



Education & Cultural Services

Policy: Educating Children/Young People at Home

Author: Alison Raeburn
Service: Education Development

Last Updated: November 2009

CONTENTS

A. Introduction	2
B Who Needs Consent To Withdraw A Child From School?.....	2
C Procedure For Dealing With A Request From A Parent To Withdraw Their Child From School.....	3
D Movement Between Local Authority Areas.....	7
E Flexi-Schooling.....	7
F Children With Additional Support For Learning Needs	8
G Child Protection.....	8
Appendix One - Relevant Legislation	9
Appendix Two – Procedure Flow Diagram	12
Appendix Three (i) – Pro forma Acknowledgement Letter to Parents	13
Appendix Three (ii) – Pro Forma - Parents Initial Education Proposal	14
Appendix Four – Efficient and Suitable Education.....	16

A. INTRODUCTION

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

In March 2004 the Scottish Executive published "Guidance on the Circumstances in which Parents may Choose to Educate Their Children At Home". Revised guidance has been issued in 2007 following consultation with interested parties. This guidance advises that Home Education is a right conditional upon the parents providing an efficient education suitable to the age, ability, and aptitude of the child, and that choosing this option does not in itself require permission.

The procedure contained in this document follows the Scottish Executive's suggested good practice on how authorities should deal with requests by parents to Home Educate their child.

The Scottish Executive Guidance 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.

It is also important to draw attention to two legislative requirements with regard to Home Education:

- The consent of the Education Authority is required for a child to be withdrawn from school; and
- Education Authorities are required to take action where they are not satisfied that an efficient education is being provided.

[Appendix One](#) sets out the legislation relevant to Home Education in more detail.

B WHO NEEDS CONSENT TO WITHDRAW A CHILD FROM SCHOOL?

Under Section 35 of the Education (Scotland) Act 1980, parents of children who have started to attend a West Lothian School must seek West Lothian Council's consent before withdrawing their child and the Council must not unreasonably withhold consent.

Parents are not required to seek the Council's consent in order to home educate their child if:

- their child has never attended a public school
- their child has never attended a school in West Lothian
- their child is being withdrawn from an independent school
- their child has finished primary education in one school but has not started secondary education in another. In this case parents should notify the Authority that they intend to home educate but consent is not needed.
- The school the child has been attending has closed. In this case parents should notify the Authority that they intend to home educate but consent is not needed.

Where parents apply to withdraw their child from school in order to make alternative educational provision such as educating him or her at home, West Lothian Council must ensure that it allows the child to express any views in an appropriate way.

Parents choose to educate their children at home for many different reasons. The reasons should have no bearing on whether or not consent is given as West Lothian Council's interest lies in how the parents intend to educate their children, 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 e.g. bullying
- Geographical – due to 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 endeavour to use this information to improve its service if required.

C PROCEDURE FOR DEALING WITH A REQUEST FROM A PARENT TO WITHDRAW THEIR CHILD FROM SCHOOL.

The procedure for considering parents' requests to withdraw their child from school needs to be fair, clear, consistent and without delay in order to 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 must be allowed for the Council to take an informed decision on such an important matter which will have an effect on the child's future learning.

The procedure outlined below should be followed when dealing with a request from a parent to withdraw their child from school. A flow diagram is attached as [Appendix Two](#):

1. Notification of intention to withdraw a child from school and requests for consent to educate a child at home should be submitted to Pupil Placement, Education & Cultural Services, West Lothian Civic Centre, Howden South Road, Livingston EH54 6FF.

Taking Section B above into account, parents have a responsibility to inform West Lothian Council that they wish to withdraw their child from school in order to educate them at home and to request the Council's consent.

In order to avoid unsettling the child unnecessarily, parents should write to the following address as early as possible, and where reasonably practical, in advance of the date that they wish to withdraw their child from school:

Pupil Placement, Education and Cultural Services
West Lothian Civic Centre
Howden South Road
Livingston
West Lothian, EH54 6FF

Parents should also include initial proposals as to how they intend to provide an efficient education for their child. The “Parents Initial Education Proposal Proforma” is available to help parents with this process and is attached as [Appendix Three \(ii\)](#). It is recognised, however, that, at this early stage, parents’ proposals may not be detailed and that they may not yet be in a position to demonstrate some of the characteristics of efficient and suitable education (see [Appendix Four](#) for description of efficient and suitable education).

