



Empowering Schools A Consultation on the provisions of the Education (Scotland) Bill

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

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We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

EDUCATION SCOTLAND

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EDUCATION SCOTLAND RESPONSE

1. THE HEADTEACHER'S CHARTER

Curriculum for Excellence

Q 1. Education Scotland endorses the original aspiration of Curriculum for Excellence to promote teachers' professional autonomy and to empower them to design a curriculum which meets learners' needs at local level, within a broad national framework.

Education Scotland takes the view that, with autonomy, there needs to be accountability ensuring a careful balance to ensure equity and aspiration for all Scotland's children. We agree that headteachers need to be open to professional challenge of their decisions in relation to curriculum design and content. We also agree that support and challenge can come from: a network of critical friends, including community learning and development partners, third sector organisations and local employers; the local authority; the regional collaborative; and Education Scotland, as well of course as children, young people and their families. It will be important to ensure the right balance of support without good reason. It is essential that headteachers make decisions about their learning communities as they are best placed to have a detailed understanding of needs. It will also be important for headteachers' decisions on curriculum design to be based on robust evidence, including data on attainment.

Education Scotland recognises the constraints outlined on page nine of the consultation document which currently prevent headteachers in some local authorities having full autonomy to design their curriculum. The challenge at both national and regional level will be to provide the right amount of governance and accountability, while at the same time allowing leaders and practitioners flexibility and autonomy to meet their pupils' needs.

The extent to which leaders currently appreciate the range of freedom they have to make curricular decisions, or take the full opportunities within CfE to do so, varies substantially from local authority to local authority and from establishment to establishment. In many cases, practitioners and leaders underestimate or do not exploit fully the levels of flexibility and autonomy they have in this respect.

Through the transfer of Scottish College for Educational Leadership (SCLE) to Education Scotland, the setting up of Regional Improvement Collaboratives (RIC) and support for curriculum design and diverse learning pathways at national level, Education Scotland will support all headteachers and teachers to develop the professional confidence and competence to take full advantage of the empowered role proposed. A realigned and reorganised Education Scotland will work in

partnership with RIC, local authorities and schools to support the development of innovation.

Education Scotland recognises the important progress that is being achieved for Gaelic Education (GE). It is noted that the document [Education Governance: Next Steps](#) states that the governance of Gaelic Medium schools, unlike that for English medium, will remain a function of local authorities. We would suggest that further guidance would be useful as to how this may operate within the scope of the proposed new legislation, particularly where Gaelic and English Medium Education co-exist under the leadership of the same headteacher. We would suggest that Gaelic Education is supported in line with the statutory provision within the 2016 Act and the Statutory Guidance on Gaelic Medium Education (GME).

Improvement

Q2 and 3. Education Scotland would endorse further empowerment of headteachers and teachers to work collaboratively with their school communities to develop school improvement plans to ensure that priorities best meet the needs of their learners. This is in line with [Advice on School Improvement Planning 2018/19](#) issued by Education Scotland. It will be important to maintain the focus on reducing inequality of outcome for socio-economically disadvantaged pupils. Schools having the autonomy to develop their own improvement plans will enable them to align improvement priorities to the needs of learners, based on the specific local context, including that for Gaelic. Where required, Education Scotland will work with others to support schools and headteachers to ensure that improvement planning is based on effective self-evaluation. Consideration should be given to the unintended consequence that the significant work in recent years towards collegiate improvement plans, for example across clusters, could be affected by the primacy of the school improvement plan. Collaboration is essential for improvement. The inter relationship between all partners in education needs to be strengthened and supported so that the transfer of learning and the creation of local, regional and national learning communities is embedded and extended.

Staffing

Q4. Education Scotland believes that, in principle, highly effective headteachers are well placed to decide what works best within their own school and local context, and the composition of the team with whom they can work. In addition, we believe that freedom for headteachers in relation to staffing matters has the potential to improve the quality of learning and teaching. However, it is important to consider possible unintended consequences. For example, sufficient business support and clear local guidance, protocols and procedures will be required in order to ensure that recruitment processes do not detract from valuable time and resources needed for leadership of leading and teaching. This is of particular concern in relation to small schools. It may be helpful to model different approaches, so that valuable learning can be shared across the whole system.

