

DEPARTMENT OF EDUCATION, SPORT AND CULTURE

RHEYNN YNSEE, SPOYRT AS CULTOOR



Isle of Man
Government

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Education (Amendment) Bill

A Consultation Document

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Minister's Foreword



I am pleased to present the Department of Education, Sport and Culture's Education (Amendment) Bill consultation, which seeks the views of the public and key stakeholders on proposed policy principles for education. The responses to this consultation will enable drafting instructions to be progressed to ensure it supports our Island's vision for the future.

This consultation document directly supports the Isle of Man Government's vision of building a secure, vibrant and sustainable future for our Island, by setting out a bold ambition to create and deliver lifelong learning and development opportunities for all.

The consultation highlights the work and the priorities currently identified, bridging and modernizing current legislative gaps on issues including Additional Educational Needs; education tribunals; emergency closure of schools; religious education; governing bodies; home education; admissions; catchment; and children who are looked after.

The Department is committed to an inclusive approach to education in which schools provide an inclusive and welcoming learning environment that values diversity, fosters belonging, and ensures that every student can achieve their full potential.

Through this Bill, the Department aims to outline a framework for supporting inclusive education, whereby arrangements are put in place to allow all children and young people to access education.

I remain committed to ensuring openness, transparency and collaboration with a focus on creating a self-sustaining environment within which, all concerned can continue to improve and develop, enabling all learners to be part of a community that drives change and embraces new ways of working.

Hon Daphne Caine MHK

Minister for Education, Sport and Culture

Summary

About this Consultation

The Department is seeking the views of the public on areas that are considered appropriate for update in the proposed Education (Amendment) Bill.

Who is This Document For?

Within 'Our Island Plan', which sets out the Island's vision for the next 10-15 years, one of the Strategic Priorities is to provide 'Outstanding lifelong learning and development opportunities for all'.

To work towards this priority, the Department views it as essential that the opinions of those with a vested interest in education are considered. For this reason, the Department is seeking the views of key stakeholders and the public in developing the future of education on the Isle of Man.

Key Points

This Consultation is seeking opinions on proposed changes to the law in the following areas:

- Additional Educational Needs
- Education Tribunals
- Emergency Closure of Schools
- Religious Education
- Governing Bodies
- Home Education
- Admissions and Catchment
- Children who are Looked After

Consultation on the Education (Amendment) Bill

The overarching vision of 'Our Island Plan' is to build a 'secure, vibrant and sustainable future for our Island Nation'.

Education plays a fundamental role in achieving this vision and the Department has committed to updating its existing legislation to ensure that it is suitable and relevant for future education provision.

In order to deliver this commitment, the Department is seeking to introduce an Amendment Bill to implement change in the following areas which have been identified as a priority:

- Additional Educational Needs
- Education Tribunals
- Emergency Closure of Schools
- Religious Education
- Governing Bodies
- Home Education
- Admissions and Catchment
- Children who are Looked After

To ensure that your opinion is considered when the Amendment Bill is drafted, please proceed online and click 'Continue'.

Alternatively, you may also submit responses by e-mail or post to:

Name: DESC Policy Hub

Address: Department of Education, Sport and Culture, Thie Slieau Whallian, St John's, Isle of Man, IM4 3AS

Email: DESCPolicyHub@gov.im

Confidentiality

You are not required to provide any of your personal information to complete this consultation.

Please consider your choice from the following options:

- **Publish in full** – your first name, surname and organisation name, along with full answers will be published on the hub (your e-mail address will not be published). If you choose to respond directly by e-mail or post, this will not be published.
- **Publish anonymously** – only your responses will be published on the hub (your name, organisation and email address will not be published)
- **Do not publish** – nothing will be published publicly on the hub – your response will only be part of a larger summary response document.

The collection and processing of your personal information in relation to this consultation are done so on the basis of your consent (Article 6(1)(a) of the Applied GDPR.