It should be noted that parents are not required to indicate the reasons for their decision, but they may choose to do so.

The aim is to issue a decision within 6 weeks of the receipt of the original application.

2. Pupil Placement:

- acknowledges receipt of notification within 3 working days (pro forma letter attached as [Appendix Three \(i\)](#)); and
- copies all correspondence to the Principal Support Officer (PSO) and the Child Protection Officer (CPO).

The Child Protection Officer:

- asks the relevant school and all partner-agencies if there is any existing evidence which indicates that there may be a good reason to refuse consent

-

The Principal Support Officer:

- identifies and liaises with the relevant Education Officer.

The acknowledgement letter to the parents covers the following information:

- it provides the “Parents’ Initial Education Proposal Proforma” ([Appendix Three \(ii\)](#));
- it informs parents that the Council will consider existing multi-agency information in its effort to make an informed decision on consent;
- it offers a meeting with Education Officers, the purpose of which is to discuss the parents’ proposals or provision. The relevant Education Officer will make specific arrangements for this meeting direct with the parents (see step 3 below). It is important that the meeting takes place in a mutually acceptable location;
- it is highlighted that the child should be given the opportunity to attend the meeting with the Education Officers or otherwise be given an opportunity to express his/her views;
- it indicates that there is a need to consider and agree what future contact there will be between parents and West Lothian Council Education Services; and
- it gives an indication of the expected timescale in which a decision is likely to be made.

The purpose of communication at this stage with the relevant school and all partner-agencies is to ascertain whether there is any existing evidence, either in West Lothian Council’s own records or from other services or agencies, indicating that there may be a good reason to refuse consent. It is important to note that previous irregular attendance is not of itself a sufficient reason to refuse

consent. Specific instances where consent may not be able to be granted immediately include:

- where a child has been referred to social work 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 the subject of a supervision requirement.

3. The Education Officer:

- contacts parents to arrange to meet with parents/child (if agreed by parents)
- submits a report of the meeting with parents to the PSO and CPO. The report should include:
 - any recommendations that have been discussed and the reasons for them;
 - the detail of agreement/consideration of future contact with parents
- copy the report of the meeting to the parents (and child where appropriate).

When meeting with parents it is good practice to have two officers of the Council present at the meeting. It is not advisable for Education Officers to meet with parents on their own.

Following any meeting with parents, a report must be made by the Education Officer which sets out any recommendations that have been discussed and made, with the reasons for them. The Education Officer must copy the report to the parents, and where appropriate, the child. In exceptional cases, where there is a reasonable concern that a passage in the report might cause serious harm to the physical or mental health or condition of the applicants or a named third party, consideration should be given to withholding that part of it. Any decision about the communication or otherwise of information requires to comply with the data protection principles.

The frequency with which the Education Officer will contact parents to discuss their ongoing home education provision will vary depending on the individual circumstances of each family. It is recommended that Education Officers should ordinarily make contact with parents on a six monthly basis. Contact should be made in writing to the family to seek a meeting or requesting an updated report. The Education Officer must submit a report to the Principal Support Officer after such contact and copy this to the family stating whether the Education Officer has any concerns about the education provision. Where there are concerns about the efficiency or suitability of the education being provided for the child, more frequent contact may be required. Where concerns merit frequent contact the Education Officer should discuss these concerns with the child's parents, with a view to helping them to improve their provision in the best interests of the child.

4(a) Pupil Placement to confirm consent in writing to parents, outlining agreed monitoring procedures if:

- no evidence to refuse consent exists, and
- parents have provided some indication of their educational objectives and proposed resources.

West Lothian Council will not unreasonably withhold consent and all applications for consent require to be processed as quickly as possible.

