

Guidance on education for children and young people unable to attend school due to ill health

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Ministerial Foreword

Every child has a right to an education. The Scottish Government wants all children and young people to be able to get the most from the learning opportunities which are available to them, so that they can realise their full potential in learning, in work and in life.

Through [Getting it Right for Every Child](#) (GIRFEC) and [Curriculum for Excellence](#) (CfE), the Government has set out its ambition for children and young people, and for their learning. An important part of our approach is the recognition that all children and young people are individuals and that their learning is personalised. To enable them to reach their full potential some pupils need additional support. The Children and Young People (Scotland) Act 2014 will support this and further the Scottish Government's ambition for Scotland to be the best place to grow up, putting children and young people at the heart of planning and services.

For children and young people unable to attend school or take up their entitlements to Early Learning and Childcare (ELCC) through ill-health, a number of responsibilities and powers are given to a range of organisations and people, including education authorities, health services and parents, and the pupil, to ensure that these children's individual needs are met. This relies on the mutual knowledge and understanding of these responsibilities and a willingness to work collaboratively to ensure the best possible outcomes for each individual child.

The purpose of this guidance is to set out the legislative and policy context and to provide advice on the roles and responsibilities of local authorities, hospitals and other services in relation to children unable to attend school due to ill health, to ensure that these children continue to learn whenever possible. While this guidance is non-statutory, it may be used to form the basis of agreements and arrangements between local authorities and other services across Scotland involved in meeting the educational and health needs of children and young people.

This guidance was developed by the Scottish Government in partnership with a working group comprising representatives from the Association of Directors of Education in Scotland, the Convention of Scottish Local Authorities, NHS Scotland, Scotland's Commissioner for Children and Young People, Scottish Council of Independent Schools, Action for Sick Children Scotland, Education Scotland, National Parents Forum for Scotland and Hospital and Outreach Teaching Services. I thank them for their contributions in developing this guidance.



Dr Alasdair Allan
Minister for Learning, Science and Scotland's Languages

Definitions

Throughout this guidance, the term ‘school’ should be considered to include early learning and childcare (ELCC) provision, unless otherwise specified.

Similarly, the term ‘parent’ should be considered to include carers also.

The term “pupil”, where used without qualification, means a person of any age for whom education is or is required to be provided under the Education (Scotland) Act 1980; and a pupil shall be deemed to be attending or in attendance at a school if he or she is shown by the register of admission and withdrawal kept at the school to have been admitted to, but not to have been withdrawn from, or to have been readmitted to, and not thereafter to have been withdrawn from, the school; and similar expressions, whether relating to schools or to other educational establishments, shall be similarly interpreted.

Introduction

1. The purpose of this guidance is to provide advice and information for education authorities in relation to their statutory duty, under section 14 of the Education (Scotland) Act 1980¹, to make special arrangements for **pupils** to receive education elsewhere than at an **educational establishment**, where they are satisfied that they are unable, or it would be unreasonable to expect them, to attend a suitable educational establishment as a result of their prolonged ill health (see Annex A). However, the guidance may also be of interest and relevance to independent schools, health professionals, parents and children and young people themselves. This guidance replaces Circular 5/2001 – *Guidance on education of children absent from school through ill health*.

2. The obligation on education authorities to make such special arrangements applies in relation to a person of any age for whom education is or is required to be provided under the Education (Scotland) Act 1980.² By virtue of section 1(1A) of this Act, this obligation extends to making special arrangements for those entitled to early learning and childcare³ (‘ELCC’) but only to the extent required by section 47(1)⁴ of the Children and Young People (Scotland) Act 2014. However, this does not extend to those young people who have left school and as such are no longer the responsibility of the education authority.

3. It applies to those children and young people where their learning is interrupted due to prolonged ill health for a range of reasons such as accidents or trauma, chronic, long term, life limiting or terminal conditions, mental health issues⁵, and conditions

¹ Section 14 was substituted into the Education (Scotland) Act 1980 by section 40 of the Standards in Scotland’s Schools etc. Act 2000.

² See the definition of “pupil” in section 135(1) of the Education (Scotland) Act 1980.

³ Section 46 of the Children and Young People (Scotland) Act 2014 defines ELCC as “a service, consisting of education and care, of a kind which is suitable in the ordinary case for children who are under school age, regard being had to the importance of interactions and other experiences which support learning and development in a caring and nurturing setting.”

⁴ <http://www.legislation.gov.uk/asp/2014/8/section/46>

⁵ <http://www.legislation.gov.uk/asp/2014/8/section/47>

⁵ Including a pupil unable to attend school due to being subject to measures by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003.

which require repeated medical intervention, such as dialysis. This list is illustrative, not exhaustive. Common childhood conditions such as colds, influenza, chicken-pox etc., where prompt return to school is expected, will not normally be covered by this guidance.

