

Cabinet Committee

Committee Room 2, 5th Floor, Fife House, North Street,
Glenrothes / Blended Meeting



Thursday, 1st June, 2023 - 10.00 a.m.

AGENDA

The following report is circulated with reference to the main agenda previously issued:-

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URGENT ITEM

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| 1. | PRESCRIBING THE MINIMUM ANNUAL NUMBER OF LEARNING HOURS – CONSULTATION RESPONSE – Report by the Executive Director (Education and Children's Services). | 3 - 12 |
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Members are reminded that should they have queries on the detail of a report they should, where possible, contact the report authors in advance of the meeting to seek clarification.

Lindsay Thomson
Head of Legal and Democratic Services
Finance and Corporate Services
Fife House
North Street
Glenrothes
Fife, KY7 5LT

26th May, 2023.

If telephoning, please ask for:

Michelle McDermott, Committee Officer, Fife House, North Street, Glenrothes
Telephone: 03451 555555, ext. 442238; email: Michelle.McDermott@fife.gov.uk

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BLENDED MEETING NOTICE

This is a formal meeting of the Committee and the required standards of behaviour and discussion are the same as in a face to face meeting. Unless otherwise agreed, Standing Orders will apply to the proceedings and the terms of the Councillors' Code of Conduct will apply in the normal way

For those members who have joined the meeting remotely, if they need to leave the meeting for any reason, they should use the Meeting Chat to advise of this. If a member loses their connection during the meeting, they should make every effort to rejoin the meeting but, if this is not possible, the Committee Officer will note their absence for the remainder of the meeting. If a member must leave the meeting due to a declaration of interest, they should remain out of the meeting until invited back in by the Committee Officer.

If a member wishes to ask a question, speak on any item or move a motion or amendment, they should indicate this by raising their hand at the appropriate time and will then be invited to speak. Those joining remotely should use the "Raise hand" function in Teams.

All decisions taken during this meeting, will be done so by means of a Roll Call vote.

Where items are for noting or where there has been no dissent or contrary view expressed during any debate, either verbally or by the member indicating they wish to speak, the Convener will assume the matter has been agreed.

There will be a short break in proceedings after approximately 90 minutes.

Members joining remotely are reminded to have cameras switched on during the meeting and mute microphones when not speaking. During any breaks or adjournments, please switch cameras off.

1st June, 2023.

Agenda Item No.

Prescribing the Minimum Annual Number of Learning Hours – Consultation Response

Report by: Carrie Lindsay, Executive Director (Education and Children’s Services)

Wards Affected: All

Purpose

This report is to outline the proposed feedback from Fife Council on the Scottish Government’s document ‘Prescribing the minimum annual number of learning hours: consultation.’

Recommendation(s)

It is recommended that the Committee:

- (a) comments on and approves the consultation feedback on the minimum annual number of learning hours consultation; and
- (b) authorises officers to make such amendments to the consultation response as may be necessary.

Resource Implications

No resource implications.

Legal & Risk Implications

There are no legal or risk implications arising from this report.

Impact Assessment

An EqIA is not required as the report does not propose a change or revision to existing policies and practices.

Consultation

As a result of the timing of the consultation, representatives from the Education and Children’s Services Directorate have contributed to the consultation questionnaire.

