



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?

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Yes



30 January 2017

Empowering Schools:

A Consultation on the Provisions of the Education (Scotland) Bill

Giving all children in Scotland an equal chance to flourish is at the heart of everything we do. By bringing together a network of people working with and for children, alongside children and young people themselves, we offer a broad, balanced and independent voice. We create solutions, provide support and develop positive change across all areas affecting children in Scotland. We do this by listening, gathering evidence, and applying and sharing our learning, while always working to uphold children's rights. Our range of knowledge and expertise means we can provide trusted support on issues as diverse as the people we work with and the varied lives of children and families in Scotland.

Children in Scotland welcomes the opportunity to respond to the Empowering Schools consultation. We have decided not to follow the consultation document's format as the questions did not allow us to appropriately convey our response. Instead we have provided a series of general statements on each section of the consultation identified by the Scottish Government.

Headteachers' Charter

Children in Scotland believes that all proposed structural changes and reorganisations need to be analysed against the question of whether they will enable schools, teachers and their partners to better deliver the aims and principles of GIRFEC and Curriculum for Excellence (CfE) and, in particular, secure its goals of ensuring equity and excellence for all children and young people. This is particularly important in Scotland's work to tackle the poverty related attainment gap. We understand the value in empowering local schools to maximize the flexibility built into CfE to shape the curriculum, to tackle the attainment gap, and to meet local needs. This is particularly important for the children and young people with additional support needs for whom individual need and the school environment is vital.

However, we are still unclear as to how the current governance structures are preventing headteachers from planning and responding to local need effectively and also how the proposed reforms will support them to meet the needs of their school community more effectively¹. It would be extremely valuable for the Scottish Government to provide examples or scenarios to help build understanding and a greater appreciation of the benefits that will be achieved if the changes are introduced.

The Scottish Government could also provide examples to rationalise the expected pathways to school improvement as a result of the reforms. At present the proposals are very vague in identifying the route to

¹ <https://childreninscotland.org.uk/wp-content/uploads/2017/09/Consultation-Response-GovernanceReview-Jan2017.pdf>

improvement. They could be supported with examples of how the responsibilities outlined in charter will improve numeracy, literacy or health and wellbeing.

Evidence suggests headteachers are constrained by national challenges such as teacher shortages and funding pressures. This could have a clear impact on planning and meeting local needs and other responsibilities, outlined in the charter^{2,3,4}. The Scottish Government could provide far more clarity as to why they believe it is the relationship between schools and local authorities that is the principal constraint on local leadership.

Staffing/teaching numbers

We think that giving headteachers more involvement in recruitment exercises and processes for school staff is a sensible operational proposal. A fully flexible and school-based process is probably not possible, given national agreements around terms and conditions, and we are unconvinced this situation would be desirable. However, measures to support headteachers to identify creative solutions to meet school needs are, naturally, welcome, particularly in relation to the wider workforce, such as recruiting specialist services such as educational psychologists; learning assistants and building sustainable partnerships with the third sector and others. However, it is unclear how flexible schools can be in practice. Greater clarity and scenarios would be helpful. We also are concerned that devolving responsibility to tackle national challenges, such as staffing shortages in rural schools, is unfair to headteachers who

² <https://inews.co.uk/news/education/ending-scotlands-teacher-shortage-will-take-three-years/>

³ <https://www.ahds.org.uk/about-us/head-to-head/leadership-in-lean-times-march-2015>

⁴ <https://inews.co.uk/news/education/ending-scotlands-teacher-shortage-will-take-three-years/>

are not in a position to solve this.

Similarly, it makes operational sense to offer support to headteachers to identify creative solutions to staff structuring and we can see how this may support them to retain high quality teachers. However, we question whether headteachers should have this enshrined in a statutory charter. We also believe their concerns that they may not have time or expertise to fulfill this should be acknowledged. This and other proposals contribute to concerns expressed by headteachers and others about the pointless bureaucracy that is of significant concern to many, including the Scottish Government⁵.

Finally, international evidence, for example from the OECD, is clear that the key to excellent learning is excellent teaching. This is also the approach taken in many countries with excellent education systems such as Finland⁶. It seems to us that the proposals are silent on how excellent teaching will be encouraged, supported and improved on. This does not reflect wider work in Scottish education. We are pleased to be working with the GTCS to refresh the Professional Values section of the Teaching Standards. The reforms however are silent in referring to how such work will interact with the charter and school improvement more generally.