In particular, we would cite the potential positive impact of headteachers: designing the school's staffing and management structure; selecting teaching and non-teaching staff; deciding on the distribution of leadership across the school; and determining

the balance between teaching and management time. We also recognise that this is the case in many schools currently, where the role of the headteacher encompasses this approach and that in many areas, work to extend and change the flexibility and autonomy of headteachers is underway.

Where there are staffing shortages locally and where headteachers are less effective, there are advantages in having the engagement and support of the local authority in relation to important staffing decisions.

There is a need to recognise that there is a finite staffing resource available and to guard against headteachers competing against each other for a limited staffing pool. This is particularly relevant in areas of the country where staffing shortages are acute. It is important to recognise that, in some areas, local authority-led consortia arrangements have been used to overcome staffing challenges at cluster, whole authority and in some cases, inter-authority level.

Education Scotland would support the development of further guidance and support in this area to ensure that best practice is captured and shared.

Funding

Q 5. Education Scotland believes that increasing headteachers' autonomy in relation to the spending of allocated funds has the potential to ensure creative and flexible use of available budgets, with decisions underpinned by sound prioritisation. This will include taking account of appropriate evidence in relation to the performance of the individual school and ensuring that educational strategies and interventions are bespoke and appropriate to the school's local context. This will encourage the use of evidence-based research and support a research culture across Scottish education.

We believe that the quality of provision of additional support needs in mainstream schools would benefit from headteachers having more flexibility in using their budget for more specialist staff and resources to provide an increased range of interventions to remove potential barriers to learning. For example, the appointment of a promoted member of staff to drive forward evidence-based methodologies such as nurture, dyslexia, augmented technology and reading recovery should impact positively on the quality of additional support needs provision. The ability to support GIRFEC and create bespoke learning pathways should be enhanced. However, cognisance will need to be taken of the role of local authorities in legislation regarding pupils with additional support needs (ASN), as well as the impact on individual school budgets of some specialist adaptations/approaches. Further case studies of impact and successful approaches may benefit and support smooth implementation.

High-quality business support and efficient procurement processes will be helpful to headteachers in discharging their financial duties. Consideration also needs to be given to the unintended consequence of collective spending across a local authority which could impact on threshold spending within public service procurement regulations. This issue has already arisen in some local authorities in relation to Pupil Equity Funding. Education Scotland believes that this is best done by building

on and extending existing Devolved School Management Schemes which are well established under the Standards in Scotland's Schools etc.

Q6. Education Scotland is of the view that there is scope for greater consistency between local authorities in terms of the formula used for deciding on the funds available to individual schools. Publication by each local authority of clear information about its approach to the allocation of funding to its schools and to any 'top-slicing' will allow scrutiny by stakeholders and increase public confidence.

Consideration should also be given to how parents and the local community can be meaningfully involved in relevant aspects of financial decision-making at school level.

Supporting Empowered Headteachers

Q7. In addition to providing evidence from inspections on priorities for improvement, Education Scotland will have an important role in providing improved support to empower headteachers through the Regional Improvement Collaboratives in partnership with local authorities.

A programme of national and regional support, drawing on inspection evidence and research on curriculum design and provision, including the DYW agenda and Gaelic Education would be beneficial. The programme should involve opportunities for direct engagement with headteachers, and for professional discussion and sharing of good practice amongst headteachers.

In order to deliver on the new powers and duties, headteachers may also require a range of support in relation to business management, HR and public sector procurement processes, in accordance with relevant procurement legislation. They will also need better support from local authority officers and specialists in relation to Best Value, in accordance with relevant legislation.

As noted in the Improvement Plan for Scottish Education 2018, school leaders will benefit from further professional development on parental involvement, engagement and family learning. Professional learning on support community engagement and co-production will also be useful.

