

Scottish Government
Prescribing the minimum annual number of learning hours:
consultation
13 June 2023

Introduction

1. The NASUWT welcomes the opportunity to comment on the Scottish Government's plans to set in law a legal minimum number of hours of school education that school pupils should receive each year.
2. The NASUWT is the Teachers' Union, representing teachers and school leaders in all sectors of education.

Question 1: Should the Scottish Government set in law the minimum learning hours pupils in Scotland should receive?

3. The NASUWT supports the overall Scottish Government policy intention to protect teacher numbers. Indeed, the Union warmly welcomed the following comment in the statement from the then Cabinet Secretary for Education and Skills, Shirley-Anne Somerville, delivered to the Scottish Parliament on Tuesday 7 February 2023:

"My immediate concern is the threat that the numbers of teachers and support staff may start to fall in the next financial year as a result of council budget decisions. I wish to avoid such an outcome."

4. There has, however, been an unnecessary conflation between prescribing learning hours and protecting teacher numbers. While the proposal for prescribing the minimum annual number of learning hours appears to be a quick statutory fix on the surface, it ignores the drivers for proposed reductions by some local authorities and skips over potential unintended consequences. Ignoring the complex, nuanced situation on the ground across Scotland's schools and imposing a top-down statutory model is a flawed approach and, consequently, the NASUWT cannot support the implementation of statutory provisions as set out within the consultation paper.

Question 2: Do you agree that the minimum annual learning hours should be 950 hours for primary schools?

Question 3: Do you agree that the minimum annual learning hours should be 1045 hours for secondary schools?

5. Many primary schools adopt a lower number of learning hours for pupils in primary 1 and primary 2: there is no evidence of impact presented as part of the consultation process. The Union would suggest the first step should have been an exploration or consideration of educational impact: any decision should be evidence based.
6. The NASUWT also recommends caution in wholesale adoption of any international system approaches. While it can be instructive to take inspiration from other countries and systems, the approach adopted for Scotland must be based on engagement with teachers and must be responsive to local needs.
7. The Union is aware that it has been suggested in some other UK jurisdictions that the educational implications of the pandemic on children's learning and development might most effectively be addressed by increasing the total amount of time spent engaged in formal education. Proposals in this respect often focus on extending the school day or year. Without significant investment in additional staff

and resources, such proposals would create significant workload and wellbeing risks. Moreover, it is by no means evident that increasing the quantity of formal taught time in this way would secure meaningful educational or other benefits for children and young people.

8. Evidence from the OECD¹ is clear that, relative to the nature and quality of provision in existing school time, the length of the school day or year is of limited importance. This point is further emphasised by evidence from the Education Endowment Foundation (EEF),² which suggests that the potential positive impact of extending formal teaching time is low in comparison with other interventions. The clear majority of interventions included in the EEF's Toolkit³ are rated more effective than extending taught time. The EEF encourages schools to consider ways that existing school time might be used more effectively before contemplating extending formal taught time.

9. International comparative evidence⁴ also confirms no clear correlation between longer school days/years and educational outcomes. Many countries identified as among the highest performing in international studies have comparatively less time in school than others not generally included in this group. It should be noted that the length of the school year in the UK's education systems is at the higher end of the distribution of other European jurisdictions.⁵ The typical school day duration in UK jurisdictions is the same as, or longer than,⁶ other countries often identified as high performing, including those of New Zealand, Singapore, Finland and Japan.

¹ https://www.oecd-ilibrary.org/education/how-is-learning-time-organised-in-primary-and-secondary-education_5jm3tgsm1kg5-en;jsessionid=TEyZplSqG4aU51rGEfgCYJict36eH2fa5avQVV2q.ip-10-240-5-138

² <https://educationendowmentfoundation.org.uk/education-evidence/teaching-learning-toolkit/extending-school-time>

³ <https://educationendowmentfoundation.org.uk/education-evidence/teaching-learning-toolkit>

⁴ PDF accessed via this link: <https://www.naswt.org.uk/advice/health-safety/coronavirus-guidance/covid-19-advice/covid-19-advice-england/education-recovery-package/education-recovery-position-statement.html#IncreasingTimeAmendingTerms>

⁵ <https://eurydice.eacea.ec.europa.eu/#:~:text=The%20Eurydice%20report%20on%20the,the%20number%20of%20school%20days.>

