

SCOTTISH SCHOOLS (PARENTAL INVOLVEMENT) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1 – Duty of Scottish Ministers and of education authorities to promote involvement of parents in school education etc

6. **Section 1** establishes the duty of Scottish Ministers and of education authorities to promote the involvement of parents of pupils at public schools in the education provided to their child by the school and in education more generally.
7. **Section 1(1)** places a new duty on Scottish Ministers to promote parental involvement in public school education generally. This complements the Scottish Ministers' existing duty in section 3(1) of the 2000 Act to endeavour to secure improvement in the quality of school education which is provided for Scotland, and the duty to exercise their powers in relation to such provision with a view to raising standards of education. The new duty in the Act is in regard to the parents of pupils attending public schools. Section 20 of the Act provides that terms used within the Act are, generally, to have the same meaning as given to them within section 135 of the 1980 Act. As a result, "public school" means a school which is under the management of an education authority. The definition of a "parent" in the 1980 Act is a broad definition and includes guardians, those who are liable to maintain or who have parental responsibilities, and persons who have care of the child or young person, such as another relative or foster parent. An "education authority" means a council constituted under the Local Government etc. (Scotland) Act 1994.
8. **Section 1(2)** places a similar duty on education authorities to promote the involvement of parents in the education provided in public schools in their area. As with the new duty on the Scottish Ministers, the duty on education authorities under section 1(2) of the Act complements the duty on education authorities under section 3(2) of the 2000 Act (improvement in the quality of school education). Education authorities have a duty under section 5(2)(a) of the 2000 Act to include within their annual statement of education improvement objectives an account of the ways in which the authority will seek to involve parents in promoting the education of their children. This Act places a duty on education authorities to promote the involvement of parents in their own child's education and in the education provided in the school to all the pupils in attendance. It provides a statutory framework within which education authorities can continue to build on the actions already being taken to promote parental involvement in school education.
9. **Section 1(3)** provides that "education" is, generally, to be interpreted as meaning "school education", defined in the 1980 Act as meaning progressive education appropriate to the requirements of pupils having regard to the pupil's age, ability and aptitude. The meaning is enhanced by the duty on education authorities in section 2 of the 2000 Act to secure that the education provided by them is directed to the development of the personality, talents, mental and physical abilities of the pupil to their fullest potential.

Section 2 – Strategies for parental involvement

10. **Section 2** places a requirement on education authorities to develop a strategy for parental involvement and to include within that strategy their general policies for implementing the duties imposed on them elsewhere in the Act.
11. **Section 2(1)** requires each education authority to prepare a strategic statement setting out their policies at the authority level on how they will fulfil their duties under sections 1 (promoting the involvement of parents in school education), 5 (Parent Forums and establishment and supporting of Parent Councils), 11 (duties to Parent Councils), and 12 (duties to parents generally) of the Act. This document must set out how education authorities will fulfil their duties with regard to “looked after” children within the meaning of the Children (Scotland) Act 1995 (see subsection (7)) and must also include the complaints procedure established under section 15. **Section 2(2)** provides that, in preparing their strategy, an education authority are to have regard to how that strategy will promote equal opportunities. The term ‘equal opportunities’ is defined in section 20(2) as having the same meaning as in section L2 of Part II of Schedule 5 to the Scotland Act 1998:

“Equal opportunities” means the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.

12. Education authorities are required under section 5 of the 2000 Act to produce and publish an annual statement of improvement objectives relative to their duty (under section 3(2) of the 2000 Act) to seek improvements in the quality of school education provided by them for their area. The requirement to prepare and publish an annual statement of education improvement objectives for their area is part of a framework of planning and operating relative to the provision of school education. **Section 2(6)** of the Act amends the 2000 Act to make clear that the strategy for parental involvement is to be included in the annual statement. The strategy document

is to be reviewed regularly by the education authority and revised by it when appropriate (section 2(3)).
13. Subsection (4) details the individuals and groups whose views an authority must seek and have regard to when drawing up or reviewing their strategy for parental involvement.