4. Children and young people may be absent from school for a single, extended block of time or for several or many periods of time of varying length. They may also be attending school part-time, as part of a planned, gradual re-integration at school or ELCC, following a period of absence due to ill health.

5. A child or young person absent from school through ill health may receive treatment in a variety of settings, such as a paediatric hospital, an adult hospital, a mental health facility, their own home or in a different school. In some cases, this may mean that the child or young person travels to a hospital which is located beyond the local authority area in which they live or in which they are educated. Education may be provided in any and all of these settings and the responsibility for doing so remains with the child or young person's home authority, even if the services are delivered by specialist outreach services of the local authority in which the hospital is located (host authority) (see paragraphs 30, 31 and 32).

6. Legislation requires local authorities to make special arrangements for children absent from school through ill health without undue delay⁶. The main emphasis in the initial period of absence for children or young people with ill-health will be on recovery of the child or young person's fitness and health and the time required for this will vary. However, wherever possible, absence should not lead to a reduction of education which would have a detrimental effect. Where a child or young person's illness is known, or reasonably thought, to be likely to extend to or beyond 5 days, then education should proceed immediately, if medical assessment permits. This is of particular importance for children and young people who require recurrent admission to hospital, even for relatively short periods. Where there is less certainty over the possible length of any absence, education outwith school should commence at the earliest opportunity and certainly no more than 15 working days of continuous or 20 working days of intermittent absence. The ambition is to continue education wherever possible, but recognising the practical limitations of provision of education within a hospital setting.

7. Similarly, where children or young people who have been in hospital and are discharged to go home to continue treatment or to recuperate, the arrangements for their learning should also be considered by the home authority if the total period of absence is likely to extend beyond 15 days.

8. Further, in the circumstances where an education authority have granted a pupil exemption from the obligation to attend school⁷, to enable the pupil to give assistance at home due to the illness or infirmity of a member of their family, the education authority must so far as reasonably practicable and without undue delay make special arrangements for the pupil to receive education elsewhere than at an educational establishment⁸.

⁶ Section 14(1) of the Education (Scotland) Act 1980.

⁷ Section 34(1) of the Education (Scotland) Act 1980.

⁸ Section 14 (2) of the Education (Scotland) Act 1980.

Key rights, duties and principles

9. There are a number of common principles, outlined below, which should be consistently applied in identifying the needs of and making provision for the education of children and young people who require support to make the most of their learning because of ill health.

10. **Every child and young person has a right to be provided with an education** – Article 2, Protocol 1 of the ECHR provides for the right not to be denied an education and for the State to respect the right for parents to have their children educated in accordance with their religious and other philosophical convictions. This right to education is also enshrined in section 1 of the Standards in Scotland's Schools etc. Act 2000. It is also one of the key Articles of the United Nations Convention on the Rights of the Child⁹ (although this does not form part of domestic law as such).

11. **Parents have a duty to provide education for their child**¹⁰, either by ensuring they attend a local authority school, or by making alternative arrangements such as home education or sending their child to an independent school. They also have a choice of early learning and childcare for their child. Local authorities have a duty to provide adequate and efficient education provision in their area¹¹. They are also responsible for making special arrangements for a child or young person to receive education elsewhere than at an educational establishment if they are unable to attend school because of their prolonged ill health¹².

12. **The rights, wellbeing, needs and circumstances of the individual child or young person should at all times be at the centre of the decision-making process.** This means that each case will have to be treated on its own circumstances, taking into account medical advice, the child's and parent's views and that there will be no single approach or collection of approaches which will necessarily cater for most cases.

13. Given the range of different services involved in the provision of education, which may be in different locations across Scotland, it is absolutely essential that there is **clear communication between the different agencies, services, professionals and the parent/carer and pupil concerned.** Getting it Right for Every Child (see paragraph 15 to 18 below) provides a framework for different services to work consistently together, putting the child at the centre.

14. **All children and young people are entitled to support with their learning, where a need is identified, whatever their circumstances**¹³. This includes all children eligible for ELCC. Curriculum for Excellence (see paragraph 19 below) entitles all children and young people to experience a broad general education during the period from the early years to the end of S3; to experience a senior phase from S4 where they can achieve qualifications; and support to enable them to gain as much as possible from the opportunities which Curriculum for Excellence can provide. The Supporting Learners¹⁴ framework which has been developed to articulate this entitlement links

⁹ UNCRC: www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx. Articles 28 and 29 relate to the Right to Education.

¹⁰ Section 30 of the Education (Scotland) Act 1980.

¹¹ Section 1 of the Education (Scotland) Act 1980.

¹² Section 14 of the Education (Scotland) Act 1980.

¹³ Section 4 of the Education (Additional Support for Learning) (Scotland) Act 2004.