⁶ <http://ncee.org/wp-content/uploads/2018/02/SchoolYearStatv5.pdf>

10. The NASUWT is clear that changing school hours is not the right starting point for improving the quality of educational provision: what matters most is what happens in the time that you already have. The Union's position remains that it is unlikely that the substantial costs, disruption and additional burdens associated with approaches to increasing formal taught time or the reorganisation of term dates would be outweighed by their limited and unclear benefits. For this reason, the NASUWT has been advocating for attention, effort and resources to be focused on other strategies across all UK jurisdictions.
11. Finally, the complete obliteration of the needs of special schools and children with additional support needs (ASN) within the consultation questions is very telling. This is not a new concern for the NASUWT: in the submission to the Morgan Review, the NASUWT highlighted that policy and practice in respect of ASN were high priorities for the Union's members, but its experiences highlighted a range of issues and concerns about ASN. In particular, the Union noted that teachers had expressed concerns about management practices relating to ASN, including how ASN is prioritised within the school. Many ASN teachers and teachers working in special schools raised concerns that abuse and violence is now seen as 'part of the job'.
12. The context of the Morgan Review was that there had been an increasing national focus on inclusion and a clear expectation that every teacher is a teacher of ASN. Feedback from NASUWT members working in frontline roles with children and young people with ASN suggested that the demands being placed on teachers and schools were increasing, that increasing numbers of learners with more complex needs were being taught in mainstream classrooms, and that, across the system, the range and complexity of needs were increasing.
13. NASUWT members also emphasised that cuts to specialist services were exacerbating the difficulties that schools face and inhibiting the ability of schools to access the support that children and young people

with ASN need. Reports also indicated that schools and teachers were encountering significant challenges as a result of austerity, including issues arising from cuts to local authority and other education and health services.

14. In light of these concerns, the NASUWT welcomed the Review's recommendations. The NASUWT further concurred with the evidence from the review which showed that additional support for learning (ASL) is not visible or equally valued within Scotland's education system: as evidenced by its total absence from these consultation questions.

15. There were 241,639 pupils (34.2% of all pupils) with ASN recorded in 2022. This was an increase of 1.2 percentage points on 2021. The numbers of children with ASN is increasing. Additional support provision cannot continue to be viewed as a minority area of interest, nor can it continue to be considered separately within the framework of Scottish education.

16. Austerity has imposed significant pressure on resources in all parts of the public sector, and ASN support has been disproportionately affected. Supporting children and young people with ASN requires urgent renewed investment in tailored services and education settings to ensure that there is equality of opportunity and choice for all.

17. ASN deserves to be prioritised by the Scottish Government, not only to highlight awareness of the significant issues the system faces, but also as a vehicle for ensuring greater investment in the sector. Investment in, and collaboration between, wider children's services is key: pre-pandemic concerns about the fragmented nature of children and young people's services have deepened. The Scottish Government must support action in this area through significant investment in these services, particularly in-school and out-of-school services focused on supporting the mental health and wellbeing of children and those who

are most vulnerable and disadvantaged. The real-terms cuts in spending in the children's services sector experienced over the past decade must be reversed, with additional resources made available to meet recovery-related priorities.

18. Without investing in appropriate provision, it is to be anticipated that ASN children's education and mental health and wellbeing will continue to be compromised.

19. In light of the failure to support and invest in ASN provision, most recently at the NASUWT Scotland Conference 2023, the following motion was passed:

'Failure of Inclusion

Conference notes that:

- a) *special schools in many local authorities have virtually disappeared;*
- b) *teachers are being assaulted in classrooms up and down the country;*
- c) *children with severe physical disabilities will qualify for full-time care;*
- d) *children with early life trauma, foetal alcohol syndrome, attachment disorder and other recognised severe neuro-divergent disorders are treated as naughty children and do not qualify for full-time, specialised, targeted support;*
- e) *teachers with these children in their classes have a large increase in workload, both in preparation and with risk assessments and Individualised Educational Programmes.*

Conference believes that:

- 1. *inclusion has been shown not to have worked;*
- 2. *children with severe neuro-divergency need to be treated as disabled;*
- 3. *the presumption of mainstream for all children is damaging the education of others;*
- 4. *instead of 'Getting It Right For Every Child', we are 'Getting It Right For Hardly Any Children';*
- 5. *children are being denied the right to an education;*

6. *because schools are 'firefighting', we are failing to close the attainment gap;*
7. *managing the behaviour in school is severely damaging the mental and physical health of the teachers in school;*
8. *education should be equitable across Scotland;*
9. *if, in one authority, a child would qualify for a special school with small class sizes, then the maximum class size in the mainstream class in other authorities should be reduced pro-rata.*

'Conference calls for the Scotland Executive Council to campaign for:

- i. the end of both automatic inclusion and the presumption of mainstream;*
- ii. the reopening of special centres for children with severe mental health issues and neuro-divergent disorders;*
- iii. support teachers to teach rather than to contain;*
- iv. the right of all children and adults to feel safe.'*

20. As the motion sets out, Scotland is not currently getting it right for every child, and this will not be fixed by a statutory learning hours entitlement. Indeed, the proposal ignores the fact that to get it right, many children may need a tailored timetable and also that the numbers of children requiring an individualised approach to learning hours is increasing. Even utilising an exemption process, the sheer numbers impacted would create a logistical and bureaucratic nightmare for schools and local authorities managing processes, applications, complaints and ultimately any litigation flowing therefrom.

Question 4: Do you agree with the suggested definition of learning hours set out at paragraph 2.1 above?