Section 3 – Ambitions and objectives for a school

14. The 2000 Act requires education authorities to prepare, for schools under their management, school development plans which take account of the authorities’ annual statement of improvement objectives. **Section 3(a)** amends section 6(1)(a) of the 2000 Act to make clear that the strategy for parental involvement prepared by the education authority should be taken into account in the preparation of the development plan for each school and its annual update.
15. **Section 3(b)** further amends section 6(1)(a) of the 2000 Act to require that each school should have objectives regarding parental involvement for that school and that those objectives along with a statement of the education authority’s ambitions for that school are to be included in the school development plan.
16. Section 6(1)(a) of the 2000 Act will now read:

““a development plan which takes account of the objectives and strategy for parental involvement in the authority’s annual statement of education improvement objectives published by that date in the year in question, sets objectives for the school (including objectives as to the involvement of a pupil’s parents in the education provided to the

pupil and to the school's pupils generally) and contains a statement of the education authority's ambitions for the school."

Section 4 – Review of school performance

17. **Section 4** inserts a new subsection into section 7 of the 2000 Act. Section 7 of the 2000 Act requires education authorities to review schools' performance in relation to quality of education and against the performance measures set by the education authorities for their schools and the school education provided in their area. Section 4 of the Act provides that an education authority, in reviewing the performance of a school, is to take into account that the expression "quality of education" includes the extent to which a pupil's parents are involved in the education provided to the pupil.

Section 5 – Parent Forum and Parent Council

18. For the purposes of the Act the parents of pupils at a public school are to be known as the "Parent Forum". Parents may be represented by a "Parent Council" established by the Parent Forum at that school. In general terms Parent Councils replace the arrangements for parental representation by school boards established under the 1988 Act.
19. Education authorities are required to promote the establishment of a Parent Council at each school, and thereafter to support the operation of such councils. Section 5(4) qualifies these requirements in relation to those schools which decide to establish a Combined Parent Council for two or more schools, rather than one council for each school (see section 16).

Section 6 – Scheme for establishment of a Parent Council

20. **Section 6** sets out the procedure to be followed in regard to the establishment of a Parent Council. There are two routes by which a Parent Council can be established.
21. Firstly, in pursuance of their duty under section 5(3)(a) to promote the establishment of a Parent Council, an education authority must notify in writing Parent Forum members of a school of their intention to prepare a scheme for the establishment of a Parent Council in that school. The authority are to invite forum members to indicate how the council should be constituted, and the authority are to suggest options, by way of example only (section 6(1)).
22. Secondly, subsection (2) entitles the Parent Forum to indicate a preference for developing its own scheme, or of not having a scheme and therefore no Parent Council. The scheme(s) offered by the education authority must make these options clear to parents.
23. **Section 6(3)** provides that, if the majority of the members of the Parent Forum who respond within the period notified by the education authority under subsection (1) so choose, the authority are to prepare a scheme for establishment, copy it to each member, and make arrangements for its implementation.
24. Under section 6(4)(a), if the Parent Forum chooses to have no scheme and therefore no Parent Council, subsection (3) is then disregarded, and the education authority's duty is complete. Under section 6(4)(b), if the Parent Forum decides that a person other than the education authority should prepare the scheme, the Parent Forum must agree on who that should be. Again in those circumstances subsection (3) is disregarded. Once the scheme is drawn up, that person is to send the scheme to the members of the Parent Forum and seek the approval of the majority of parents responding. The person who prepared the scheme is then able to make the arrangements to implement the proposed scheme (subsection (5)), which must include the preparation of a constitution for the council (subsection (6)).
25. **Section 6(7)** provides that, once it has been established by either of the methods set out above, the Parent Council has a number of initial, procedural duties. Section 6(7)

(a) sets out who the Parent Council must inform of its establishment; section 6(7)(b) provides that those referred to in section 6(7)(a) (the headteacher, all parents, pupils and such other persons as the council consider appropriate to inform of its establishment), together with the education authority, must be informed of who the members of the Parent Council are and how they can be contacted. If the education authority did not establish the Parent Council, the Parent Council must provide copies of the council's constitution to the education authority (section 6(7)(c)). When intimating that it has been established to persons listed in section 6(7)(a)(ii) and (iv) (the members of the Parent Forum and other such persons as it appears to the council appropriate to include), the Parent Council must provide a list of its functions. These are to be found under subsections (1) and (2) of section 8.