¹⁴ <http://www.educationscotland.gov.uk/supportinglearners/>

directly to the duties of the Education (Additional Support for Learning (Scotland) Act 2004 (as amended).

Policy context

15. In considering how to meet the duty to make special arrangements for children and young people who are unable to attend a suitable educational establishment as a result of their prolonged ill health, local authorities and other relevant service providers must consider their duties and responsibilities under the wider policy framework.

16. [Getting it right for every child¹⁵](#) (GIRFEC) ensures that children and young people are at the centre of any planning to meet their wellbeing and requires that all services for children and young people ensure their culture, systems and practice work together to support children and young people. Elements of GIRFEC have been enshrined in legislation through Parts 4 (Named Person) and 5 (Child's Plan) of the Children and Young People (Scotland) Act 2014, which are due to be commenced in August 2016. Some local authority areas currently operate non-statutory versions of the Named Person and Child's Plan.

17. Under the GIRFEC approach, every child and young person has a 'named person'. Depending on the age of the child or young person, health visitor, or teacher normally takes this role and this means that the child and their family have a point of contact who can work with them to coordinate any further help, advice or support if required to promote, support or safeguard the child or young person's wellbeing.

18. The GIRFEC National Practice Model¹⁶ provides a framework for practitioners and agencies to structure and analyse information consistently so as to understand a child or young person's wellbeing needs. It promotes the participation of children, young people and their families in gathering information and making decisions about wellbeing, and it provides a shared understanding of a child or young person's strengths and needs. It is a way for all agencies and workers who support children, young people and their families to develop a common language within a single framework, enabling more effective inter and intra-agency working.

19. [Curriculum for Excellence](#) underpins all schools' ethos and forms the basis for a whole-school approach to improving the health and wellbeing of all children, young people, staff and the wider community. The curriculum includes a range of entitlements for all children and young people, including an entitlement to support for every child and young person to enable them to gain as much as possible from the opportunities which Curriculum for Excellence can provide, whatever their circumstances.¹⁷

20. Supporting children and young people in their learning involves – parents and carers, early learning and childcare staff, nursing & medical staff in a range of settings, primary teachers, hospital education staff and outreach teachers, secondary teachers, support staff, college staff, psychological services, Allied Health Professionals, Skills Development Scotland, volunteers and workers from voluntary organisations, local authority youth work provision and others.

¹⁵ www.scotland.gov.uk/Topics/People/Young-People/gettingitright

¹⁶ www.scotland.gov.uk/Topics/People/Young-People/gettingitright/national-practice-model

¹⁷ www.educationscotland.gov.uk/thecurriculum/whatcanlearnersexpect/index.asp

21. Like all children and young people, those too ill to attend school are entitled to personal support to enable them to:

- Review their learning and plan next steps;
- Gain access to learning activities which will meet their needs;
- Plan for opportunities for personal achievement;
- Prepare for changes and choices and be supported through changes and choices, including transitions to and from school, and those resulting from prolonged ill health.

22. All children and young people should have frequent and regular opportunities to discuss their learning with an adult who knows them well and can act as a mentor, helping them to set appropriate goals for the next stages in learning. Children and young people themselves should be at the centre of this planning, as active participants in their learning and development.

23. For children under the age of three, national guidance was published in 2010: [Pre-Birth to Three Positive Outcomes for Scotland's Children and Families](#). This sets the context for high quality care and education and seeks to identify key features that support and promote evidence-based approaches. [Building the Ambition](#) which was published in 2014 pulls together national practice guidance for all young children in early learning and childcare, from birth to starting school.

Legislative context

24. While the legislative context is referenced throughout this guidance, a national framework for all practitioners and partners, in every setting has been published which aims to help in [supporting learners](#) from early years to positive, sustained destinations. It provides an overview of the legislation, policies, frameworks and strategies relating to supporting learners. Annex B of this guidance provides a further link to the national framework but also sets out how some of the key elements of legislation fit together in relation to children unable to attend school due to ill health.

Responsibilities

School or ELCC

25. Most provision is likely to be made within a child's own local authority. In practice, it is likely that responsibility for referral for, and management of, arrangements for education outwith school will lie with **child or young person's own school**. However, all such referrals and management should be undertaken in close co-operation with the local authority, regardless of whether delivery of education is undertaken by the school or local authority specialist services, or in combination (see paragraph 38 below for children and young people attending independent schools). Through the process of considering a variety of assessments and considering management information to monitor and review children's needs, the school should identify children and young people with health needs and ensure appropriate support arrangements are in place, timeously, if required.

26. Staff within the **child's or young person's own school** will best understand a child's educational and support requirements. In most instances the school retains the lead role and where appropriate, works with the education provider in the hospital

or outreach service to ensure education provision is appropriate and supports and maintains the child or young person's prior learning. Classroom or subject teachers should record missed work to help ensure effective education outwith school maintain the learner's links with their school and to help reintegration on return as part of broader transition planning. Good practice would include the school routinely providing information for parents about the statutory duties relating to and arrangements for the provision of education of children and young people who are too ill to attend school within their school handbook (or similar, for independent schools and ELCC).

