

CEL CIS's response to the Scottish Government's 'Prescribing the minimum annual number of learning hours: consultation.'

CEL CIS, the Centre for Excellence for Children's Care and Protection is a leading improvement and innovation centre in Scotland. We improve children's lives by supporting people and organisations to drive long lasting change in the services they need, and the practices used by people responsible for their care.

We welcome the opportunity to respond to the Scottish Government's consultation on prescribing the minimum annual number of learning hours for Scotland's children. The consultation process has focused attention on seeking views on prescribing the minimum learning hours pupils should receive, what the number of hours should be and where exemptions would lie.

As [Corporate Parents](#), Scottish Ministers and other public bodies have a duty to ensure services meet the needs and promote the interests of children and young people with care experience. We recognise that the scope of the proposed prescription of school hours applies to all children and young people; our submission aims to offer a specific perspective on the potential impact on the needs of care experienced learners and the people responsible for providing their education. Our response is based on research evidence, practice experience and feedback from our long-standing education networks, comprising practitioners and leaders working across education in schools, children's houses, and local authorities across Scotland.

Key Messages

- Care experienced learners benefit from additional bespoke support that follows them on their journey through education to help them attend school or college, attain qualifications, and make good progress in their learning.
- There is little agreement from evidence regarding the relationship between time spent in school and the quality of the educational experience and later educational outcomes.
- The importance of relationships for care experienced learners with teachers and education staff cannot be overstated.
- The success of future education reform and the workforce's capacity to develop and sustain relationships with children and young people depends upon the emotional wellbeing of the staff who will be responsible for implementing change.
- There is limited evidence that an inconsistency in the number of learning hours provided to children exists and therefore, that statutory measures are required to enforce this.

Context: Education of Care Experienced Children and Young People

Under Article 28 of the United Nations Convention on the Rights of the Child (UNCRC, 1989) all children, regardless of their circumstances, have a right to an education. With the right support at the right time, all children and young people thrive and realise their potential. Care experienced learners are no different, although some may require additional support at different times during their educational journey.

The 2020 report of the [Independent Care Review, The Promise](#), underscored the importance of Scotland being ambitious about the achievements of and opportunities for care experienced learners, and the need to recognise the role played by schools in providing a wide range of activities for care experienced children to enjoy stable, nurturing relationships that prepare them for life beyond school.¹

Like all children, care experienced children and young people are a diverse group of learners who span the age and ability range. For a variety of complex and interrelated reasons they may face additional barriers to learning. Scottish Government Educational Outcomes data from 2020-2021² shows that 'looked after children'³, on average, have lower attendance rates, higher exclusion rates, leave school earlier, and attain fewer qualifications than all other children.⁴ Whilst having experience of care is not a predictor of later education outcomes, this data highlights the importance of providing effective, timely and responsive support to meet care experienced learners individual needs.

The evidence on prescribing a minimum number of learning hours

Almost all OECD countries have statutory requirements with regards to the amount of instruction schools must offer. These can be stipulated as a minimum number of days (which is Scotland's current position), or hours (the proposed position under this consultation) and the understanding is that there should be enough time given to achieve good learning outcomes. Across OECD countries, compulsory instruction for primary students averages 807 hours per year for primary settings and 923 hours for secondary settings.⁵ The proposed legislation would formalise what Scotland traditionally provides, which is currently the equivalent of 950 hours for primary and 1045 hours for secondary.

¹ Independent Care Review (2020). The Promise:

<https://www.carereview.scot/wpcontent/uploads/2020/02/The-Promise.pdf>

² Due to the pandemic, the data from 18/19 is the most recently available data set that allows a robust comparison of outcomes with previous years.

³ 'Looked after' and 'looked after child' are the terms used in current legislation to refer to a child or young person who is cared for under a formal arrangement with a local authority. It has a specific legal meaning, but wherever possible, the more inclusive term 'care experience' is preferred.

⁴ Scottish Government (2022). [Looked after children: education outcomes 2020/21](#). Scottish Government, Edinburgh.

⁵ OECD (2021). [Education at a Glance 2021: OECD Indicators](#). OECD Publishing, Paris.