- 4(b) If information exists casting doubt on whether an efficient education can be provided, or if the parent has failed to provide proposals on the proposed educational provision then PSO/CPO seeks to gather any relevant information that will assist in reaching a decision and refers the matter to Senior Education Development Manager.**

Pupil Placement to write to the parents indicating the reason for the delay in decision and a timescale in which a decision is likely to be reached.

On advice from the PSO the Education Officer may be requested to seek from the parents any further information that they wish to provide explaining how they intend to provide an efficient education. At this point the Education Officer must give parents the opportunity to address any specific concerns that have arisen. An additional meeting between the Education Officer and the parents may be required, and if so, the child must also be given the opportunity to attend this meeting or express his or her views in some other way.

As detailed above, following any meeting with parents, a report must be made by the Education Officer which sets out any recommendations that have been discussed and made, with the reasons for them. The Education Officer must copy the report to the parents, and where appropriate, the child. In exceptional cases, where there is a reasonable concern that a passage in the report might cause serious harm to the physical or mental health or condition of the applicants or a named third party, consideration should be given to withholding that part of it. Any decision about the communication or otherwise of information requires to comply with the data protection principles.

Pupil Placement will write to the parents indicating the reason for the delay in decision and a timescale in which a decision is likely to be reached.

The aim is to issue a decision within 6 weeks of the receipt of the original application. The majority of applications can and will be dealt with well within this timescale. In a small minority of cases, where information has to be sought from various sources, it may not be possible for a decision to be issued within 6 weeks. It is important that the Education Officer has regard to any problems a child is experiencing at school in these circumstances and liaise with the headteacher of the relevant school to implement strategies to minimise any distress or problems that may be occurring as a result of continued attendance at school.

- 5. Senior Education Development Manager to make decision based on information provided.**

The PSO/CPO will provide the Senior Education Development Manager with the additional information gathered with a view to the application for consent being processed as quickly as possible.

It is acknowledged that potential home educators come from all social, economic, racial, and religious backgrounds, and that these factors do not bear upon West Lothian Council's decisions. It is also acknowledged that parents are not required to have any qualifications or training to home educate their children.

6(a) If consent is given, Pupil Placement to write to parents, outlining agreed monitoring procedures.

6(b) If consent is withheld Pupil Placement to notify parents in writing of decision.

The PSO will write to the parents setting out the reasons and grounds for refusal. This letter will also explain to parents that they have the opportunity, within a reasonably practicable period, to address the grounds for refusal and resubmit their request for consideration.

7. Appeals

There is no statutory right to appeal against a decision to withhold consent to withdraw a child from school. It is the case, however, that West Lothian Council will internally review decisions to withhold consent on request.

Parents may make use of the Mediation Service (Parent to Parent Tel 01382 455200) and/or may also make a complaint about a decision via the Education & Cultural Services Complaints Procedure by contacting the following:

Customer Services Manager
Education & Cultural Services
West Lothian Civic Centre
Howden South Road
Livingston
01506 281951

D MOVEMENT BETWEEN LOCAL AUTHORITY AREAS

Some families may have lifestyles which mean they move or travel, sometimes seasonally, between Local Authority areas, sometimes for work or cultural reasons, for example Gypsy/Travellers. The procedure outlined in this document applies to these families.

Some travelling families have arrangements in place whereby children are on a school roll and attend for part of the year, using means other than home education to maintain continuity in learning while travelling. 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.

E 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". West Lothian Council will make a decision based on whether it can support the particular arrangement requested.

F CHILDREN WITH ADDITIONAL SUPPORT FOR LEARNING NEEDS

The Right to Home Educate

A parent's right to educate a child at home applies equally where that child has additional support needs. The fact that a child has additional support needs should not, in itself, be a reason to refuse an application to educate at home.

Additional considerations do, however, apply. It is reasonable for West Lothian Council to ask parents to indicate how they propose to cater for their child'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, 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. With the agreement of the parents, the child's Educational Psychologist may be involved in assessing the proposed provision for a child with additional support needs.