1.0 Background

- 1.1 The Scottish Government is undertaking a consultation relating to the Ministers' proposal to set in law the minimum number of learning hours provided in public and grant aided schools and is inviting views on this proposal and its implementation.
- 1.2 Section 21 of the Education (Scotland) Act 2016 ("the 2016 Act") inserted section 2ZA into the Education (Scotland) Act 1980 ("the 1980 Act") which makes provision about learning hours and gives powers to Scottish Ministers to make regulations to prescribe the minimum number of learning hours per academic year.
- 1.3 The Cabinet Minister for Education & Skills (at the time of publication of the Consultation paper), stated, *'The school week is the backbone of our education provision and benefits all our children and young people. The Scottish Government is clear that any changes to the school week must be based on educational benefit to pupils. Any measures that materially reduced the number of hours children spend learning in school would be expected to reduce pupil attainment and wellbeing and undermine efforts to close the poverty related attainment gap. To protect this vital provision for children and young people I am bringing into force the existing provisions in the Education (Scotland) Act 2016 which will enable Scottish Ministers to set the minimum number of learning hours in a school year and propose to use this power to make regulations later this year'*.
- 1.4 The consultation paper (background papers) sets out what the Scottish Government means by the term learning hours, in which types of educational setting the provisions would apply and gives an overview of the current position in Scotland and internationally.
- 1.5 It proposes, and invites views on, the level the minimum number of learning hours should be set at for different types of school and explores what this could mean in practice for schools and local authorities in different types of educational provision.
- 1.6 Regulations and guidance, if implemented, will specify the minimum number of learning hours per annum, how these should apply, including any variation where appropriate, and effectively provide a statutory basis for the pupil year.
- 1.7 There is, currently, variation in the number of school hours offered across Scotland and, indeed, across Fife which has arisen for a range of reasons. Scottish Government indicates that it wishes to understand and give careful consideration to this variation to avoid unintended consequences, where this variation is appropriate, but also to ensure that similar and equitable provision is available to pupils wherever they go to school in Scotland.
- 1.8 There are also differences in local delivery, for example, with some areas, including a number of secondary schools in Fife, operating an asymmetric week, with some longer and some shorter days. The Scottish Government has indicated that there is no intention to constrain this local variation.
- 1.9 While learning hours are not currently prescribed, the number of school days is set in law in Scotland (and England). Regulation 5 of the Schools General (Scotland) Regulations 1975, as amended, requires schools to be open for a minimum of 190 days in a school year. This requirement is unaffected by the proposals being consulted upon here. There is legislative provision which allows for schools not to deliver the 190-day requirements in limited circumstances. Section 133(4) of the 1980 Act allows Scottish Ministers, on application by an education authority, to modify the application of the 190-day requirement by way of a direction, provided Ministers are satisfied that it would be unreasonable for the requirement to apply, or to apply without modification. For example, this process can be used to permit unavoidable ad hoc closures of schools, such as to move from one school building to another, or to mark additional public holidays such as that observed recently.

- 1.10 For Fife primary schools, these proposals would not have any immediate impact, as Fife has not moved to alter the school week in this sector and is providing 25hrs per pupil week, which would become the requirement. However, any future proposal to reduce the length of the Primary School week (e.g. to 22.5 hours) would not be possible.
- 1.11 For Secondary, we would be required to undertake a detailed exercise, as some schools may be able to make some changes within their current teacher numbers, but most may need additional teachers (and budget) where their current timetables are highly efficient in the use of their teaching resource, with no capacity to absorb the additional teaching hours that would be required.
- 1.12 This would mean that all Secondary Schools in Fife would offer the same number of learning hours, 27.5, providing equity for Fife learners. However, equity in the number of hours in the Secondary school week could be provided without national regulation and, as for our Primary schools, legislation to set a 27.5 learning hour minimum would prevent any future change opportunities being explored in this area.
- 1.13 Practically, there may also be some issues in terms of the timing of implementation of any legislation. For example, adjusting transport arrangements for schools (across all sectors) if the start/end times of the school day need to be altered at relatively short notice, is likely to be a major issue in Fife as, from experience, rearranging school bus times is never straightforward for the bus operators and usually comes at a significant cost. Furthermore, altering a school's start or end times requires consultation with pupils, parents, and staff members, which takes time.
- 1.14 Additionally, if regulation is implemented, it will impact on the deliverability of the non-class contact time changes yet to be agreed and the number of additional teachers we will require to resource both the learning hours and the proposed increase in non-class contact time. If the time between a teacher's class contact time limit (currently 22.5hours per week, with a proposed reduction to 21 hours per week) and the number of hours required in the school week increase, further additional teachers will be required.
- 1.15 Legislating for the learning hours, in conjunction with the particular focus on teacher numbers and the Pupil Teacher Ratio, will have wider implications for the directorate, and the other posts/staff groups, as well as wider Council Services.
- 1.16 Finally, the Scottish Government has stated an intention to work with local authorities to devise an efficient process for applications to deliver fewer learning hours and for exemptions to be made. It is proposed that the learning hours regulations would be accompanied by guidance to local authorities on the process for seeking an exemption. This is not yet outlined, would be crucial and could not become a significant workload management issue for schools or local authorities.