Named Person

27. The **named person** has a key role for maintaining communication with parents and carers and the child or young person, though it may be that in practice, in more complex or longer term cases, a 'lead professional' is designated as the main point of contact. For children attending ELCC, the named person will normally be a health visitor, whilst for school aged children or young people the named person will normally be the head teacher. In the case of a child or young person normally attending an independent, or grant aided school the named person at the school will be responsible for contacting the child or young person's home local authority to pass on responsibility for the named person service, if the child or young person has formally left the school due to reasons such as ill health.

28. The **named person** will also work with appropriate professionals to help facilitate the child or young person's return to school, which may take place on a phased basis over a period of time. The named person should ensure that the child's or young person's links to peers, teachers and the wider school community are maintained, which will also help facilitate the return to school.

29. The named person for a child attending an independent school, or for a child who is normally home educated by their the parent, is responsible for communications and requests about special arrangements made in the child home or another local authority area.

Home and host local authorities

30. Where appropriate, the child or young person's **home education authority**¹⁸ is responsible for establishing communication protocols with other authorities and hospital education providers, as well as for helping the school remain in contact with the child or young person and their parent or carers. In order to provide continuity and smooth transitions, the home local authority should work with **the host education authority**¹⁹ to ensure that the education received is, taking into account the learner's circumstances, broadly comparable with prior learning, building from that where possible. The host local authority should ensure clear lines of communication with the child or young person's home local authority before education commences. Home local authorities are also responsible for managing and agreeing funding arrangements with the host local authority if the child or young person is being educated or treated within another

¹⁸ The 'home' local authority is that in which a child's parent or carer normally resides. See page 61 of the Code of Practice for Additional Support for Learning.

¹⁹ The 'host' local authority is that which is responsible for providing the education service in the hospital or other establishment where the child or young person has been admitted See page 61 of the Code of Practice for Additional Support for Learning.

authority area. These discussions should also include the setting of clear expectations of the services that are to be delivered.

31. There may be circumstances where it becomes apparent to a home education authority that a pupil who is normally educated in an educational establishment not under its management is unable to attend or it is unreasonable to expect the pupil to attend that establishment due to the pupil's prolonged ill health. In this situation, where arrangements have not otherwise been made for the pupil to receive education, the home education authority should make special arrangements for the pupil to receive education elsewhere than at that educational establishment. However, home education authorities should only be required to make such arrangements after the circumstances described above become apparent to them.

32. Local authorities are under a range of duties in relation to additional support for learning. This includes the duty to publish information on their arrangements for additional support for learning. Good practice would include the **home education authority** routinely providing advice and information for parents and carers on the statutory duties relating to and arrangements for the provision of education for children too ill to attend school. Authorities should also ensure that those working in schools and early learning and childcare establishments have access to appropriate training to support the needs of children and young people with health or medical needs and that they are familiar with the authority's agreed policies on administering medication.

33. The Scottish Government encourages local authorities to work together to agree the broad principles of appropriate communication protocols, education provision and funding arrangements so that there is a degree of consistency and understanding across Scotland in how arrangements for children too ill to attend school will be managed.

34. The duties of the Equality Act 2010²⁰ require responsible bodies, (education authorities, independent and grant-aided schools), to actively deal with inequality, and to prevent direct disability discrimination, indirect disability discrimination and discrimination arising from disability and harassment or victimisation of pupils on the basis, or a perceived basis, of protected characteristics, including disability and pregnancy. The provisions include

- prospective pupils
- pupils at the school
- in some limited circumstances, former pupils

35. In addition, under the Equality Act 2010 responsible bodies have a duty to make reasonable adjustments for disabled pupils and provide auxiliary aids and services²¹. The duty is 'to take such steps as it is reasonable to have to take to avoid the substantial disadvantage' to a disabled person caused by a provision, criterion or practice applied by or on behalf of a school or by the absence of an auxiliary aid or service. This would include where a pupil's disability arises from a medical condition.

Health service

²⁰ <http://www.equalityhumanrights.com/private-and-public-sector-guidance/education-providers/schools-guidance/access-to-benefits-services-and-facilities>

²¹ <http://www.equalityhumanrights.com/publication/reasonable-adjustments-disabled-pupils-scotland>

36. The **health service** where a child or young person is being treated should maintain clear lines of communication with the child or young person's parent or carer, and their named person. The hospital should ensure appropriate accommodation and facilities are provided so that education can be delivered. Where appropriate, hospitals should facilitate involvement of staff from the child or young person's own school or authority, subject to potential constraints imposed by the need for infection control or treatment protocols. Health services should also ensure that relevant staff can access appropriate training, which may include joint training opportunities with education staff. It is particularly important that staff in adult wards, where younger patients comprise a small element of the overall case load, have a clear understanding of their responsibilities in respect of ensuring the young person's educational needs are identified and addressed. *Better Health, Better Care: Hospital Services for Young People in Scotland*²² provides guidance and recommendations for NHS Boards and their regional planning partners to ensure that the care they provide for children and young people meets their particular needs.