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

The law and children with additional Support Needs

The Education (Additional Support for Learning) (Scotland) (Act) came into force in November 2005. It replaced the system of assessment and recording of children and young with "special educational needs" with a new framework for additional support needs. This term applies to any child or young person who, for whatever reason requires additional support, to benefit from education. West Lothian Council is required to identify, meet and keep under review the additional support needs of all pupils for whose education they are responsible. Appropriate agencies such as Health and Social Policy also have duties placed on them to help Education & Cultural Services when asked to do so.

While West Lothian Council is not responsible for the education of children or young people who are home educated, parents of home educated children have the right to ask the Council to find out whether or not their child has additional support needs, and to assess what level of support they might need. A young person also has similar rights. West Lothian Council can choose to agree with the request, and provide the necessary support, but it is under no legal duty to do so.

G CHILD PROTECTION

The welfare and protection of all children, both those who attend school and those who are educated by other means, is the paramount concern and is the responsibility of the whole community. As with school-educated children, child protection issues may arise in relation to home-educated children. It should not be assumed that child protection issues are more likely to arise for children who are home educated. If any child protection concerns come to light in the course of engagement with children and families, these concerns should immediately be referred via West Lothian Council's established Child Protection Procedures.

APPENDIX ONE - RELEVANT LEGISLATION

Set out below is the legislation relevant to home education. It covers:

- the statutory nature of the issue of home education
- a child's right to an education
- the parent's responsibility for providing that education
- the need for consent to withdraw from school, and
- West Lothian Council's responsibility to satisfy itself that suitable and efficient education is being provided.

References are also made to case law and international law that are of relevance to home education.

The statutory nature of the issue of home education

Standards in Scotland's Schools Etc Act 2000 - Section 14

Guidance to education authorities as to home education: the Scottish Ministers may issue guidance as to the circumstances in which parents may choose to educate their children at home; and education authorities shall have regard to any such guidance.

In March 2004 the Scottish Executive published "Guidance on the Circumstances in which Parents may Choose to Educate Their Children At Home". Revised guidance was issued in 2007 following consultation with interested parties. This guidance is issued under Section 14 of the Standards in Scotland's Schools etc Act 2000. This means that West Lothian Council must have regard to the guidance.

A Child's right to an education

Standards in Scotland's Schools Etc Act 2000 • Sections 1 and 2

1. It shall be the right of every child of school age to be provided with school education by, or by virtue of arrangements made, or entered into, by, an education authority.

2. (1) Where school education is provided to a child or young person by, or by virtue of arrangements made, or entered into, by, an education authority it shall be the duty of the authority to secure that the education is directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential.

(2) In carrying out their duty under this section, an education authority shall have due regard, so far as is reasonably practicable, to the views (if there is a wish to express them) of the child or young person in decisions that significantly affect that child or young person, taking account of the child/young person's age and maturity .

The parent's responsibility for providing that education

Education Scotland Act 1980 - Section 30

(1) It shall be the duty of the parent of every child of school age to provide efficient education for him suitable to his age, ability and aptitude either by causing him to attend a public school regularly or by other means.

(2) Section 1 of the Standards in Scotland's Schools etc. Act 2000 (right of child to be provided with school education by, or by virtue of arrangements made by, an education authority) is without prejudice to the choice afforded a parent by subsection 1 above.

Education Scotland Act 1980- Section 135 (1)

The definition of a parent 'includes guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of section 1(3) of the children (Scotland) Act 1995 in relation to, or has care of a child or young person.'

While most parents fulfill their responsibility to provide education by sending their children to school, others choose to provide home-based education. Home education is a right conditional upon the parents providing an efficient education suitable to the age, ability and aptitude of the child, and choosing this option does not in itself require permission.

Duties placed on West Lothian Council

Education Scotland Act 1980- Section 28 1

In the exercise and performance of their powers and duties under this Act, the Secretary of State and education authorities shall have regard to the general principle that, 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.

Education Scotland Act 1980- Section 35

(1) Where a child of school age who has attended a public school on one or more occasions fails without reasonable excuse' to attend regularly at the said school, then, unless the education authority have consented to the withdrawal of the child from the school (which consent shall not be unreasonably withheld), his parent shall be guilty of an offence against this section.