There is a similar issue with how headteachers can fulfill their critical role to support excellence among their teachers. We do not want to see any distraction from support to schools and teachers to achieve CfE and to deliver our ambitions of achieving equity and excellence. At present, we

⁵ Scottish Government (2013) *Curriculum For Excellence Working Group On Tackling Bureaucracy*

⁶ <http://www.oecd.org/education/school/Improving-Schools-in-Scotland-An-OECD-Perspective.pdf>

believe more persuasive evidence and proposals is required to demonstrate that these Charter principles will support this.

Curriculum Flexibility

It would be valuable for the Scottish Government to provide greater clarity over what flexibility will be available to headteachers. At present we have questions about the scope for this within various national frameworks. For example, how much can headteachers deviate from the national STEM strategy or the National Improvement Framework if they feel it is in the interests of the school community? There is also a question about the room for flexibility of assessment at the local level alongside standardised national assessments and the future publication of the results. This presents the question of whether the proposed reforms can give headteachers the freedom the Scottish Government is aiming for.

The Whole Child

We are concerned that, as we have previously raised, the proposed statutory charter seems to start and end with the head teacher's school⁷. This neglects the role of the head in relation to the provision of early learning and childcare (ELC), with many ELC settings co-located with the school. As the principal universal service for all children and young people, we are also concerned that there is no mention of the headteacher's role as a local leader in developing, planning and delivering their local children's services plan. As we have articulated in previous responses, education does not begin or end in the school setting

⁷ <https://childreninScotland.org.uk/wp-content/uploads/2017/09/Consultation-Response-GovernanceReview-Jan2017.pdf>

but this is not reflected in the proposed legislation⁸. We believe that the current proposals ignore an area's statutory responsibilities to identify and meet need in their integrated children's services plan, only recently established in the Children and Young People (Scotland) 2014 Act.

We know the Scottish Government understands the key role children's services have to play in laying the foundations for the attainment of children and young people. Such services support children and families to engage effectively with the education system throughout their childhood and onwards. The Scottish Government must reinforce this vital role in future reforms and ensure the link between children's services, schools and wider education providers is clearly laid out.

Similarly, headteachers will need to interact regularly with staff based in their Integrated Joint Boards, community learning and development and youth work services. These partnerships are vital in tackling the poverty-related attainment gap and these time and support requirements need to be reflected within the proposed reforms. They are also relevant for consideration of the improvement collaborative proposals below.

We also have a concern that the headteachers charter is extremely focused on educational attainment in the narrow sense and appears to ignore the importance of health and wellbeing. This does not reflect the Scottish Government's position, or the prominence given to health and wellbeing in GIRFEC or Curriculum for Excellence. Vitally, it also ignores the important link between health and wellbeing and academic attainment.

⁸ <https://childreninscotland.org.uk/wp-content/uploads/2017/09/Consultation-Response-GovernanceReview-Jan2017.pdf>

Additional Support for Learning

Similarly, clarity could be provided by the Scottish Government in relation to the delivery of essential additional support for learning (ASL) services. We know from Enquire, the national helpline service for ASL enquiries for families and professionals, that local authorities regularly involve headteachers in decisions about provision. However, the difficulty often arises when the school needs additional resources and this cannot be granted by the education authority. Anecdotal evidence from Enquire suggests that schools are reporting back that their hands are tied: although they believe the support or resource is required they cannot do anything about it.

Although this Bill could relieve some pressure as headteachers will have some more flexibility with school level resource, if specialist service and additional support for learning funding will still be held by local authorities and funding is constrained, we question whether this Bill would have the desired positive impact on outcomes and attainment.

We would also raise the question of where funding for the delivery of additional support for learning should sit. The direction of travel suggests that schools will have increasing responsibility and there is a risk that additional support for learning becomes an add-on if it has a different funding model. We have serious concerns that if funding for additional support for learning were to be controlled at school level it would increase the level of postcode lottery in relation to provision and support.

The Scottish Government also could provide clarity on the accountability arrangements in relation to the delivery of additional support for learning. Enquire has identified that they regularly hear from parents who are having relationship difficulties with the school or education authority or

feel they are not getting adequate support^{9,10}. If decision-making for education funding changes then the Scottish Government should be clear on the route for concern and complaint open to parents and young people. In line with this, additional support for headteachers needs to be given in dealing with issues that may arise or be brought to them over decisions made.