Parents

37. **Parents** have responsibility to provide efficient education for their children²³ by sending them to a school under the management of a local authority or through other means. Where a child or young person does not usually attend a local authority school, the parent should inform their local authority as soon as possible if it is apparent that their health or medical needs will have an extended disruptive effect on their child's learning, unless they have already made alternative arrangements for education provision due to ill health.

Independent Schools

38. In circumstances where a pupil at an independent school becomes unable to attend the school due to ill-health, arrangements are normally made by the parent and independent school for that pupil to continue to receive education otherwise than through the child's attendance at the school. These arrangements should be supported by the named person service within the established framework of Getting it Right for Every Child. In exceptional cases, it may not be possible for the parent and independent school to make such arrangements and the decision may be taken by the parent (for example where the pupil is absent for a prolonged duration) that the pupil will cease to be enrolled with the independent school. In these circumstances the parental responsibilities set out at paragraph 36 above will apply and parents may wish to contact the home education authority to seek support in assessment of the pupil's learning and health needs and provision of education. The named person service should also support these discussions.

39. As highlighted above in paragraphs 34 and 35 independent schools are required by the Equality Act 2010²⁴ to actively deal with inequality, and to prevent direct disability discrimination, indirect disability discrimination and discrimination arising from disability and harassment or victimisation of pupils on the basis, or a perceived basis, of protected characteristics, including disability

²² www.scotland.gov.uk/Resource/Doc/271943/0081051.pdf.

²³ Section 30 of the Education (Scotland) Act 1980

<http://www.legislation.gov.uk/ukpga/1980/44/section/30>

²⁴ <http://www.equalityhumanrights.com/private-and-public-sector-guidance/education-providers/schools-guidance/access-to-benefits-services-and-facilities>

40. In addition, under the Equality Act 2010 responsible bodies have a duty to make reasonable adjustments for disabled pupils and provide auxiliary aids and services²⁵. The duty is 'to take such steps as it is reasonable to have to take to avoid the substantial disadvantage' to a disabled person caused by a provision, criterion or practice applied by or on behalf of a school or by the absence of an auxiliary aid or service. This would include where a pupil's disability arises from a medical condition.

Process

41. Whatever the circumstances, the objective at all times is to ensure that the child's educational entitlement and wellbeing are met. The process followed in each case is likely to differ depending on individual circumstances, but common throughout all stages is the need for clear lines of **communication** between staff across education and health boards and the child or young person and their parent or carer.

42. **Awareness** – as part of a school's attendance and absence policy, parents are expected to inform schools whenever their child is ill, even if it is just for one day. In line with paragraph 6, or as soon as it is clear that the period of absence is going to exceed the timescales indicated, arrangements should be made for the provision of education outwith school. In the case of intermittent or longer term absences, which cause a barrier to learning, the school should identify, assess and make provision for additional support within school to ensure that any resulting gaps in learning are covered²⁶. The health services should make contact with the child or young person's home local authority and/or school and named person if contact has not already been established, particularly where the child has travelled from another part of the country or from an independent school. Parents should be involved or made aware of these discussions and agreements.

43. **Assessment** – the medical assessment made by the health service will influence the scale and scope of educational provision that may be planned and provided. Once it is considered that educational provision is appropriate, the home authority is responsible for ensuring that an education plan is discussed and agreed between the child or young person, the parent, the school, the host authority and hospital staff. Any plan should take into account the views and expectations of the child or young person and the parents/carers. The child's or young person's health and medical needs and appropriate educational provision should be subject to regular review by all parties. The plan should also take account of identification and planning of additional support for learning already in place.

44. Where an assessment of wellbeing indicates that a targeted intervention is required to promote, support or safeguard the child's wellbeing, consideration should be given to drawing up a Child's Plan²⁷ (which will include education outcomes), in line with national guidance.²⁸ It would be for the named person, or the lead professional, to coordinate the assessment and planning process within the GIRFEC framework. Where the child or young person is already receiving support coordinated through a Child's Plan, the absence due to illness is likely to be a trigger to review that plan.

²⁵ <http://www.equalityhumanrights.com/publication/reasonable-adjustments-disabled-pupils-scotland>

²⁶ Included, Engaged and Involved Part 1 <http://www.gov.scot/Publications/2007/12/05100056/0>
Guidance on promoting attendance at school – including recording absence due to ill health

²⁷ Part 5 of the Children and Young People (Scotland) Act 2014 – due to be commenced in 2016.