Should you wish to withdraw your consent at any time, please contact the Department on DESCPolicyHub@gov.im after which your personal information will be deleted from the dataset within one calendar month.

Reasonable adjustments and alternative formats

DESC is committed to equal opportunities and our aim is to make our documents easy to use and accessible to everybody.

We will take steps to accommodate any reasonable adjustments and provide such assistance as you may reasonably require to enable you to access or reply to this consultation.

If you would like to receive this document in another format or need assistance with accessing or replying to this consultation, please email DESCPolicyHub@gov.im or telephone (01624) 685808.

What happens next

Following the consultation, the results will be reviewed and will be used to inform the Education (Amendment) Bill.

Where appropriate, we will liaise further with respondents.

A consultation summary will be produced and made available on the Consultation Hub.

The Consultation period will end on Monday 25th March 2024.

About you

Are you responding as:

- A parent/carer with one or more children registered at one of the Department's schools or UCM
- A parent/carer with one or more children not registered at one of the Department's schools or UCM (home schooling or private school)
- A child or young person
- A student at UCM
- A member of the public
- A teacher or Education Professional
- A member of an advocacy group, please name:

- A member of an organisation, please name:

- Prefer not to say

Additional Educational Needs

'Special Educational Needs' is the term used when a child has a learning difficulty. [Section 18 of the Education Act 2001](#) defines that a child has a learning difficulty if:

- (a) *he has a significantly greater difficulty in learning than the majority of children of their age;*
- (b) *he has a disability which prevents or hinders them from making use of educational facilities of a kind generally provided for children of their age in provided schools; or*
- (c) *he is below compulsory school age and is, or if special educational provision were not made for them would be, likely to fall within paragraph (a) or (b) when they are of compulsory school age.*

Through the Education (Amendment) Bill, the Department is proposing to broaden the understanding of the phrase a "greater difficulty in learning", to include causes beyond difficulties with cognition. This will include a shift from 'Special Educational Needs' to 'Additional Educational Needs', to allow support to be provided for mental health needs, physical health needs or due to social circumstances.

Inclusive Education and Early Support

An [inclusive education](#) ensures that all pupils fully belong to, and participate in, the school community. This means schools should consider the educational needs of all pupils when planning their provision arrangements and developing their curriculum, to enable all students, including those with AEN, to actively participate in their school community.

There are times when children and young people will require additional support to access education. This support should be available through schools, allowing for interventions as and when they are required, through school-based assessments and access to specialist advice, without the need for a formal assessment of needs through DESC.

Further information on AEN and Inclusive Education is available in [Appendix 1](#).

Question 1:

Do you think Department should broaden the concept of "greater difficulty in learning", where schools **must support children's Additional Educational Needs**, regardless of the nature of that learning need?

Yes

No

Please use this space for any further comments you wish to make:

Question 2:

Do you think that Education professionals are best placed to identify needs early, provide intervention and support?

Yes

No

Please use this space for any further comments you wish to make:

If you answered '**Yes**', should this be **required by law**?

Yes

No

Question 3:

Do you think that **collaboration** between Government Departments, bodies and agencies should be **required by law**, ensuring that all those involved in the planning and providing of support to children and young people with Additional Educational Needs work together in the best interests of the child?

Yes

No

Please use this space for any further comments you wish to make:

Question 4:

Where a child or young person is experiencing difficulty in accessing education in the school environment, **should alternative methods of providing education be made available**, such as online learning from home or another location offering support?

Yes

No

Please use this space for any further comments you wish to make:

Routes of Appeal for Parents, Carers and Young People (Education Tribunal)

An Education Tribunal is an independent body appointed to hear appeals against decisions made by schools or the Department about a child or young person and their education.

The [Education Act 2001](#) already provides routes to appeal in relation to certain decisions by the Department or its educational institutions. However, there remain some scenarios where a route to appeal does not exist.

The Department's [Strategic Plan](#) outlines an objective to "Form a framework where families can challenge the provision made for a child".