Section 7 – Restrictions as to composition and chairing of a Parent Council

26. **Section 7** sets out who can be a member of a Parent Council and who can chair it.
27. **Section 7(1)** sets out the general position, which is that the members of the Parent Council for a school must be members of the school's Parent Forum, that is, all parents of pupils at the school. Provision is also made for other persons to be co-opted to the council if the constitution of the council allows.
28. Particular legislative provisions apply to denominational schools under the management of education authorities which do not apply to other public schools, concerning the role of the relevant church or denominational body. Section 7(2) provides that, in a denominational school, the Parent Council's constitution must allow for at least one co-opted member nominated by the church or denominational body in whose interest the denominational school is conducted. This means that where a Parent Council is established for a denominational school then the council will need to include a representative of the relevant church or denominational body.
29. **Section 7(3)** defines the term 'denominational school' by reference to the relevant provisions of the 1980 Act. Section 16 of the 1980 Act deals with denominational schools under the management of an education authority having been transferred to the authority from a church or other denominational body and section 17 deals with denominational schools set up by education authorities.
30. Subsection (4) provides that only a person who is a member of a school's Parent Forum, that is, who is the parent of a child at the school, may chair that school's Parent Council.

Section 8 – Functions of a Parent Council

31. **Section 8** sets out the functions of a Parent Council, and details other matters concerned with the operation of the council.
32. **Section 8(1)(a)** requires the Parent Council's efforts to be directed towards supporting those managing the school in their endeavours to raise the standards and quality of education in the school and to develop the pupils at that school to their fullest potential. This links the functions of the council to the statutory improvement framework in the 2000 Act as well as the duty on education authorities in section 2 of the 2000 Act to secure that the education provided by them to an individual child is directed to the development of the pupil to their fullest potential.
33. The Parent Council may make representations to the headteacher and education authority about the arrangements in the school to support parents in getting involved in their own child's education, and that of all the pupils at the schools generally (section 8(1)(b)(i)).
34. It may also make representations to the education authority about the arrangements in the authority's area to support parents in getting involved in their child's education and in the education provided to all pupils attending public schools in the authority's area (section 8(1)(b)(ii)).