Other comments

Legislative duties

The consultation document sets out that the Headteachers' Charter will support rather than replace some elements of the existing legislative framework. This is especially important in relation to additional support for learning/additional support needs. Education Scotland believes that provision of inclusive education is essential for schools to deliver equity and excellence in education for all of our children and young people.

Great clarity will be required about roles and responsibilities in delivering duties that sit with the local authority. Safeguards will need to be built in to ensure that

appropriate provision is in place for the range of needs of learners in line with rights, entitlements and legislative duties and that headteachers cannot demit their responsibilities to local authorities. Achieving an appropriate balance between headteachers being empowered to make decisions that most affect learning and teaching versus delegated responsibility from the local authority will need to be carefully considered in relation to legislative duties particularly in inclusion and equality.

Accountability

Further work is required to develop a clear, streamlined accountability framework to support empowered headteachers within the context of the Headteachers Charter. Clear roles and responsibilities of headteachers, local authorities and Regional Improvement Collaboratives will need to be established. This is particularly relevant in relation to employment law.

2. PARENTAL AND COMMUNITY ENGAGEMENT

Q8. Education Scotland supports the principle of strengthening and clarifying the existing legal duties in relation to parental involvement.

The proposal to strengthen the duty of headteachers to work with Parent Councils on substantive matters of school policy and improvement is welcomed. It would be helpful however to clarify exactly what duties are required in relation to all of the parents of pupils attending a school (parent forum) and ensure these focus on those areas where improvement is sought.

We would suggest that consideration also be given to the contribution which parents and the community can make to the financial decision-making processes of the school. This will also require consideration of how parents can be supported to participate in this process in a meaningful way.

There is no current legal definition of parental involvement. In order to support improvement within education, it is helpful to have a clear and shared understanding of key terms. There are challenges to defining these in law. These terms include parental involvement, parental engagement, family learning and learning at home. While they may at times be grouped under single umbrella terms, such as parental involvement, as they are to some extent in the Scottish Schools (Parental Involvement) Act 2006, or engagement, as they are in the National Improvement Framework, they are distinct terms and are not interchangeable. A single definition is unhelpful. Also as our understanding from research of 'what works' progresses over time, so too does our understanding of these terms. It may be helpful therefore to consider outlining the current understanding of these terms within Statutory Guidance rather than legislation.

We support the principle that parental involvement strategies should be regularly reviewed and updated. Consideration should be given to the future of local authority parental involvement strategies within the context of the Regional Improvement Collaboratives. The Regional Improvement Collaboratives will provide an important

vehicle for improvement in this area and the inclusion of parental involvement in their scope is to welcome.

It is important that Parent Councils seek to represent the diversity of the parent forum and we welcome the inclusion of a statement on this. It will however be important to clarify the purpose of the intended contact between parent councils and pupils, given their role in representing the views of parents.

Since 2012, all local authorities have had to comply with the model Complaints Handling Procedure published under section 16B of the Scottish Public Services Ombudsman Act 2002 (as amended by the Public Service Reform (Scotland) Act 2010). Scottish Government may therefore wish to consider amending Section 15 of the Scottish Schools (Parental Involvement) Act 2006 which deals with the handling of parental complaints.

The proposals outlined within the parental and community engagement section of the consultation document relate wholly to parental involvement. We would suggest that the Bill would be strengthened further by consideration of duties in relation to community engagement. Duties on community engagement could focus on requiring headteachers and Parent Councils to do some or all of the following:

- develop stronger links with local voluntary and community organisations, community learning and development providers, businesses, other public agencies, cultural organisations, colleges and universities;
- collaborate with the local community to coordinate community resources and services to expand opportunities for learning for young people and their families; and build capacity in the local community, for example developing community use of school facilities, provision of youth work and family and adult learning opportunities.

Duties for schools regarding wider community engagement should dovetail with existing duties for local authorities under the Community Empowerment (Scotland) Act, 2015 and the Statutory Regulations for Community Learning and Development.

We would suggest that duties to promote the uptake for Gaelic Medium Education, as outlined in Statutory Guidance for Gaelic Education (2017), dovetails with future legal duties on parental involvement.