To meet this objective, the Department is proposing to introduce an 'Education Tribunal' for appeal hearings relating to matters that do not have an existing route to appeal.

Further information on [existing routes of appeal](#) is available in [Appendix 1](#).

Question 1:

Do you think the Department should **introduce an independent 'Education Tribunal'** to hear appeals against decisions that do not already have an existing route to appeal?

Yes

No

If you answered 'No', please use this space to provide the reasons for your answer:

Question 2:

If you answered '**Yes**' to question 1, do you think that the composition of the 'Education Tribunal' should be **entirely independent**, or should it also include senior members of the Department (including educational professionals)?

Entirely independent

Include senior members of the Department

Emergency Closure of Schools

There is no provision in the [Education Act 2001](#) which allows the Department to close schools in an emergency situation. Currently, this is done either by Ministerial Decision or through the Emergency Powers Act 1936, but could be exercised more efficiently and in a more responsive manner if the power lies with the Department.

Examples of scenarios where such a power could be relevant are:

- During periods of adverse weather, following consultation with the Government 'Strategic Weather Group'; or
- To follow Public Health guidance, as experienced during the Covid-19 pandemic.

Question 1:

Do you think the new Bill should **grant the power to close schools in an emergency?**

Yes

No

Please use this space for any further comments you wish to make:

Question 2:

If you answered '**Yes**', do you think this power should be **exercisable by the Department's Chief Officer or the Minister?**

Department's Chief Officer

Minister

Either of the above

Religious Education

[Section 12 of the Education Act 2001](#) states that religious education should be given to every pupil of compulsory school age and must be '*wholly or mainly of a broadly Christian character*'. This requirement is subject to the right of parents to opt their child out of receiving religious education.

Under the Act, it is the role of the 'Religious Education Advisory Committee' (REAC) to prepare a Religious Education syllabus for pupils on the Isle of Man and advise the Department on matters relating to Religious Education. The [Religious Education Advisory Committee Regulations 2004](#) prescribe that the committee should be composed of:

- The Bishop
- 5 members from the Education council
- The Head of Religious Education for each secondary school
- 3 Primary school Headteachers
- A further representative of the Church of England, appointed by the Bishop
- A Roman Catholic representative
- The Chairman of the Methodist District, or his nominated representative
- A further representative of Protestant non-conformist Churches
- Any co-opted members for specialist purposes, as the Committee see fit.

In practice, by way of members who are co-opted or those who do not represent a religion, REAC does include members whose religions and beliefs are not Christian in character. Similarly, the Religious Education curriculum in schools currently covers a broader range of religions and beliefs than those that are Christian in character. However, the inclusion of a broad range of religions and beliefs is not protected by legislation.

Question 1:

Do you think the **requirement** in the Education Act 2001 **for education to be '*wholly or mainly of a broadly Christian character*' is still suitable?**

1. Religious education should be 'WHOLLY' of a broadly Christian character

Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Religious education should be 'MAINLY' of a broadly Christian character

Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Religious education should be required by law to cover other religions and beliefs

Strongly Agree

Somewhat Agree

Neutral

Somewhat Disagree

Strongly Disagree

Please use this space for any further comments you wish to make:

Governing Bodies

Each school and the University College Isle of Man (UCM) is governed by its own governing body in accordance with their Instrument and Articles of Government, and [Section 5 of the Education Act 2001](#).

The main responsibilities of a governing body are set out below:

- To play a role in supporting the head teacher and staff of the school in their work to achieve the highest possible standards of all its pupils
- The approval of school policies brought to it by head teachers, following input and advice from them and the Department where appropriate
- Considering the standards of achievement attained by pupils of the school and keep such standards under review
- To be consulted on the implementation of the school's improvement plan and submit any recommendations for modifications (where it deems appropriate) to the Department
- The Chair of Governors (or delegate from the governing body) to sit as a member of selection and interview panels for primary head teacher roles, deputy secondary and primary head teacher roles and school roles below assistant head teacher
- The approval of suspensions of any pupil from the school for a period of longer than ten school days in any one term
- Act as the initial appeal body for suspension appeals in the case of suspensions which do not require its approval
- The approval of an appropriate modified timetable which is in place for a pupil suspended for more than 4 weeks
- Regular review of the health & safety of pupils and employees in the school and support the head teacher in their responsibility for addressing any issues
- The reporting of major concerns to the Department

A governing body must have a minimum of 3 governors with a maximum of 6.