35. The Parent Council's other functions as set out within section 8(1)(c) to (h) are to promote contact between the school, the Parent Forum, pupils and others; to report at least annually to the Parent Forum on its activities; to seek, collate and report the views of the Parent Forum on specified matters, and to review its constitution and amend it as necessary, seeking the agreement of the forum members.
36. In addition, section 8(2) provides that a Parent Council established for a primary schools is to promote contact between the Parent Forum of the school and such providers of nursery education to prospective pupils of the school as the Parent Council considers appropriate. Subsection (3) defines what is meant by a 'provider of nursery education'.
37. [Section 8\(4\)](#) allows the Parent Council to make representations to the headteacher, education authority or others as appropriate, in regard to specified matters detailed within section 8(1)(e). The council need not have obtained the views of the Parent Forum before making such representations.
38. [Section 8\(5\)](#) and (6) make specific provision relating to representations made by a Parent Council to Her Majesty's Inspectorate of Education (HMIE). Where a Parent Council decide to make representations to HMIE, they are required to have first made representations to the education authority and also, as appropriate, to the headteacher and must also have received replies. Such representations might, for example relate to the standards of education in the school, the quality of education provided by the school or any other matter of concern or interest to parents of pupils at the school. HMIE in carrying out their functions are required to have regard to these representations and to reply to the council. This is in so far as it is reasonable and practicable for HMIE to do so. HMIE's functions are to be found in section 66 of the 1980 Act (inspection of educational establishments) and sections 9 to 12 of the 2000 Act (education authority inspections and codes of practice as regards inspection of authorities and educational establishments). Representations from a Parent Council may raise issues of relevance to HMIE's functions and this provision sets out a statutory framework through which HMIE can be made aware of issues of concern or interest to the council raised by a Parent Council with the headteacher or education authority. HMIE have to take them into account.
39. [Section 8\(7\)](#) details what is required by way of consent, when the council is seeking to amend or replace its constitution. Each member of the Parent Forum must be sent a copy of the proposed amendment or replacement, with an invitation to say whether they agree to the proposed change, and an indication of the period within which a response is required. The Parent Council may amend the constitution if the majority of those responding agree the amendment. It must then provide the education authority and the headteacher with a copy of the revised constitution (section 8(8)).
40. In terms of section 8(9) the Scottish Ministers can, by order, add to or alter any of the functions of the council. A statutory instrument containing such an order is subject to affirmative procedure in the Parliament (see section 22(3)).
41. [Section 8\(13\)](#) requires Parent Councils to have regard to any guidance issued to them by the education authority under subsection (14). The purpose of such guidance is to assist in ensuring that any duty upon the authority, whether under statute or arising from any rule of law is met.

Section 9 – Meetings of a Parent Council

42. [Section 9\(1\)](#) provides that the headteacher has both the duty and right either to attend meetings of the council, or be represented at such meetings, unless both parties have agreed otherwise. This gives a statutory basis for the participation of the headteacher in the deliberations of the Parent Council and a means of ensuring dialogue between the council and the headteacher about the education provided in the school and the other measures being taken to promote parental involvement in the school.

43. **Section 9(2)** provides that, subject to subsection (3), Parent Council meetings are to be open to the public. Section 9(3) qualifies this by providing that, during consideration of matters considered by the Parent Council to be confidential, only members of the council and the headteacher or his or her representative are entitled to be present.

Section 10 – Financial powers of a Parent Council

44. **Section 10** sets out a Parent Council's financial powers and obligations. Essentially, it can raise funds (except by borrowing), receive gifts, and spend such sums as it chooses. It may not however own or have any legal interest in land or buildings.

Section 11 – Duties of education authority and headteacher to a Parent Council etc.

45. This section is concerned largely with the education authority's duties to a Parent Council. These are intended to support the operation of a Parent Council, and require the education authority to provide advice and information to councils in response to any reasonable request from the council.
46. **Section 11(2)** sets out the duty upon the education authority to take appropriate steps to ensure that the headteacher and staff at a school are available to give advice and information to the school's Parent Council on what is being done to promote parental involvement at the school. Section 11(3) places an additional duty on the headteacher of a school to give advice to the Parent Council on any matter falling within his or her area of responsibility, if requested to do so.
47. In addition, section 11(4) provides that the education authority are to allocate funding each year so that a Parent Council can meet its administrative expenses (including the payment of a clerk, if appointed), expenses of training provided or arranged by the council for its members, and other outgoings in carrying out its functions. The funding provided for Parent Councils is to be allocated from the authority's budget, at a level which the education authority considers is reasonably required by the individual Parent Council.
48. **Section 11(6)** requires the education authority to inform the Parent Council about the arrangements at its school for consultation between parents and teachers, and allows the council to make representations on those arrangements to the education authority or the headteacher.
49. In support of the functions of a Parent Council to make representation about matters of concern or interest to the Parent Forum or the council itself, where the authority (or headteacher) has received representations from a Parent Council, subsection (7)(a) and (b) provides that they must have regard to such representations (as far as is reasonable and practicable) and must reply to them.