²⁸ National guidance will be published by the Scottish Government in 2015.

45. **Agreement for governance arrangements** – ideally, before education provision commences, there should be agreement between all relevant parties as to governance and funding arrangements, such that the school or ELCC and home authority are satisfied with the proposed educational provision and estimated costs and are clear on responsibilities and communication. The communication protocols referred to in paragraphs 29 to 30 should ensure this process is part of an established agreement or rapidly completed and so does not result in any avoidable delay to the commencement of education provision. The home authority should be satisfied that appropriate arrangements are in place to monitor the quality of education provision.

46. **Education Provision** – the education provider will develop a programme of learning activities and support in conjunction with other professionals, including NHS, parents and host school and/or authority where appropriate. The nature of the education provision will vary depending on the setting (for example at home or in hospital), the type and severity of illness etc, but should, as far as is practicable, support and maintain the child or young person's learning. The use of Information and Communications Technology may complement the quality of education and help the child or young person stay connected with their school. However, technology should be used to enhance rather than replace face to face provision in circumstances where relationships will be important in promoting wellbeing. It may be the case that specialist equipment is required to facilitate education and a referral to paediatric Allied Health Professional services may be required. In many cases the programme of activity and responsibility for delivery will be outlined in a Child's Plan and will take account of the arrangements for the provision of additional support for learning already in place, including the provision in place through Individualised Educational Programmes.

47. Generally, the aim should be to support the broad, flexible curriculum and entitlements outlined through Curriculum for Excellence, **within the constraints of the setting** and the individual's health. As set out in paragraphs 19 to 22, all children and young people are entitled to appropriate support with their learning, and to be included, engaged and involved in planning their learning.

48. **Next steps and Follow up.** Within the GIRFEC framework, there should be on-going assessment by relevant professionals in health and education of the most appropriate education provision to optimise the child's wellbeing. in close conjunction with the child or young person and family. Generally the best interests of the child will be served by a return to their school. Wherever appropriate schools or ELCC should make every effort to plan with teachers, their peers, parents, specialist services, medical personnel and children themselves, flexible and progressive arrangements to secure successful reintegration. Education authorities should consider their duties to plan for transition under Additional Support for learning where a child or young person's ill health is creating a barrier to their learning. Usually, this will lead to a successful return to the child or young person's home school or ELCC, but it may involve a continuation of education at home, or a move to another care setting, or, a cessation of education if clinically appropriate. During any of these transition phases, care should be taken to take full account of the views of the child or young person, and their parent or carer, to ensure they are comfortable with the proposed arrangements.

Life threatening and life shortening conditions – additional considerations

49. Children have a continuing entitlement to school education and there are very good reasons for continuing to provide education for children and young people with life threatening or life-shortening conditions, even, with the child or young person's and family wishes respected, towards the end of their lives. Such involvement with children and young people requires particular sensitive, imaginative and empathic qualities and teaching skills. At the same time, most parents and children and young people wish to remain part of their own school community where staff and peers can play a very important part in maintaining quality of life and supporting children and young people with such conditions and their families. Ongoing contact with staff and peers from children's and young people's home schools should be maintained by means agreed with the family.

50. Some children and young people may spend time in hospices. Education in its broadest sense may be an appropriate part of a holistic approach to ensuring their wellbeing while in a hospice. Here also, ongoing contact with staff and peers from children's and young people's home schools should be maintained, by means agreed with the family and the hospice.

51. A small number of school children and young people die every year in Scotland from a range of causes including illness and accident. This is an event which education authorities and schools and ELCC should be prepared to deal with calmly and with respect and empathy. In the case of children with a very serious or life-threatening medical condition there will have to be some time to consider the best ways of supporting the family and of helping the school community to cope. Sensitive support and contact may be appreciated around the time of the funeral and for some time afterwards.

Resolving Concerns

52. Where there are concerns regarding the educational provision made for children and young people who are receiving support for their education due to ill health, there are a number of ways in which those concerns can be resolved. Concerns should be raised in the first instance with the school or establishment which is making provision for the pupil. If concerns remain there are a range of mechanisms available through which concerns about support can be resolved. These include mediation, independent adjudication and further formal routes. Further information is available from <http://enquire.org.uk/20100622/wp-content/uploads/2010/11/resolving-disagreements.pdf>.

Conclusion

53. This guidance provides advice and guidance for local authorities and other statutory services involved in ensuring appropriate education provision for children and young people who are too ill to attend school due to ill health. It encourages organisations to work together to build strong professional relationships, and to identify and build on good practice to ensure positive outcomes for all children and young people, whatever their circumstances.

54. Education Scotland will continue to work with education providers to help build their capacity to deliver high quality learning in all settings. As part of this, Education Scotland published *Supporting Learners: Children too ill to attend school: A conversation* in December 2013. This resource draws together discussions from the conversation held by Education Scotland with inspection evidence, some case studies and a range of resources relevant for those working in this area.