The Headteacher of each school/Principal of UCM is ultimately accountable to their governing body. However, the current remit and effectiveness of the governing bodies within the Island's schools was questioned in the 2020 [Beamans Report](#), which stated that governing bodies should play a more significant role than is currently the case.

Question 1:

Do you **understand the role** of the governing body within a school/UCM?

Yes

No

Question 2:

Should more information be made available about the **function/business, meetings and decisions** of governing bodies?

Yes

No

Question 3:

Do you think the **current role** of the governing bodies is suitable?

Yes

No

Please use this space for any further comments you wish to make:

Question 4:

Should governing bodies **be more active in decision-making** for schools?

Yes

No

Please use this space for any further comments you wish to make:

Question 5:

Co-opted governors may be appointed to the governing body for a duration of up to **two academic years**, unless they choose to resign earlier.

Do you think this **amount of time** is right or should it be changed?

It is the right amount of time

It should be reduced

It should be increased

No opinion

Please use this space for any further comments you wish to make:

Question 6:

When a governor's tenure expires, they may be reappointed but shall not serve for more than **6 years** in a single school.

Do you think this **maximum service** is right, or should it be amended?

It is enough

It should be reduced

It should be increased

No opinion

Please use this space for any further comments you wish to make:

Home Education

The Department respects the right of all families to home educate where it is done in the best interests of the child. [Section 24 of the Education Act 2001](#) sets out that the responsibility for children's education rests with their parents. Should parents not wish to send their child to a school, they can make other suitable arrangements in the form of Home Education.

This is expanded in [Section 24A](#), under which parents have a duty to notify the Department if they do not register their child at one of the Department's school and instead choose to register their child at a private school or provide home education.

The UK Government has produced a guidance document to help parents understand their obligations and rights in relation to home education. This document can be found [here](#).

Question 1:

Do you think DESC should **produce a guidance document** for reference by those who have elected to home educate or are considering doing so?

Yes

No

Other (please comment below)

Please use this space for any further comments you wish to make:

Question 2:

Where a parent/carer chooses to opt-out of registering their child in a Department school and elects to home educate their child, should this **amount to opting-out of access** to the Department's facilities and resources, including funding and provision for the exams they choose to sit?

Yes

No

Other (please comment below)

Please use this space for any further comments you wish to make:

Question 3:

Do you think that parents/carers should have a duty to notify the Department of their decision not to register at one of the Department’s schools for **each academic year** that their child is of compulsory school age?

- Yes**
- No**
- Other** (please comment below)

Please use this space for any further comments you wish to make:

Question 4:

Do you think that the Department should have **a duty to maintain a register** of children who are being home educated for each academic year, including details of the education that is being provided?

- Yes**
- No**
- Other** (please comment below)

Please use this space for any further comments you wish to make:

Admissions and Catchment

The [Education Act 2001](#) entitles children to attend the school in their given catchment area, as prescribed by the [School Catchment Areas Order 2022](#).

There is increasing strain in certain schools on the Island, particularly in Douglas, due to the increasing number of children living in the catchment areas. This can be problematic for schools as there is no legal power to declare a year group or school full once capacity has been reached. This means that schools cannot deny admission to a child who is resident within a catchment area despite not having the capacity or resources to meet their needs.

Question 1:

Should schools have the **power to declare year groups/schools full upon reaching capacity**, even where this would deny entry to a new child within the school's catchment area?

Yes

No

Other (please comment below)

Please use this space for any comments you wish to make:

Question 2:

If the power to declare the closure of year groups or schools was created, **who should have the power** to make such a declaration?