2.0 Conclusions

- 2.1 The Scottish Government consultation is an opportunity for local authorities, parents, children and young people and other stakeholders to provide views and evidence about the potential impact of the implementation of this policy. The Scottish Government has indicated its aim to use the responses to inform the regulations and non-statutory guidance it intends to bring forward.
- 2.2 The proposed Fife Council Respondent Information Form and Consultation Questionnaire has been enclosed as Appendix 1.

Appendices

1. Respondent Information Form and Consultation Questionnaire

Background Papers

Prescribing the minimum annual number of learning hours: consultation

[Prescribing the minimum annual number of learning hours: consultation \(www.gov.scot\)](http://www.gov.scot)

Report Contact

Shelagh McLean
Head of Education & Children's Services
Fife House
Email. shelagh.mclean@fife.gov.uk



**Prescribing the minimum annual number
learning hours per week: consultation**

Respondent Information Form

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

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

Are you responding as an individual or an organisation?

- Individual
 Organisation

For individuals, are you responding as a:

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

Full name or organisation's name

Phone Number

Address

Postcode

Email Address

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

Publish response with name

- Publish response only (without name)
- Do not publish response

Information for organisations:

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

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

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

Yes

- No

Questionnaire

Question 1

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

Yes

No

Not Sure

Fife Council does not believe the Scottish Government should prescribe minimum learning hours in statute.

While learning hours are not currently prescribed, the number of school days is set in law in Scotland (and England), requiring schools to be open for a minimum of 190 days in a school year. This requirement is not considered through the proposal being consulted upon here, therefore the proposal does not consider whether prescription of both the number of schools days and minimum learning hours are required, nor how one might impact on the other, further restricting local decision making and empowerment.

Fife Council believes that the consultation proposal:

- is not outcome focused and it is not supported by clear evidence
- will further reduce the flexibility local authorities need to design education services to meet the needs of their local communities
- does not define, effectively, the term 'learning hours'
- does not clearly set out how exemptions would work
- may be difficult to implement across Fife (and the whole of Scotland)
- may result in additional costs for Fife Council, that could not be met from existing budgets

Fife Council requires sustainable funding, not additional restrictions, to provide support for our children and young people, to achieve the best possible outcomes.

As a local authority, Fife Council does not take decisions on the length of the school week lightly and, when doing so, considers the needs of and impacts on outcomes for young people. The impact of the long-term reductions in core budgets available to local authorities has meant that Elected Members have been required to consider all possible options and make very difficult decisions. The Education Service in Fife is designed to provide the right support to ensure children and young people receive the best possible outcomes, drawing together local services to maximise impact whilst reflecting and shaping local places and the economy. Importantly decisions are devolved to schools, to deliver appropriate education to suit their contexts, reflecting the empowered system sought by Fife Council and Scottish Government.

Prescribing in regulations a national, standard length to the school week (learning hours) will require changes across our sectors, school settings and communities.

This proposal would also create new and additional costs which cannot be met from existing budgets and which would be challenging to implement e.g. transport etc.

When linked to the restrictions around teacher numbers, pupil support post numbers and probationer places, the impact for the directorate, and the other posts/staff groups, as well as wider Council Services could be significant.

Achieving the best possible outcomes for children and young people and tackling the poverty related attainment gap requires support from a range of services, including social work, Fife College, health, early years, police, commissioned third sector support services, school transport, breakfast and after school clubs etc. This support risks being weakened by the introduction of these regulations, as in the current financial circumstances implementation may result in disproportionate cuts falling upon these other vital services. This may have the effect of adding further pressure to the teaching and school workforce if these vital support services are reduced.

