



**PUBLIC PETITION NO.**

**PE01381**

### Name of petitioner

Gwen Garner on behalf of Action for Sick Children (Scotland)

### Petition title

Education provision for children and young people absent from school due to illness

### Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to (a) demonstrate how all local authorities are consistently complying with the duties imposed on them by sections 1(1) and 14(1) of the Education (Scotland) Act 1980 and section 2 of the Standards in Scotland's Schools etc. Act 2000 in respect of all children and young people who are absent from school through ill-health, regardless of where they live or where they are being treated and (b) review the Guidance on the Education of Children Absent from School through ill-health (Circular 5/2001).

### Action taken to resolve issues of concern before submitting the petition

1. ASC(S) wrote to the Cabinet Secretary for Health and Wellbeing, Nicola Sturgeon MSP and the then Cabinet Secretary for Education & Lifelong Learning, Fiona Hyslop MSP, in March 2009. We raised our concern that the provision of education to children in hospital was not equitable throughout Scotland. We described a case where a local authority was refusing to release funding for its local authority children to receive hospital education when they were treated at a dedicated children's hospital outside the local authority area.

The response in April 2010 indicated that section 40 of the Standards in Scotland's Schools etc Act 2000 places education authorities under a duty in relation to pupils to attend a suitable educational establishment as a result of their prolonged ill health and that the authority must make special arrangements for the pupil to receive education elsewhere than at an educational establishment. It said that the duty is silent on the specific issue we raised and does not identify how the provision should be made. It advised us to contact the particular education authority to raise our concerns and establish how the duty is being carried out for pupils currently receiving treatment at that particular hospital.

We wrote to the local authority which advised that it did not automatically subscribe to the hospital teaching service but preferred to send its own teachers. (We understand that since then this authority has now agreed to subscribe to the hospital services and pay for hospital tuition). While we believe that most local authorities do subscribe to hospital teaching services we know of one authority who has recently opted out of the hospital teaching service and prefers to send its own teachers. This can be problematic (see section 5).

2. ASC(S) then submitted a Freedom of Information Request in June 2009 to all

Directors of Education in Scotland, to express our concern regarding the provision of education for children and young people whilst they are sick in hospital, noting that the provision of education at hospitals which cares for children as inpatients is not equitable and that it depends on which local authority the child resides in as to whether they receive education whilst in the hospital. We said that our view is that this is not only contrary to the 2000 Act (s40) but contravenes the United Nations Convention on the Rights of the Child Articles 3 and 28 and also Article 7 of the European Association for Children in Hospital Charter, which NHS boards have been asked to refer to when reviewing their services for children and young people.

We asked what education provision is made for children and young people in their local authority who are unable to attend school due to ill-health, and in particular those who have to attend hospitals outside their local authority. 32 local authorities responded. Some answered in detail, others by sending copies of their policies. All authorities felt that they adhered to the 2000 Act.

Despite these responses we are aware that local authorities do not all implement the legislation equally for all children throughout Scotland. Some perform on some aspects but not on others.

3. In December 2009 we launched our Manifesto for the Scottish Government, Members of the Scottish Parliament and those responsible for the formulation of healthcare policy at the launch of our 'EACH Child and Young Person's Health Matters' campaign at a reception at the Scottish Parliament hosted by Christine Grahame MSP. One of the Manifesto points calls for 'Equity of access to education for all sick children and young people, regardless of their illness, age or where they live'. We circulated our Manifesto widely including to all MSPs and met with MSPs Mary Scanlon, Murdo Fraser, Jackie Baillie and Ross Finnie to discuss it. We also discussed with Ken Macintosh MSP the issue of inequitable access to education. We received the following support from MSPs:

Ken Macintosh MSP submitted parliamentary questions on issues of education (outlined at point 4 below).

Mary Scanlon MSP submitted questions on other aspects of our manifesto eg play in hospital, transition pathways for young people with long term conditions; oral health provision for children with additional support needs; provision in hospital for families of sick children;

(S3W-34708; S3W-34706; S3W-34705).