*Legislative Provisions***Section 14 of the Education (Scotland) Act 1980**

For section 14 of the 1980 Act there shall be substituted—
 —14 Education for children unable to attend school etc..

- (1) If an education authority are satisfied that, by reason of— .
- (a) any extraordinary circumstances (not being circumstances mentioned in paragraph (b), or subsection (2) or (3), below)— .
- (i) a pupil is unable; or .
- (ii) it would be unreasonable to expect a pupil, .
 to attend a suitable educational establishment for the purpose of receiving education, they may;
- (b) a pupil's prolonged ill-health— .
- (i) the pupil is unable; or .
- (ii) it would be unreasonable to expect the pupil, .
 to attend such an establishment for that purpose, they shall, without undue delay after those circumstances become apparent to them,
 make special arrangements for the pupil to receive education elsewhere than at an educational establishment.
- (2) If an education authority have, under section 34(1) of this Act, granted a pupil exemption from the obligation to attend school, the exemption being to enable the pupil to give assistance at home in circumstances arising out of the illness or infirmity of a member of the pupil's family, they shall in so far as is practicable and without undue delay make such special arrangements as are mentioned in subsection (1) above. .
- (3) If a pupil withdraws, excluded by the education authority (or with the consent of the authority in circumstances where he would have been so excluded but for his withdrawal), from a public school in their area they shall, without undue delay— .
- (a) provide school education for him in a school managed by them; .
- (b) make arrangements for him to receive such education in any other school the managers of which are willing to receive him; or .
- (c) make such special arrangements as are mentioned in subsection (1) above.”.

Section 135 of the Education (Scotland) Act 1980 - Interpretation

-educational establishment”—

(i) means a school and any institution for the provision of any form of further education and the premises of such school, or institution, and

(ii) without prejudice to the foregoing generality, includes a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992, a central institution, a hostel used mainly by pupils attending such schools or institutions, and a residential institution conducted under a scheme under the Acts of 1928 to 1935, Part VI of the Act of 1946, Part VI of the Act of 1962 or Part VI of this Act, but

(iii) does not include a university, a theological college, a hostel or other residence used exclusively by students attending a university or a theological college, or a club or other centre conducted by a voluntary society or body for the purpose of providing facilities for social, cultural or recreative activities or for physical education or training unless the society or body are in receipt of a grant from the Secretary of State or of a contribution from an education authority or have obtained the consent of the Secretary of State to the club or centre being treated in all respects as an educational establishment;

-pupil”, where used without qualification, means a person of any age for whom education is or is required to be provided under this Act; and a pupil shall be deemed to be attending or in attendance at a school if he is shown by the register of admission and withdrawal kept at the school in accordance with regulations made under this Act, or by any other register approved by the Secretary of State and kept for a similar purpose, to have been admitted to, but not to have been withdrawn from, or to have been readmitted to, and not thereafter to have been withdrawn from, the school; and similar expressions, whether relating to schools or to other educational establishments, shall be similarly interpreted;

-school” means an institution for the provision of primary or secondary education or both primary and secondary education being a public school, a grant-aided school or an independent school, and includes a nursery school and a special school; and the expression **—school”** where used without qualification includes any such school or all such schools as the context may require

Legislative position

This Annex sets out some key provisions within Scottish legislation directly relevant to the education of children or young people including legislative provision in relation to children or young people who are unable to attend school or ELCC due to ill health. It does not however offer any interpretation of the legislation.

As indicated at paragraph 24 the **National Framework for Supporting Learners** draws together several of the legislative frameworks which apply to children and young people that need support for their learning. The links within the document provide further information on the legislative and policy frameworks. http://www.educationscotland.gov.uk/Images/ProvidingSupportTable3_tcm4-633671.pdf

The interplay between legislative provisions is important in terms of provision of services for children and young people unable to attend school due to ill health. The diagram below sets out the relationship between the provisions of key legislation.



Useful resources

Curriculum for Excellence, Education Scotland website.

[Early Learning and Childcare Statutory Guidance](#), Scottish Government, 2014 (to be revised 2015)

[Building the Ambition](#), national practice guidance on Early Learning and Childcare, Scottish Government, 2014

Supporting Learners: Children too ill to attend school: A conversation, 2014

Better Health, Better Care: Hospital services for young people in Scotland, Scottish Government, 2009.

Partnership working between Allied Health Professionals and Education, Scottish Government, 2010.

Supporting children's learning code of practice (revised edition), 2010.