Whilst a standardised length of the school week for our Secondary schools in Fife would mean that all Secondary Schools in Fife will offer the same number of learning hours, providing equity for all learners across Fife, this equity can be achieved without prescribing the hours in regulation, allowing this to be a decision taken by Fife, in line with the current local flexibility.

As the consultation does not set out a timescale for the implementation of any regulations, if the Scottish Government introduces prescribed learning hours that are above what is currently delivered in Fife, we would need sufficient time, support and resources to increase provision.

As has been well documented, Fife continues to face recruitment challenges within teaching, along with all Local Authorities. Prescribing the learning hours could limit further the ability of all schools to deliver Curriculum for Excellence. Additionally, the proposed introduction of 21 hours of contact time for teachers, within the parliamentary term, means that consideration must be given to whether this learning hours proposal

would limit the flexibility that may be required to deliver other commitments, due to the significant financial, recruitment and logistical challenges that are already mentioned.

There are several additional operational considerations that would require to be addressed to increase provision, including:

- variations to our school transport arrangements
- changes to cleaning and janitorial support, which may require additional staff
- changes to contracted hours or changes to commissioned services.
- impacts on PPP contracts and other school let arrangements

If the Scottish Government prescribes statutory minimum learning hours, these cannot be met within current budgets. There will need to be further engagement on the funding required from Scottish Government.

Question 2

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

- Yes
- No**
- Not Sure

Fife Council does not agree that minimum learning hours should be set in statute. The consultation paper does not clearly set out why 950 hours should be introduced into statute. It does not provide evidence on the impact this will have on outcomes for children and young people.

Question 3

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

- Yes
- No**
- Not Sure

Fife Council does not agree that minimum learning hours should be set in statute. The consultation paper does not clearly set out why the 1045 hours should be introduced into statute. It does not provide evidence on the impact this will have on outcomes for children and young people.

Question 4

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

- Yes, no changes should be made

No, changes should be made

Not Sure

The proposed definition of learning hours is open to interpretation.

Fife Council is clear that mandating the length of time that children and young people spend specifically with teaching staff does not recognise how education is delivered at present nor the range of valued professionals that support children and young people, and their families.

Question 5

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

How exemptions would work in practice is not set out within the consultation paper. It is unclear if and how the regulations would allow councils to continue to provide learning hours that differ from 950/1045 hours.

The introduction to the Scottish Government's consultation paper highlights the importance of flexibility in delivery of the school week, but there is no clarity within the paper on how that flexibility would operate in practice.

Should the Scottish Government choose to introduce regulations, these must be flexible enough to adapt to the needs of local authorities, schools, and importantly, learners and their families.

At present it is unclear how the models used by special schools, study leave etc. would be considered for exemptions and what the process for this would be.

Question 6

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

The consultation does not set out a timescale for the implementation of any regulations. If the Scottish Government introduces prescribed learning hours that are above what is currently delivered by Fife, we would need sufficient time, support and resources to increase provision.

Fife Council, along with all Local Authorities, faces recruitment and retention challenges. This would limit the ability of some schools to implement a new school week, which in turn would exacerbate the recruitment challenges.

There are several significant operational considerations that would require to be addressed to increase provision. These considerations include variations to school transport arrangements; changes to cleaning and janitorial support, which may require additional staff; changes to contracted hours or changes to commissioned services; impacts on PPP contracts and other school let arrangements.

If the Scottish Government prescribes minimum learning hours above the current number provided in Fife, the changes cannot be met within Fife Council's current budgets. There will need to be further engagement, across all partners, on the funding required from Scottish Government. This would include staffing costs for teachers, other staff, and any additional transport, cleaning, heating and operational costs that are introduced by the implementation of prescribed learning hours.

The Scottish Government would also need to consider how it would support the resolution of the current recruitment and retention challenges.

Should the Scottish Government also intends to introduce 21 hours of contact time for teachers, consideration must be given to whether the learning hours proposal would limit the flexibility required to deliver this.