The OECD provides quantitative, internationally comparable indicators to support policy makers and assist governments to consider how to build effective and equitable education systems.⁶ They offer a note of caution in that any analysis should take into consideration historical, systemic, and cultural differences. There is limited evidence available on the relationship between the quantity of instructional time and outcomes across educational phases and the evidence varies in scale, quality, and applicability.⁷

The issue of time in school, learning hours and related concepts such as 'instructional time'⁸ are more complex than they first appear. Whilst we did not carry out a systematic review, in preparing our response we found few relevant UK research papers on the relationship between prescribed time in school and educational achievement. Our analysis of available, mostly international, studies found little consensus regarding the relationship between time spent in school and later educational outcomes. There were limitations and caveats in most studies and any benefits ascribed were described as tentative and context specific. The quality of teaching was an important determinant and for some researchers this is the issue that should be prioritised, rather than the amount of time children spend in school. The studies indicated that at best there was a small positive^{9,10} relationship between increased instructional time and at worst there was no or a negative¹¹ effect. There were conflicting findings on whether more¹² or less academically able learners benefitted the most from increased instructional time. One study¹³ found a large increase in instructional time had a positive effect however this required significant funding and major institutional change. How school was used, the quality of teaching and strategies deployed were regarded as the most important determinants on how children attain.¹⁴

Implications for Care Experienced Learners

Despite vast differences in policy and legislative contexts from country to country there is a broad consensus internationally in the research literature that care experienced learners do well in education when they have access to

⁶ *ibid.*

⁷ Department for Education (2021). [Review of time in school and 16 to 19 settings](#). UK Government, London.

⁸ Berliner, D. C. (1990). What's all the fuss about instructional time? In M. Ben-Peretz & R. Bromme (Eds.), *The nature of time in schools: Theoretical concepts, practitioner perceptions* (pp. 3–35). Teachers College Press.

⁹ Lavy V (2020). 'Expanding School Resources and Increasing Time on Task: Effects on Students' Academic and Non-cognitive Outcomes' *Journal of the European Economic Association* volume 18, 232–265.

¹⁰ Kidron Y & Lindsay J (2014). 'The effects of increased learning time on student academic and nonacademic outcomes: Findings from a meta analytic review' (REL 2014-015). Washington, DC: U.S. Department of Education.

¹¹ Patail E, Cooper H & Allen A (2010). 'Extending the School Day or School Year: A Systematic Review of Research (1985–2009)', *Review of Educational Research*.

¹² Cattaneo M A, Oggenfuss C, & Wolter S C (2017). 'The more, the better? The impact of instructional time on student performance' *Education Economics*, volume 25, 433–445.

¹³ Bellei C (2009). 'Does lengthening the school day increase students' academic achievement? Results from a natural experiment in Chile' *Economic Education Review* volume 28, 629–640.

¹⁴ Rivkin S G and Schiman J C (2015). 'Instruction Time, Classroom Quality, and Academic Achievement' *Economic Journal*, Royal Economic Society, volume 125(588), 425-448.

proactive strategies¹⁵ and they receive consistent support.¹⁶ This could be summarised as including:

- bespoke education interventions, initiatives and supports that are offered to the individual child,
- interventions, initiatives and supports aimed at families and carers; and
- classroom and school focused strategies.

A relational approach to support

Ideally, these are provided in the context of relationally driven policy directives that aim to sustain an ethos of care and a culture that promotes understanding in broader society. The aim of these layers of support is to ensure the alignment of policy and practice so that care experienced learners routinely feel safe, attend school or college, and can enjoy and spend their time in education. Whilst it is difficult to generalise, the majority of supports, interventions and policy initiatives promote additionality to what is statutorily available. These focus on ensuring that care experienced learners go to school regularly, have access to quality academic teaching and ensure that they have meaningful relationships with a trusted adult. Relational-based approaches to learning and teaching, and addressing the holistic wellbeing needs of children and young people with care experience, have been shown to be more effective supports for improving achievement and attainment than purely the amount of time spent in school.

Whilst increasing or prescribing the number of learning hours is no guarantee of an improvement in the quality of teaching, there is an opportunity to consider the impact on other factors. The purpose of education goes beyond the academic to include, for example, impact on confidence, motivation, relationships, wellbeing, attitude to learning, as well as attendance. The importance of relationships for care experienced learners, with staff in education, cannot be overstated. Time in school provides an opportunity for day-to-day interactions to nurture and sustain positive relationships with peers, adults and out into the community. This is a key factor to creating the conditions that maximise attendance and minimise the need for time out of school. A uniform, standardised offer of time, from every school could contribute towards a consistency of experience which both contributes to realising the ambitions of The Promise of the Independent Care Review and secures care experienced learners' right to an education. There is limited evidence, particularly in Scotland, that inconsistency in the number of learning hours provided to children exists and therefore, that statutory measures are required to enforce this.