21. The paragraph within the documentation states:

'Learning hours are the period of teaching that learners receive within the school day. In most cases, they do not include lunch and other break times or

extracurricular activities or provision such as breakfast clubs that may take place around the core school day. It has been accepted practice for at least the last 40 years that around 25 hours per week (or 950 hours per academic year) of teaching time is made available in most local authority run primary schools; and 27.5 hours per week (or 1,045 hours per academic year) in most local authority run secondary schools.'

22. 'Teaching hours' is widely understood within the teaching profession.

The NASUWT is concerned, however, that there is insufficient clarity between the definition of 'teaching time/hours', as set out in the SNCT Handbook, and 'learning hours'.

23. There is also the possibility that learning hours, using the definition above, could be construed to include time spent under the tutelage of non-GTCS registered staff. Some local authorities are already trying to substitute a GTCS-registered teacher with a non-GTCS registered person employed outwith the council, which is being resisted. As well as not being in the best interests of pupils and colleagues, this can only be construed as an attempt to circumvent longstanding legislation. Similar attempts by Renfrewshire to replace GTCS-registered teachers with cheaper/free labour created an enormous outcry. The GTCS produced a letter in February 2011 which set out its belief that: *'any local authority which employed individuals other than registered teachers to deliver teaching time or the curriculum within the school day could be deemed to have breached the law'*. Any updated legislation from the Scottish Government should not undermine this legislative protection.

24. There has equally been scant consideration of the interactions with the college sector, or the reality of many pupils who travel between locations to access further education courses and may, as a result, fail to reach prescribed learning hours. Equally, as the NASUWT noted in its response to the Hayward review in April 2023:

'The proposal must also be landed within the current, challenging fiscal landscape where schools are at the mercy of wide-ranging council budget cuts, reductions in support for additional support needs (ASN) children and young people, and reduced numbers of Advanced Higher classes being able to run across all schools, barring consortia and colleges. In light of the reality on the ground, teachers wonder whether this model will farm out upper secondary education to colleges, as happens in England with sixth-form colleges, to their own financial benefit and the detriment of the secondary system.'

25. The model of learning for pupils has become more flexible in recent years, which is at odds with the prescriptive, inflexible imposition of statutory learning hours: some protections are already in place as a result of the Education Scotland Act 1980 section 1, which stipulates that local authorities have a duty to provide *'adequate and efficient provision of school education'*.

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?

26. In engaging with members around the proposals, the following circumstances were raised:

- a. pupils with a disability/ASN;
- b. flexibility, where needed, to get it right for every child, irrespective of ASN diagnosis or disability, e.g. as a result of family circumstances or social work involvement;
- c. the lack of availability in specialist schools or units leaving pupils unable to cope full time in a mainstream class;
- d. the tradition of half days/early finishes at the end of term;
- e. children on agreed part-time timetables;
- f. younger classes, subject to evidence;
- g. strike days/snow days;
- h. rural transport requirements;

- i. school trips/work experience; and
- j. exclusion/removal from class due to behaviour/violent incidents.

27. NASUWT members expressed concern that this statutory proposal could be used as a tool to prevent exclusion, to prevent pupils being removed from class, to undermine part-time timetables for abusive and disruptive pupils where no other provision exists, and to pressure teachers to accept a pupil back into their classroom after a violent incident before an appropriate risk assessment and sufficient support has been put in place for the pupil and the teacher.

Question 6: Are there any further views you wish to share regarding this proposal?

28. Members reflected concerns that this proposal felt overly prescriptive and dictatorial. It is unclear how such a model would sit with the teacher empowerment agenda and the flexibility to be ushered in with the Curriculum for Excellence. Teachers were left unclear as to the problem which this legislative model would fix and, in an absence of that clarity, mostly felt it to be unnecessarily controlling. While very keen to work towards a position where no pupils were left behind and sufficient supports were in the system to meet the needs of all children and young people, it was felt that this intervention alone could not meet that aspiration. In that light, NASUWT members were concerned this was simply a knee-jerk reaction to local authorities threatening cuts to teacher numbers, which had not fully considered the bureaucracy and the potential knock-on impacts. While supportive of the aim to protect teacher numbers, prescribing learning hours was felt to be an exceedingly blunt tool.

29. The priority must be meeting the needs of young people in schools and this proposal's financial and logistical impacts have been glossed over. The consultation paper did not provide proposals which would secure the time, resources and funding to get it right for every child, but rather

would create further downward pressure on teachers and provide less flexibility in a system already under considerable pressure.

30. There are already a lot of changes proposed within the system and a likely dim view will be taken by teaching staff to further shifting sands when they are still awaiting their promised reduction in class contact time.

31. While protecting teacher numbers is a laudable aim, which the NASUWT fully supports, it does show how low the Scottish Government's aspiration for education has fallen, when seeking to deter cuts in teacher numbers can be presented by government ministers as a positive success. Scotland must have greater investment if we are to secure education recovery, and the NASUWT would welcome an urgent review of local government funding arrangements. The Scottish Government must invest in the education workforce, prioritise securing permanent teaching posts and allocate sufficient funding to ensure appropriate ASN supports are available. The failure to invest in teachers will only further undermine the recruitment and retention of teachers and the continued provision of high-quality education for children and young people.

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