Education Scotland Act 1980- Section 37(1)

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

(a) to appear (with or without the child) before the authority and give such information as the authority may require regarding the means, if any, he has adopted for providing education, or

(b) in the option of the parent, to give such information to the authority in writing .

Education Scotland Act 1980- Section 37 (2)

If a parent on whom a notice has been served in pursuance of subsection (1) above fails to satisfy the authority that he is providing efficient education for the child suitable to his age, ability and aptitude or that there is a reasonable excuse for his failure to do so, the authority shall make an attendance order in respect of the child in accordance with the provisions of section 38 of this Act.

In all its educational responsibilities, West Lothian Council is required to have regard to the views of parents and the decisions that it makes in relation to their child's education. The Council is also required to seek to build relationships with parents and children that support

parents in the choices that they make by offering advice, information and resources where feasible.

Section 35 and Section 37 of the Education (Scotland) Act 1980 are relevant in relation to home education. Section 35 stipulates that the consent of the authority is required for a child to be withdrawn from school. Section 37 requires an authority to take action where they are not satisfied that an efficient and suitable education is being provided.

Efficient and suitable education

There is no definition of efficient and suitable education in statute law, however, there are two examples of case law from England & Wales which may be of assistance in the interpretation of this:

<i>Harrison & Harrison v Stevenson. Appeal 1981 Worcester Crown Court (unreported)</i>
<i>The Judge defined the outcomes of a suitable education as 1. to prepare the children for life in a modern civilised society; and 2. to enable them to achieve their full potential</i>
<i>R v Secretary of State for Education, ex parte Talmud Torah Machzikei Hadass School Trust. Judicial review 1985, The Times, 12 April 1985.</i>
<i>Mr Justice Woolf said: 'Education is suitable if it primarily equips a child for life within the community of which he is a member, rather than the way of life in the wider country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so.'</i>