Section 12 – Duties of education authority to parents generally

50. In addition to the specific duties which the Act imposes on education authorities in relation to the promotion of parental involvement in school education, and in that regard the promotion of and support for duties towards Parent Councils, section 12 of the Act also introduces formal duties on education authorities to parents generally. There is a specific obligation on education authorities to give advice and information to any parent of a pupil on any matter relating to the education provided to that pupil in one of the schools under their management. This could include the education authority taking steps to ensure that the headteacher or other staff of the school attended by the pupil are available to give the parent such advice and information.

Section 13 – Headteacher’s report to Parent Council, Combined Parent Council or Parent Forum

51. **Section 13** sets out the headteacher’s reporting responsibilities to the council or to the forum. The duty on the headteacher, to provide an evaluation report on the performance of the school and statement of the headteacher’s objective and ambitions for the school, is owed to the Parent Council or, where there is no Parent Council, to the Parent Forum.
52. **Section 13(2)** provides that in evaluating the performance of their school, for the purpose of the annual report required in terms of section 13(1), the headteacher is to carry out such evaluation by reference to the school’s development plan, in particular the objectives and statement of ambitions set by the education authority for the school by that plan; the report against the previous year’s school development plan as required by section 6(4) of the 2000 Act; the measures and standards of school performance set by the education authority for schools under their management, as required by section 7(1) of the 2000 Act; and the equal opportunity requirements. The “equal opportunity requirements” is defined in section 20(2) as having the same meaning as in section L2 of Part II of Schedule 5 to the Scotland Act 1998:

““Equal opportunity requirements” means the requirements of the law for the time being relating to equal opportunities.

53. In addition to the reporting obligation the headteacher has to prepare a summary of the report and make arrangements for each parent to get a copy of the summary.

Section 14 – Procedures for appointment of headteacher or deputy and participation of a Parent Council

54. **Section 14** deals with the appointment procedures for senior posts in schools. The 1988 Act set out a detailed procedure for the appointment of headteachers and deputy headteachers and for parents’ involvement in that process through the School Board. The Act enables each education authority to develop their own procedures and requires the education authority to inform the Scottish Ministers and Parent Councils for schools in their area about their procedures for filling posts (section 14(1)). In addition, when a headteacher or deputy headteacher is to be appointed the education authority have to involve the Parent Council, where one exists, in the appointment process (section 14(2)). Section 14(3) enables the Parent Council to ask someone who is not a member of the council to assist it in carrying out its functions in connection with the appointment process. Section 14(4) places a duty on education authorities to ensure that appropriate training is made available to any Parent Council member or representative taking part in an appointment process.

Section 15 – Complaints procedure

55. As part of the scheme of the Act, education authorities are required, in terms of section 15 and following consultation with specified persons, to establish a complaints procedure. This procedure will enable anyone to make complaints or other representations concerning the exercise by authorities of (or the failure to exercise) their functions under the Act in respect of that person. The Act requires the education authority to keep its complaints procedure under review and to vary it when the education authority consider it appropriate. The complaints procedure is to be publicised by the education authority and the authority must provide a copy free of charge on request.

Section 16 – Establishment etc. of Combined Parent Council

56. **Section 16** sets out the arrangements to apply where a majority in each of the Parent Forums of two or more schools decide that they wish to have a combined council cover the interests of the schools involved.