Minister

Department's Chief Officer

Relevant school's Head Teacher

There should be no such power

Question 3:

One of the exceptions to the requirement to attend a school within the catchment area is the 'sibling rule', which allows a child to attend a non-catchment school if they have a sibling attending that school.

Do you think children should be able to access a non-catchment school on this basis, or should they be required to **attend their catchment school regardless**?

Sibling rule should remain

Attend their catchment school

Please use this space for any comments you wish to make:

Question 4:

Should the Department remove Catchment Areas and move to a system determined by the capacity of schools, where parents/carers apply to register their child at their chosen school, on a first-come-first-served basis?

Yes

No

Please use this space for any comments you wish to make:

Children who are Looked After

Children who are Looked After may also be referred to as 'children in care' and are those who have been taken into state care for more than 24 hours. Generally, these terms refer to children who are:

- Living with foster parents;
- Living in a residential children's home; or
- Living in residential settings like secure units.

It can also apply to children who live at home but are subject to Care Orders.

To oversee the provision of education to Children who are Looked After, the Department has appointed a Virtual Head Teacher whose role it is to ensure that Children who are Looked After have the opportunity to reach their full educational potential and to improve their educational outcomes.

The Virtual Head Teacher does this by working closely with the schools that the Children Looked After attend and the relevant Government bodies and agencies, including the Isle of Man Constabulary and Manx Care.

In England, the role of the Virtual Head Teacher was established in law by the [Children and Families Act 2014](#).

However, on the Isle of Man, despite the [Children and Young Persons Act 2001](#) imposing statutory duties in relation to social services for Children who are Looked After, there is no legal provision in relation to their education or the role of the Virtual Head Teacher.

A recent [OFSTED Inspection of the Isle of Man Social Care Services for Children](#) highlighted numerous issues that require improvement for children in care and recommended a Legislative/strategic approach to improve opportunities for Children who are Looked After.

Question 1:

Should the role of the Virtual Head Teacher for Children who are Looked After on the Isle of Man be a **legal requirement** of the Department?

Yes

No

Please use this space for any comments you wish to make:

Mobile Phone Use

Since the Education Act 2001 was introduced, mobile phones have increasingly become an accepted norm within daily life. However, they can also be a source of distraction and contention within a school.

In the UK, the use of mobile phones is banned throughout the majority of the school day, with schools taking a range of measures to enforce this policy. In October 2023, [it was announced](#) that there is a proposal this ban throughout the entire school day, including at break times.

Mobile phone use within schools in the Isle of Man is currently determined from school-to-school, set out in their Policies. However, schools are limited in what action they can take.

Where a pupil possesses 'certain articles' at school, the Education Act 2001 gives schools the power to seize these articles from a pupil. This applies to:

- Offensive weapons;
- Controlled drugs;
- Any liquor; and
- Any article, the possession or use of which by a pupil is forbidden (whether generally or at particular times or under particular circumstances) under any rule of discipline for the time being in force at the school.

This means that schools do not expressly have the power to seize mobile phones from pupils, unless this has been addressed through policies.

Question 1:

Which of the below do you think should apply to mobile phone use in schools?

Mobile phone use should be banned throughout the entire school day

Mobile phone use should be banned only during lessons

Education should include the appropriate use of mobile phones and their use in lessons should be supported where it is of a benefit

Please use this space for any comments you wish to make:

Question 2:

How do you think mobile phone use in schools should be managed?

A broader power to seize mobile phones should apply by extending 'certain articles' to include mobile phones

Schools should continue to set their own policy around mobile phone use

Please use this space for any comments you wish to make:

Any further comments....

Please use the space below to provide your views on any areas of the current Education Act that could be considered for amendment.

Appendix

Inclusive Education

Inclusive education is an extension of the concept of inclusion, which places the emphasis on designing educational settings to support all students to participate and access learning opportunities. An inclusive education starts with the ethos, climate and relationships within every learning environment. The entitlement to universal support for all children and young people is anticipated, planned and provided from within the existing educational settings.