Jackie Baillie MSP and Ross Finnie MSP thanked us for bringing issues to their attention and noted that they would bear them in mind. Jackie Baillie advised us about various routes we could go down in relation to petitions and motions.

4. In June 2010 Ken Macintosh MSP submitted parliamentary questions on the issue of education. The question references were: S3W-34412; S3W-34413; S3W-34414; S3W-34415; S3W-34416; S3W-34464

We continue to be in contact with Ken Macintosh MSP who has submitted a motion to Parliament for support (S3M-7523)

*That the Parliament welcomes the work of Action for Sick Children (Scotland) in raising awareness of the needs and rights of ill children and young people; calls on all children and young people's healthcare rights to be upheld in line with the European Association for Children in Hospital (EACH) Charter; recognises the need to empower and support young people to take responsibility for their own health and management of their chronic condition; shares the belief that every sick child or young person has the right of equal access to education whenever they are well enough to learn, regardless of where they live; expresses concern at the wide variation in educational support that is available to children in Scottish hospitals and asks Ministers to collect and collate information nationally, on where and when hospital teaching is provided, on how many days a child has to be off sick before a teacher starts helping them at home, and in light of this calls upon the Scottish Government to review the national guidance on absence due to ill health.*

## Petition background information

In the course of our work we have found that the problem is Scotland wide and not confined to one local authority area. The reality is that depending on where a child or young person lives they may or may not receive adequate, or any, educational provision when they are absent from school, either in hospital or at home due to illness. While the guidance is clear and specifies 'that education authorities are under a duty in relation to pupils unable to attend a suitable establishment as a result of their prolonged ill health,' the fact is that some local authorities fail to comply with this and action needs to be taken to ensure that authorities do comply.

1. There are varying practices by different local authorities. For example—

a) One local authority pays for teaching in hospital, but only after it has given approval. The hospital teachers must tell the local authority about patients and ask for permission to teach. This means that by the time the local authority gives approval many children will have left hospital. This local authority will however only fund hospital teachers to teach if the child has certain chronic conditions eg cystic fibrosis and cancer.

The Guidance on the Education of Children Absent from School through ill - Health (point 37) states that teaching in hospital should normally begin after five working days following admission providing the child's state of health allows for this, but that education should start immediately if it is known in advance that a child's stay is likely to exceed five days. NHS Scotland's 'Better Health Better Care: Hospital Services for Young People in Scotland' (para. 123 also states this).

b) Some local authorities will as a standard not provide hospital education to children until they are in hospital for ten days unless they have been admitted to hospital for the same condition previously. For a child newly admitted without previous treatment at hospital, education is not provided before ten days.

c) Another local authority in February 2010 decided to no longer subscribe to the hospital teaching service and to send their own teachers to hospitals. Our view is that it is preferable for teaching in hospitals to be delivered by hospital teachers because although the legislation does not preclude external teachers they need to be briefed in advance and be aware of NHS protocols and we have found that in practice these teachers are often discouraged from coming into a hospital for the following reasons:

3- Hospital teaching is a specialised skill

- External teachers may not have been briefed about that particular hospital's governance issues

- Infection control may be compromised

- Child protection rules don't allow external staff to come and work in the hospital

In addition the external teacher may often have a wasted journey, if the patient isn't well or unavailable because of treatment. Hospital teachers are much more flexible and do not incur the additional cost of travel incurred by external teachers.

We know of one hospital where external teachers are not admitted for some of the above reasons. All children treated there therefore depend on the hospital teachers and will lose out, if their local authority does not give permission for the hospital teachers to work with their children.

Another hospital treats children from a local authority area which does not subscribe to hospital teaching but instead chooses to send its own teachers, the result being that some of their patients will miss out on teaching provision because of the problems that external teachers face.