Q9. The term meaningful is subjective and therefore challenging to enshrine within legislation. However, the proposals for improvement within the consultation paper set out intentions for partnership and collaborative working with the parent forum. This suggests that parents should be involved in an active and meaningful way in policy development and review, school improvement and in matters associated with the curriculum.

The National Standards for Community Engagement (NSCE) provide clear guidelines that would support meaningful engagement between headteachers and Parent Councils and other parental groups that is inclusive, well planned and well supported. Joint working between schools, parents and community learning and

development partners can provide parents and families with the knowledge and skills to engage meaningfully in school decision-making.

Ministers should consider whether parental involvement with schools should be included in existing legislative duties around community empowerment. For example, Ministers have the power under the Community Empowerment (Scotland) Act, 2015 to include schools as one of the public bodies that are subject to Participation Requests (see sections 3.31-3.33 of the national guidance [on Participation Requests](#)).

Q10. Education Scotland would support the extension of the duties and powers and in relation to parental involvement to funded early learning and childcare. We welcome the Government's intention to clarify the relevant duties of the Scottish Schools (Parental Involvement) Act 2006 and suggest that this clarification should extend to all funded provision, rather than just that which is funded but not provided by the public sector.

The consultation document proposes a limited extension of the current areas covered by the 2006 Act. It does however not set out a clear rationale as to why parents in this sector of education should not have an entitlement to representation on the same basis as parents in the schools sector, nor why leaders of early learning and childcare settings would be expected to collaborate with their parent forum in the same way as colleagues in other sectors.

The consultation document recognises the effective work with parents that already takes place with parents within the ELC sector. There is a concern that introducing a duty to communicate and interact with parents may have little positive impact, and indeed may in fact lower the bar as to what is expected of settings in terms of parental involvement.

We would therefore suggest that consideration be given to extending the same expectations for parental representation and collaborative working to the funded ELC sector. If this were to be the case statutory guidance would require to be developed to take account of the particular circumstances of those providers in the private and third sectors.

3. PUPIL PARTICIPATION

Q 11. Education Scotland welcomes the emphasis on pupil participation in the Education (Scotland) Bill 2018.

Q 12. Within Scottish education policy, there has been recognition that children and young people are entitled to participate in the design of their education, and decisions and activities that influence the running of their school. This contributes to children's and young people's sense of belonging and strengthens their school community. Curriculum for Excellence recognises that improved participation and engagement are the best way of helping children and young people to become successful learners. [Building the Curriculum 3 and 5](#) already outline the importance of learner engagement.

There are many studies which outline the benefits of pupil participation. One such study¹ emphasised the important links between participation and attainment. This and other current research suggests that enhanced pupil participation leads to improved relationships at the school, improved learning and teaching, improved guidance and support, a better school ethos, a greater sense of mutual trust and respect, improved attainment and achievement, and a reduction in the attainment gap.

An Education Scotland resource to support the development of pupil participation in schools is currently being piloted and will be available to all schools later in the year. This will help schools who need additional support to move from a pupil voice/pupil council model, commenting on policies that already have been developed and implemented to a collaborative approach. This would involve a broader range of pupils in developing policies and improvement activities and elicit open and honest feedback on the overall running of the school. As part of our commitment to the Year of Young People 2018, we will publish in April a young person's version of our acclaimed 'How Good is our School' resource. This will provide a range of tools to involve children and young people meaningfully in school self-evaluation and improvement.

Education Scotland understands that any new provisions for pupil participation will be aligned with the policy to empower headteachers through the Headteachers' Charter and there will be flexibility for headteachers to plan and implement the activities that are appropriate for their local context.

4. REGIONAL IMPROVEMENT COLLABORATIVES

Qs 13-16. Each of the six Regional Improvement Collaboratives is led by an experienced educational leader and is engaging constructively in the process of developing its Regional Improvement Plan. Education Scotland has identified a team of six Regional Advisors who are working in partnership with local authorities to develop regional improvement plans and reflect on the evidence and data to inform priorities. The role of the Regional Advisor includes working collegiately with Regional Improvement Leads and the provision of support and challenge to Regional Improvement Collaboratives. Experience to date is that each Collaborative is committed to this new way of working and has engaged constructively with the improvement planning process. The fact that Regional Improvement Collaboratives are not in themselves legal entities has created a few challenges to date. For example, close attention has had to be paid to the setting up of appropriate data-sharing agreements.