57. Sections 16(1) and 16(2) set out how a combined council may be set up. The members of the Parent Forum at each school must be told in writing of the proposal and given a specific but reasonable timeframe in which to give their response to the proposal. The decision is to be based on the response of the majority of parent members of each of the Forums responding within that period. Arrangements to establish a combined council can be made at any time, including where a Parent Council has already been set up (section 16(3)). However, an existing Parent Council ceases to exist when a combined council is established (section 16(4)).
58. If the decision of the Parent Forums in each of the schools for the prospective combined council is that a combined council should be established, the education authority then have to proceed to prepare a scheme for establishing the combined council (section 16(6)), make arrangements for implementation of that scheme which have to include the preparation of a constitution (section 16(7)), and must send a copy of the scheme to the members of the Parent Forums.
59. Once a Combined Parent Council is established, section 16(8) sets out what the new combined council must do when first set up and whom they must inform of their existence and constitution. This is broadly parallel to the obligation on a Parent Council for an individual school as set out in section 6(7) of the Act. It includes similar provisions as in section 8(2) with regard to the promotion of contact with providers of nursery education, where one of the represented schools is a primary school (see paragraph 36). The Combined Parent Council is to decide its own name.
60. Section 16(12) provides that, subject to any necessary modifications, a Combined Parent Council has essentially the same rights and functions as a Parent Council, with the provisions in section 7(4) as regards the chair of a Parent Council applying equally to Combined Parent Councils. The headteacher's duty to report on an annual basis on school performance, objectives and ambitions includes, where appropriate, a duty to report to a Combined Parent Council (section 13(1)(b)). Subsections (13) and (14) provide that a Combined Parent Council which includes a denominational school must provide in its constitution for at least one co-opted member nominated by the church or denominational body in whose interest the school is conducted. If more than one church or denominational body had an interest, each must be able to nominate at least one co-opted member to the Combined Parent Council.
61. Section 16(15) provides that the duties on the education authority to promote the establishment of a Parent Council and to support its operation and in that regard to offer schemes for their establishment cease to apply on the establishment of a combined council but reapply if the school withdraws from the arrangement, and/or the combined council ceases to exist.
62. Subsection (16) sets out the circumstances in which a Combined Parent Council ceases to exist. The withdrawal or discontinuation from a combined council of one or more schools will not cause the Combined Parent Council to cease to exist so long as there is more than one school remaining in the combined council.

Section 17 – Withdrawal from represented schools

63. Section 17 sets out the arrangements by which a school can withdraw from a Combined Parent Council. This is to be done by notice of the proposed decision to withdraw being given to each member of the Parent Forum. The decision is to be made on the basis of the views of the majority of members responding within the relevant notice period.

Section 18 – Abolition of School Boards

64. Section 18(1) provides for repeal of the School Boards (Scotland) Act 1988. Subsections (2) and (3) are structured so as to allow for the repeal of different parts of the 1988 Act at different times. Section 18(4) and (5) set out instances within the 1980 Act and the 2000 Act where the references to "School Board" are now to be taken to

refer to “Parent Council or Combined Parent Council”, namely in regard to education authority appeal committees considering placing requests or exclusions, and in regard to the preparation of the school development plan which imposes a requirement on the education authority to consult with the council or combined council on the school’s plan.

Section 19 – Guidance

65. **Section 19(1)** places a duty on Scottish Ministers to issue guidance to the following bodies: to education authorities in respect of their functions under sections 2 and 6 of the Act (preparing a strategy for parental involvement; scheme for establishment of Parent Council); to Parent Councils in respect of their functions under section 8 (supporting the endeavours of those managing the school; ascertaining the views of the Parent Forum and making representations on its behalf; promoting contact between the school, the Parent Forum and others); and to Combined Parent Councils in respect of their functions under section 8 as applied where appropriate by section 16(12). Section 19(2) allows the Scottish Ministers to issue guidance on their functions under any other section of the Act to education authorities, Parent Councils and Combined Parent Councils. Education authorities and Parent Councils are obliged to have regard to such guidance in carrying out their functions under the Act.

Section 20 – Interpretation

66. Generally, the terms used in the Act are to be given the meaning which they have in the 1980 Act. However, references to “pupils” in the Act include children under school age only where such children are attending a primary school, including nursery classes within a primary school.

Section 23 – Repeals

67. This section introduces the schedule which makes consequential repeals to the 1980 Act, the 2000 Act and also to other specified legislation.

Section 24 – Short title and commencement

68. This section contains the provisions relating to the Act’s short title and when it will come into force. It allows the Scottish Ministers to bring different parts of the Act into force at different times for different provisions, different areas, different purposes or different cases or classes of cases.