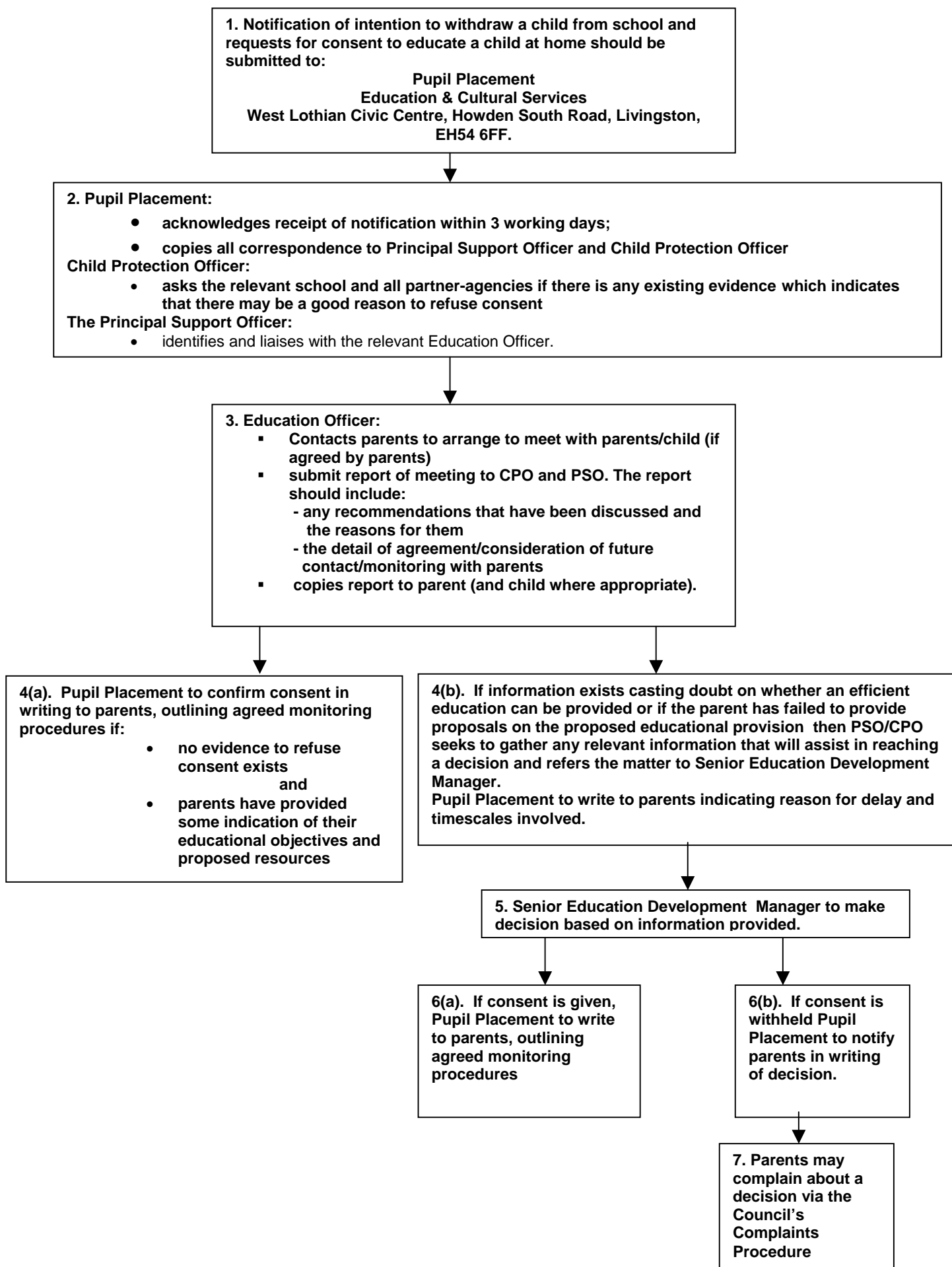
International Law

<i>European Convention on Human Rights - Article 2 of Protocol 1</i>
<i>No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions.</i>
<i>UN Convention on the Rights of the Child - Article 12 (*)</i>
<i>Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</i>
<i>UN Convention on the Rights of the Child - Article 28</i>
<i>Parties recognise the right of the child to education.</i>

International law gives children a right to education. This right is enshrined in Scots law in Sections 1 and 2 of the Standards in Scotland's Schools etc Act 2000 and qualified by Section 30 (2) of the Education Scotland Act 1980.

**The UNCRC has not been directly incorporated into Scots law and its provisions are not directly enforceable. It can, however, be used as an interpretative tool by the courts where a provision in Scots law is ambiguous. The Convention is indicative of international standards and it is the policy of the Scottish Government to reflect the provisions of the Convention wherever possible in the development of policy and legislation.*

APPENDIX TWO – PROCEDURE FLOW DIAGRAM



APPENDIX THREE (I) – PRO FORMA ACKNOWLEDGEMENT LETTER TO PARENTS

WLC/AR/

{Date}

{Name and Address}

Dear **{Name}**

EDUCATION AT HOME – INITIAL EDUCATION PROPOSAL

I acknowledge receipt of your letter dated **{Insert Date}** requesting permission to withdraw your son **{Name of Child/Young Person}** from **{Name of School}** with a view to educating at home.

Home educating children is a right of parents which is conditional upon parents providing an efficient education suitable to the age, ability and aptitude of the child. To this end, I would ask that you provide, in the first instance, an outline of your proposal to educate **{Name of Child}** at home in relation to his/her age, ability and aptitude. I have enclosed a proforma which you may wish to use to detail this information. I can also arrange for an Education Officer to provide advice and support on how to outline your proposal. Please let me know if you wish me to do so.

A Guide for Parents which outlines the steps that will be taken in order for the council to make a decision with regard to your request is available from Alison Raeburn (telephone 01506 776091). Once you have submitted your proposal Education Officers will meet with you to discuss the proposal in more detail. In the meantime, I shall be contacting West Lothian Council's multi-agency partners to request supporting/background information to inform the decision.

Pending formal consent from the council to withdraw **{Name of Child/Young Person}** from **{Name of School}**, the expectation is that **{Name of Child/Young Person}** continues to attend school.