Section 8(3) of the Education Act 2001 prescribes the curriculum for primary and secondary schools and provides the foundations for inclusive education, where the education of every pupil should be based on the same curriculum outlined by the Act, unless otherwise directed by the Department.

An Inclusive Education Policy has been developed to clarify the principles and arrangements that drive the Isle of Man's education system, to guide educational settings in creating an inclusive and welcoming learning environment that values diversity, fosters belonging, and ensures that every student can achieve their full potential.

The following principles underpin the Island's rights-based approach to Inclusive Education. Fundamental to this approach is providing schools with sufficient funding upfront to enable school leaders to design flexible school provision to meet the needs of all learners.

- **Needs Based Approach** - To take a needs-based approach to making any personalised learning provision, such that resourcing / provision decisions are not contingent upon a formal diagnosis.
- **Universal & Early Support** - To support the child and their parent/carer to achieve the best possible educational and other outcomes through an inclusive education, where a whole-setting approach is taken to meet the needs of all learners such that children and young people are supported to participate fully in mainstream education wherever feasible. Funding schools based on known and predicted need should enable **Early Support** where needs are identified and provision are put in place at the earliest opportunity.
- **Child and family centred** - The views, wishes and feelings of the pupil and their parent/carer are central to planning and provision; where the parents/carers or pupil are able to participate as fully as possible in decisions relating to them.
- **Collaborative** - Where all those involved in planning and providing support to children and young people should work together in the best interests of the child or young person.
- **Participation and Inclusion** - Participation and inclusion are established as fundamental human rights and key principles of the Equality Act. Participation and inclusion mean schools are organised to enable everyone in their community to take part in planned activities and access all aspects of school life. Inclusion allows all pupils, irrespective of need, to participate in activities on an equal basis with others, and to be valued members of their school community.

Additional Educational Needs (AEN)

The terminology Special Educational Needs (SEN) is currently used in the existing legislation, as detailed in Section 18 of the Education Act 2001. The interpretation of the definition of SEN has primarily become associated with individuals who experience cognitive difficulties and are unable to access learning opportunities. The proposed update to the legislation aims to replace SEN with the term Additional Educational Needs (AEN), to allow for a broader interpretation of the underlying cause of the learning difficulty.

The definition of AEN is the same as the definition for Special Educational Needs (SEN), as detailed in Section 18 of the Education Act 2001:

The Education Act 2001 legislation defines a learning difficulty as:

- (a) he has a significantly greater difficulty in learning than the majority of children of his age;*
- (b) he has a disability which prevents or hinders him from making use of educational facilities of a kind generally provided for children of his age in provided schools; or*
- (c) he is below compulsory school age and is, or if special educational provision were not made for him would be, likely to fall within paragraph (a) or (b) when he is of compulsory school age.*

Given that a learning difficulty is only defined as a significantly greater difficulty in learning than the majority of children of the same age, the cause of that significantly greater difficulty in learning is irrelevant. This means a greater difficulty in learning could have a wide range of causes, including: a mental health problem, children who are ill, social issues, learning disability, physical disability, etc. Using the broader term AEN will enable a wider range of individuals with a greater difficulty in learning, and who require provision additional education provision to access, to access support to meet their needs.

DESC routes of appeal

The existing routes to appeal are as follows:

- Section 10 allows a parent appeal against a decision to suspend a pupil.
- Section 15 allows a parent to appeal against a decision regarding which school the child attends, for example – where an Out of Catchment request has been denied.
- Section 19 allows a parent to appeal against a decision regarding a Schedule 4 assessment and / or provision for a child who has been assessed as having Special Educational Needs.
- Section 27 allows a parent to appeal against a refusal to grant a request to vary or revoke a School Attendance Order.
- Section 54 allows for appeals against a refusal to grant, review, vary or transfer a licence, or to suspend or revoke a licence.