What to do after a death in Scotland – practical advice

Legislation

[Education \(Scotland\) Act 1980 \(as amended\)](#)

[Standards in Scotland's Schools etc. Act 2000](#)

[Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(as amended\)](#)

[The Children and Young People Scotland Act 2014](#)

[Equality Act 2010](#)

Useful organisations

Action for Sick Children Scotland

Action for Sick Children Scotland is dedicated to informing, promoting and campaigning on behalf of the needs of all sick children and young people within the healthcare system.

22 Laurie Street
Edinburgh EH6 7AB

0131 553 6553

<http://www.ascscotland.org.uk/>

Additional Support Needs Tribunals for Scotland

The Additional Support Needs Tribunals for Scotland consider appeals (references) made by parents and young people against decisions of Education Authorities regarding the provision of educational support; references involving children and young people who either have, or are potentially entitled to have, a co-ordinated support plan.

ASNTS
Europa Building
450 Argyle Street
Glasgow
G2 8LH
0845 120 2906
www.asntscotland.gov.uk

Children's Hospice Association Scotland (CHAS)

The Children's Hospice Association Scotland welcome the opportunity to discuss educational provision for children and young people with life threatening and life shortening conditions. CHAS can be contacted through their Head Office at Canal Court, 42 Craiglockhart Avenue, Edinburgh, EH14 1LT (Telephone – 0131 444 1900).
<http://www.chas.org.uk/>

Children Missing from Education Scotland

The Children Missing from Education (Scotland) (CME(S)) Service is available to provide guidance on all aspects of children missing from education, and to facilitate agreements between local authorities, national agencies and partners to allow the effective exchange of information to locate a missing child.
www.cmescotland.net

Clic Sargent

Clic Sargent provides advice and support to children and young people affected by cancer, their families and the professionals who work with them. For more information visit their website at <http://www.clicsargent.org.uk/content/help-and-support>.

Cruse Bereavement

Cruse Bereavement Care Scotland can provide personal support and information to those experiencing bereavement. Cruse Scotland has a national helpline: 0845 600 2227 which should be contacted in the first instance.

<http://www.crusescotland.org.uk/>

Education Scotland

Education Scotland works collaboratively and in partnership with other public bodies and local authorities to promote and supporting and build the capacity of education providers and practitioners to improve their own performance.
www.educationscotland.gov.uk/

Enquire

Enquire provides advice and support to families of children and young people who require some additional support to make the most of their learning.

Enquire
Children in Scotland
5 Shandwick Place
Edinburgh
EH2 4RG
08451232303
Email: info@enquire.org.uk
www.enquire.org.uk

Govan Law Centre Education Law Line

Govan Law Education Law Line will provide advice to parents, carers and professionals on points of education law.

Education Law Unit
Govan Law Centre
18-20 Orkney Street
Glasgow
G51 2BZ

0141 445 1955

Email advice@edlaw.org.uk,

www.edlaw.org.uk

The Mental Health Foundation

The Mental Health Foundation website has a number of resources on supporting vulnerable young people. For more information visit <http://www.mentalhealth.org.uk>.

National Parents Forum for Scotland

The National Parent Forum of Scotland gives Parent Councils and parents an opportunity to discuss and raise educational issues of mutual interest or concerns at a national level. The Forum works in partnership with national and local government and other organisations involved in education and well being issues to represent parents in pursuit of our aim to help every pupil maximise his/her potential.

Enquiries@parentforumsotland.org.

<http://www.educationscotland.gov.uk/parentzone/gettinginvolved/npfs/index.asp>

Scotland's Commissioner for Children and Young People

The role of the Scotland's Commissioner for Children and Young People is to help children and young people rights are respected. For more information please visit their website at <http://www.sccyp.org.uk/about>.

Scottish Council for Independent Schools

61 Dublin Street
Edinburgh
EH3 6NL
0131 556 2316
www.scis.org.uk

Scottish Public Services Ombudsman

The Scottish Public Services Ombudsman handles complaints from members of the public who have suffered injustice or hardship as a result of maladministration or service failure.

4 Melville Street, Edinburgh, EH3 7NS
0800 377 7330
www.spsso.org.uk

Seasons for Growth

Seasons for Growth is an educational, peer support programme for children, young people or adults who have experienced significant change or loss. For more information about the programme and how to access it, please see the website www.seasonsforgrowth.org.uk or email info@seasonsforgrowth.org.uk.

Tymes Trust

Tymes (The Young ME Sufferers) Trust is a UK wide charity supporting the families of children and young people with ME (myalgic encephalomyelitis). The Tymes Trust website <http://www.tymestrust.org/> carries free publications and resources to support understanding of ME. The Tymes Trust also provides an advice line on 0845 003 9002

Winston's Wish

Winston's Wish is the leading childhood bereavement charity in the UK, offering practical support and guidance to bereaved children, their families and professionals.

08452 03 04 05 (open 9am – 5pm, Monday – Friday and 7pm – 9.30pm on Wednesday)
<http://www.winstonswish.org.uk/>



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