Implications of statutory measures

There is a risk of potential unintended consequences to setting learning hours in law, in that current arrangements may allow for a degree of flexibility that meets

¹⁵Männistö, I. I., & Pirttimaa, R. A. (2018). A review of interventions to support the educational attainments of children and adolescents in foster care. *Adoption & Fostering*, 42(3), 266-281.

¹⁶Higgins, A. O., Sebba, J., & Luke, N. (2015). What is the relationship between being in care and the educational outcomes of children? *An international systematic review*. Rees Centre, Oxford.

the needs of specific groups including care experienced learners, those with additional needs and those living in rural communities. The proposal that education authorities may deliver individualised, fewer number of hours without the need for an exemption raises concern. Care experienced learners are already disproportionately affected by both formal and informal exclusion. We would welcome clear guidance that underscores children's rights to full-time education, the presumption of full entitlement as well as the safeguards and robust implementation of regular reviews and gatekeeping of exemptions.

Our networks regularly describe situations where legislation and policy are used in ways that are contrary to their spirit or intention. This can lead to children and young people being excluded or marginalised in a way that is not illegal but can be immoral and unjust. For example, children may be given a part time timetable which is recorded as a supportive mechanism but may in fact be due to lack of the appropriate resource to support the learner or capacity issues within a setting. We recognise that many of these examples are exceptions, but it is important to acknowledge that this type of practice, where law and policy can be used to create or embed a culture of exclusion rather than inclusion, does exist and could be an unintended consequence of any new legislation around prescribing minimum learning hours.

Implications for the workforce

The Scottish education policy and legislative landscape is often described as 'cluttered'.¹⁷ There are recommendations that have yet to be fully realised, for example, those from the Morgan review.¹⁸ A significant education reform programme is underway including the creation of three new national bodies and the review of qualifications and assessment.¹⁹ Furthermore, the Scottish Government's recent publication of the National Discussion on Education²⁰ highlights the issue of the limited availability of time and space for education staff to develop knowledge, expertise and practice.

Those who live with, support and those who teach care experienced learners describe how they are attempting to deliver on all these significant historic, current and proposed reforms and policy calls. They are doing so however in the shadow of the effects of the COVID-19 pandemic and in the context of a significant rise in the cost of living.

The Promise highlighted the need to hold the hands of those that hold the hands of care experienced children and young people. The success of future education reform and the workforce's capacity to develop and sustain relationships with children and young people depends upon the emotional wellbeing of the

¹⁷ Muir, K. (2022). [Putting Learners at the Centre: towards a future vision for Scottish education](#). Scottish Government, Edinburgh.

¹⁸ Morgan, A (2020). [Support for Learning: All our Children and All their Potential](#). Scottish Government, Edinburgh.

¹⁹ Hayward, L (2023). [Independent Review of Qualifications & Assessment in Scotland Interim Report](#). Scottish Government, Edinburgh.

²⁰ Campbell, C. and Harris, A. (2023). [All Learners in Scotland Matter – national discussion on education: final report](#). Scottish Government, Edinburgh.

workforce. There is a very real risk that these proposed legislative changes would not enhance the coherence of the policy environment and could add to the burden the sector is already experiencing.

Summary

The Scottish Government's proposal to set a legal minimum number of hours of education would bring Scotland, from a quantitative point of view, into line with countries particularly those in the OECD. Whilst there are potential benefits to prescribing a minimum number of hours linked to children's rights and promoting consistency for all care experienced learners, there is insufficient evidence on the impact that learning hours have on the quality of the journey of children and young people through education, their subsequent qualifications and future employability, to confidently assert that this would create positive and lasting changes for Scotland's children.

Revisiting the point and purpose of this proposal, alongside an evaluation of the evidence of the effectiveness of this intervention would be welcome. Pausing current plans in this area would give time and space to the sector and allow for a deeper analysis and understanding of evidence on the actual number of hours currently taught in local authorities in Scotland, as well as the reasons for the variance. This could allow for any proposed legislation to be more effectively embedded and aligned with future education reform.

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