2. Young people in adult hospitals or wards also face problems in accessing teaching services. We know of a young patient with an acquired brain injury who had been in hospital since January 2010 and was only referred to teaching services in May 2010.

3. Privately educated children and young people: The Additional Support for Learning Act (Scotland) 2004 states that local authorities do not have to teach privately educated

children, as they have 'opted out'. In some parts of Scotland, many children are taught in private schools and if they do receive tuition at the hospital school, the cost cannot then be recovered from the local authority. ACS(S) considers that a system should be in place to ensure that these children are being taught and are not disadvantaged.

4. It is the duty of local authorities to provide teaching for children and young people who are absent from school due to ill health and to record this information. But how can the government ensure that schools and local authorities adhere to the legislation and guidance and fulfil their duty to provide education to these children (after 5 days in hospital or 20 days of being ill at home)? How does the government ensure that all children receive the same access to education regardless of where they live or the nature of their illness? How does the government ensure that all children, including those who are educated privately, receive their right to education? ASC (S) feels it would be helpful if local authorities could provide the Scottish Government with information that would ensure that local authorities are complying with the legislation and also to identify where there are problems in the provision of education to children when absent from school due to illness.

There are examples of good practice in hospitals throughout Scotland. In one local authority all children who qualify under the criteria are taught, regardless of where they come from. The teacher collates all teaching on a monthly basis and submits this to the local authority. She was not able to tell us how the local authority bills for the service. Occasionally a local authority might get in touch to clarify the number of hours taught, but all children, including those from private schools receive teaching in the hospital. They also receive home tuition which is sometimes just 3 hours a week. Outreach is only done locally with further away patients being picked up in their own authority. Recurring patients like those who have Cystic Fibrosis or cancer are taught immediately.

Privately educated children are the same – no issues at all.

In another hospital, the teacher and medical team plan well ahead of surgery how a patient needs to be supported during recovery. Apart from medical and occupational health support, they assess educational needs and arrange for teaching to be in place. This kind of good practice should become standard across Scotland.

ASCS(S) asks the following questions:

1. Some local authorities normally provide education to children and young people at hospital after ten days admission, while others provide hospital education after five days admission. What will you do to ensure that, as recommended in the Standards in Scotland's Schools etc Act 2000 Education of Children Absent from School through Ill Health Part 37, that the teaching of children in hospital begins after five working days following admission provided the child's state of health makes this desirable?
2. What can be done to ensure all local authorities provide hospital education to all children and young people irrespective of their illness or condition and not just to those with particular conditions or illnesses?
3. Can action be taken to ensure that local authorities cannot opt out of subscribing to the hospital education service where this service exists?
4. Currently local authorities charge different rates for the provision of hospital education. Can local authorities be asked to agree standard charges for hospital provision?
5. What action will you take to ensure that children and young people educated at private schools receive the same access to education provision at hospital or at home during times of illness as children who attend local authority schools?
6. Can local authorities be asked to provide the Scottish Government with the following information about education provision relating to children in their areas who are absent from school due to illness?
  - where education was provided (at home or in hospital);
  - how many days a child was in hospital before teaching was provided;

- the number of days a child was off sick before home teaching was provided ;
- the total number of hours provided for the child and the number of weeks education was provided;
- the child's condition/illness.

7. Can the Government ensure that a national pathway is in place which sets out in detail what needs to be done, the timescales and staff responsible in order to ensure that all involved in the provision of education to children and young people absent from school at times of illness, (local authorities, health boards, schools) adhere to the Guidance on the Education of Children Absent from School through ill-health. (Examples of pathways already exist within systems such as GIRFEC and the pathway of care for children with exceptional healthcare needs. [www.sen.scot.nhs.uk/pathways-care](http://www.sen.scot.nhs.uk/pathways-care)).

#### Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/PE01381>

#### Related information for petition

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

NO

How many signatures have you collected so far?

1

Closing date for collecting signatures online

N/A

Comments to stimulate online discussion