With the introduction of the new General Data Protection Regulations (GDPR) in May 2018, it will be important to consider the status of resources produced or published by Regional Improvement Collaboratives and how these will be treated for data control/processing purposes under GDPR.

¹ Conducted by the University of Stirling for Scotland's Commissioner for Children and Young People, 2015

The publication and maintenance of Regional Improvement Plans is an important way of ensuring public confidence in the work of Regional Improvement Collaboratives. Regional Improvement Plans will work best when they are live documents which are amended iteratively over time. It will be important for educational strategies and interventions to have sufficient time to show impact and it is likely that annual reporting is too frequent to allow for this. The plans will need to deliver the agreed functions of the collaboratives in full over time, in order to address the variability in the quality improvement support available for schools at present. Workforce plans will need to demonstrate how the capacity to deliver on the activities within the plans will be created, drawing on school, local authority, Education Scotland and staff from partner organisations.

Consideration should be given to ensuring that the planning landscape is as uncluttered as possible and that planning and reviewing cycles are synchronised where feasible. This should include consideration of whether Ministers need to review the National Improvement Framework on an annual basis, or whether less frequent reviews would be more appropriate.

The geographical spread of Gaelic Education results in some Regional Improvement Collaboratives having a smaller representation of Gaelic Medium Education schools than others. Therefore, we would suggest that it is important for practitioners of Gaelic to have opportunities to collaborate nationally alongside the regions. It is important that improvements to the Gaelic sector, including for the curriculum, feature on all Regional Improvement Collaborative Plans. These should be linked to the National Gaelic Language Plan as well as the National Improvement Framework.

5. EDUCATION WORKFORCE COUNCIL FOR SCOTLAND

Q17. The General Teaching Council for Scotland (GTCS) has led important work to support and enhance the professionalism of the teaching profession in Scotland and is a valued partner of Education Scotland. The proposed purpose and aims of the Education Workforce Council for Scotland are appropriate. Careful consideration should be given as to whether a new body is needed or if the current role of the GTCS should be extended. Building on the success of the GTCS professional standards, partners should work together to create and improve professional standards across all sectors of education, including a range of practitioners who support learning such as classroom assistants, librarians and home/school link workers. Standards should apply to all aspects of practice, including learning and development. The regulatory function should be the clear focus.

Q18. The stated purpose and suggested list of aims for the proposed Education Workforce Council for Scotland are appropriate, succinct and sufficient.

Q19. The proposed functions for the Education Workforce Council for Scotland are appropriate.

Q20. Reference could be added in the functions as to how the Council will promote collaboration and joint-working across professions for which it registers members. There is also scope to reference the engagement of members with families, carers and the community. The wording of bullet 3 on page 28 'Establish and review

Standards of education' would be clearer as 'Establish and review Professional Standards. Further clarity is required on why and how the Council would accredit and validate professional learning and development (bullet 5 on page 28), particularly in relation to Education Scotland's responsibility for national support for professional learning and leadership, as set out in Education Governance: Next Steps.

Q 21. The list of professionals who should be subject to mandatory registration is appropriate. The registration of other groups, such as music instructors and science technicians should be considered.

Q22. The Council should be required to consult on fees it charges for registration.

Q23. The principles for designing the governance arrangements should ensure representation from:

- all professionals' groups registered; and
- members with the varied skillsets required to ensure the Council has the expertise required to operate as a board.

Gender balance and diverse membership should also be ensured on the board.

The principles should also reflect the need for the Council to operate with appropriate support, challenge, rigour and transparency to reflect partnership-working across those professions registered with the Council and with key stakeholders.

Q24. Suggestions for the name included the Scottish Professional Council for Education and the Education Staff Standards Council, although as previously stated it may be more effective and efficient to extend the current role and remit of the GTCS rather than creating a new body.