I look forward to receiving your proposal outline.

Yours sincerely

David McKinney
Pupil Placement

Encs.

APPENDIX THREE (II) – PRO FORMA - PARENTS INITIAL EDUCATION PROPOSAL



**West Lothian
Council**

Education and Cultural Services

PARENTS' INITIAL EDUCATION PROPOSAL

You may wish to use some or all of the sections of this proforma to assist you in giving details of your initial proposals for education at home. Other ways by which you can give or expand on this information include:

- Invite an Education Officer to meet with you in your home, with or without your child present e.g. The Education Officer will help you to describe your plans.
- Request a meeting at your child's school, which the Education Officer would attend. You may also request that any other relevant professionals working with your child attend this meeting.

SECTION A - PERSONAL DETAILS

Name of Child: _____ **DOB** _____

Address: _____

School attended (if applicable) _____

SECTION B - OBJECTIVES

- You may wish to outline general objectives, which you have in mind.
- These may give details of your short and longer term goals.

SECTION C - CHILD'S CURRENT APTITUDE AND ABILITY

- Please give details of your child's current aptitude and ability.
- This may be based on up-to-date information from school, your parental knowledge, or information from others who 'teach' your child.
- In particular, please give detail of any special educational needs, which you or others perceive to be relevant.

SECTION C - EDUCATIONAL PROGRAMME

- Please detail how you will provide for your child's needs in the following areas:
 - 1 Intellectual
 - 2 Social
 - 3 Emotional
 - 4 Imaginative
 - 5 Physical
- You may wish to explain how you will facilitate and support learning within specific subjects.
- You may wish to describe a style and approach specific to your philosophy or child's needs.

Questions to think about when designing the programme:

- Does the programme provide breadth and balance to your child's learning experience?
- Will this breadth and balance be achieved within a regular structures timeframe or more "flexible approach"?
- How do you intend to assess/monitor your child's progress?

SECTION D - RESOURCE PROVISION

Please give details of any core resources which you have purchased and also detail what use will be made of existing resources and space both within and outwith the home.

Thank you for the information you have provided

APPENDIX FOUR – EFFICIENT AND SUITABLE EDUCATION

What is considered ‘Efficient’ and ‘Suitable’ education/ the Procedure to be followed when it is considered that Efficient and Suitable education is not being provided/ Monitoring the provision.

The approach home educating parents take to assessing their child’s progress is likely to be dictated by their own philosophy or views, and in many cases, the absence of formal assessment may be a feature of the education provision. Progress, over the long-term, may take a variety of forms.

The education authority West Lothian Council will assume that efficient educational provision is taking place, which is suitable for the child, unless there is evidence to the contrary. If there is reason to believe that an efficient education is not being provided, then there is a duty on the Council to intervene. This duty applies equally in relation to all children, regardless of whether or not they have previously attended a West Lothian school.

Education (Scotland) Act 1980 Section 37(1)

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

(a) to appear (with or without the child) before the authority and give such information as the authority may require regarding the means, if any, he has adopted for providing education, or

(b) in the option of the parent, to give such information to the authority in writing.

Education (Scotland) Act 1980 Section 37(2)

If a parent on whom a notice has been served in pursuance of subsection (1) above fails to satisfy the authority that he is providing efficient education for the child suitable to his age, ability and aptitude or that there is a reasonable excuse for his failure to do so, the authority shall make an attendance order in respect of the child in accordance with the provisions of section 38 of this Act.

If, from whatever sources, West Lothian Council becomes aware of concerns about the home education of any child, this should be reported to the Principal Support Officer who will gather the necessary information in order for the Senior Education Officer to form a view on whether the parents are providing an efficient education suitable to the age, ability and aptitude of the child. This will include requesting the relevant Education Officer to give consideration to the following characteristics:

Suggested characteristics of ‘efficient’ and ‘suitable’ education

It is reasonable to expect the provision to include:

- Consistent involvement of parents or other significant carers — it is expected that parents or significant carers would play a significant role, although not necessarily constantly or actively involved in providing education.
- Presence of a philosophy or ethos (not necessarily a recognised philosophy) — it is expected that the parents have thought through their reasons, showing signs of commitment and enthusiasm, and recognition of the child's needs.
- Opportunities for the child to be stimulated by their learning experiences.
- Involvement in activities — a broad spectrum of activities to cater for wide varieties of interests appropriate to the child's stage of development.
- Access to resources / materials required to meet the objectives of the parents — such as paper and pens, books and libraries, arts and crafts materials, physical activity, ICT and the opportunity to interact with peers and with other adults.

