 52 weeks of the year and an accompanying staffing complement. This of course is not possible in school age education. Any legislation must be clear that where a school has not been able to offer the full number of learning hours as consequence of an event out with its control or where a direction has been approved by Ministers for an exemption/modification to the learning hours, there is no requirement for the lost hours to be offered. This relates also to the suggested change of wording used in response to question 4, and the need for the definition of leaning hours to be regarded as offered hours and not provided.

Should the proposal be implemented, further guidance and clarity is required regarding the recording and reporting of learning hours which are offered to school aged pupils and any exemptions to this offer, such as in cases where children's needs dictate that they will not receive the entirety of the defined learning hours. It should be ensured that and recording and reporting on learning hours is kept to a minimum to avoid the creation of additional workload.

It is unclear as to the timeline for the enactment of any legislation and so should defined learning hours differ from those currently employed in East Renfrewshire, the Council will require enough time to implement any changes as well as resources and support.

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