If, on considering the educational provision, one or more of the characteristics listed above appear to be lacking, the Council may choose to further investigate whether or not an efficient education is being provided. The Education Officer will be called upon to discuss these concerns with the parents and, if appropriate, clearly articulate their concerns in writing. If this investigation concludes that efficient education is not being provided, and the parents, having been given an opportunity to improve their provision, have not done so, West Lothian Council will activate the formal attendance procedure in accordance with the Section 37 provisions of the 1980 Act.

Contact/Monitoring

There is no statutory duty on West Lothian Council to investigate actively (i.e. monitor) ongoing home education provision. However, in law, the Council has a duty to serve a notice on any parent who they are not satisfied is providing efficient education suitable to their child's age, ability and aptitude. The law does not, however, specify how, and to what extent the Council should actively seek the information that will inform it on whether home educating parents' educational provision is suitable and efficient.

In West Lothian Council, Education Officers will make contact with those families known to be home educating on a six monthly basis.

Contact should be made in writing initially to the family, seeking a meeting or requesting an updated report. The primary purpose of the contact is to satisfy the Council that suitable and efficient education is being provided. The Education Officer will not be prescriptive about the format in which information is submitted, the important factor is whether the information can demonstrate that suitable and efficient education is being provided.

Following the contact, the Education Officer will submit a report to the PSO who will write to the family to the family letting them know the outcome, i.e. whether or not the educational provision was seen to be suitable and efficient. If there was no problem with the educational provision, the Education Officer will not make contact with the family until another 6 months. Where there are concerns about the efficiency or suitability of the education being provided, the PSO will write to parents to clarify the exact nature of these concerns.

Access to the child at home

It is important to acknowledge that learning takes place in a wide variety of environments and not simply in the home. Where the education is taking place in the home, it may be thought desirable for the Education Officer to have the opportunity to see the child in that learning environment, to enable them to see the provision at first hand, and thus make a recommendation on whether suitable and efficient education is being provided. West Lothian Council 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 officer to visit. Where a parent elects not to allow access to their home or their 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 Officers should 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.

Exceptional circumstances

Where West Lothian Council 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 the authority can clarify whether suitable and efficient education is being provided is to seek access to the home environment, then it may request to do so. However, there must be demonstrable grounds for concern and the Education Officer must outline those grounds to the parent when requesting access to the home. If, in these circumstances, the parent refuses to allow access to the home, the authority might reasonably conclude that they have insufficient information to satisfy themselves as to the efficiency and suitability of education provision, and serve a notice on the parent under Section 37 of the 1980 Act.

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

Making an attendance order

A parent's wish to educate a child at home should be respected and, where possible, effort should be made to resolve issues about provision by a process of ongoing dialogue before Section 37 is invoked. Only in extreme cases should notice be served, i.e. where:

- the education is clearly not efficient and suited to the age, ability and aptitude of the child, and this situation is unlikely to be resolved by further ongoing dialogue, or,
- West Lothian Council 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.

Under Section 37, notice will allow between seven and fourteen days for the parent to provide the Council with whatever information they require to satisfy themselves about the suitability of the education. The parent may choose to do this by meeting with the Education Officer in person, or by supplying the information in writing.

West Lothian Council will make an attendance order where the parent, on whom notice has been served, fails to satisfy the Council that efficient education is being provided, suitable to the age, ability and aptitude of the child, or that there is reasonable excuse for his or her failure to do so.

Once an attendance order has been served, the parent has two weeks to appeal to the sheriff, who may confirm, change, or annul it.