Funding

We outlined our position on the funding of schools within the new governance structures in the recent Fair Funding response¹¹. We are yet to receive clarity about how much more funding can be devolved to headteachers, or whether they have the time, support and skills to deal with these responsibilities¹². Furthermore, as we have previously alluded to, the main issue of funding in Scotland's schools is not to do with who spends it but the overall level of resource available^{13,14}. Headteachers need the appropriate level of financial resources to support them to make the best decisions within their school community. As we have identified throughout the Education Governance consultation process, we question whether autonomy and financial responsibility in and of

⁹ In the last year 214 of Enquire's callers mentioned relationship difficulties with the school or education authority as part of their call.

¹⁰ In the last year 415 of Enquire's callers mentioned inadequate support as part of their call

¹¹ https://childreninscotland.org.uk/wp-content/uploads/2017/10/Consultation_Response_Fair_Funding_Ed_Governance_Oct2017.pdf

¹² https://childreninscotland.org.uk/wp-content/uploads/2017/10/Consultation_Response_Fair_Funding_Ed_Governance_Oct2017.pdf

¹³ https://childreninscotland.org.uk/wp-content/uploads/2017/10/Consultation_Response_Fair_Funding_Ed_Governance_Oct2017.pdf

¹⁴ <http://www.gov.scot/Resource/0052/00521081.pdf>

themselves will improve outcomes¹⁵.

We also do not believe Pupil Equity Funding is an adequate replacement for core budgets. While we support the principle of schools responding to local needs we have heard in discussions with Enquire that this could increase inequality for children with additional support needs.

The Wider School Community

We are very supportive of the aims to include the school community in decisions about education spending, and this must extend to children and young people themselves. However, the Scottish Government could provide much-needed clarity over what is expected of headteachers in this regard.

We are however pleased to see some emphasis on the involvement of the school community in accountability processes with the charter. To support children, young people and families to engage with this, the reporting of spending and the information provided must be clear and accessible so that it is understandable for pupils and parents. This increases the level of accountability for these groups and allows the wider school community to engage more readily in their schools decision-making processes. The Scottish Government also needs to provide clear guidance on the breadth of decisions that the school community can be involved in.

Efforts should also be made to include children and young people and families in participatory budgeting wherever possible. This may prove time consuming but is essential for putting the key stakeholders at the heart of the decision-making process. There is also evidence to suggest that

¹⁵ https://childreninScotland.org.uk/wp-content/uploads/2017/10/Consultation_Response_Fair_Funding_Ed_Governance_Oct2017.pdf

involving children, young people and families within the budgeting process increases satisfaction as they have a greater understanding and involvement in the inevitable trade-offs that must be made between different areas of school budget.

We would also like reassurance that there will be built-in measures to ensure equity in resources and opportunities for all schools. We are concerned that children and young people may be disadvantaged, if their school community or staff body is not as effective in arguing for money, staff, opportunities, etc, as others. We do not want to prevent a vibrant school benefitting its pupils from a dynamic approach. However, children in other schools should be supported to secure equal opportunities. What accountabilities to the children, young people and wider community will be built into these proposals to ensure that the impact of any reforms strengthen equality?

There also needs to be CPD put in place to support schools to meaningfully engage in a rights-based approach and support children and young people to be involved in decisions throughout the school.

Support for Headteachers

We have already outlined several of the areas that headteachers will require support with to fulfill the responsibilities outlined in the charter. However, we will take this opportunity to reiterate the need for support in several other key areas.

Headteachers will also require practical guidance to sit alongside ongoing CPD to improve their operational capacity in the areas of budgeting, procurement and financial management. We have also articulated support for participative budgeting in this response and we would anticipate that headteachers will need support to fully realise this within their school community.

Parental and Community Engagement

We know from discussions with our partners National Parent Forum of Scotland (NPFS) about their support for the Scottish Government taking forward the recommendations from the Parental Involvement Review. However, we know there are still concerns that communication between parents and teachers is not as effective as it could be. NPFS has identified that parents tend to prefer direct communication but often this does not occur. The Scottish Government should explore how they can support more effective communication and meet the needs of parents. This is not about putting an extra workload on to teachers but instead finding more effective ways of working for the benefit of all stakeholders. They also should identify how the proposed reforms will support this and improve on the current situation.

We would also echo NPFS's concern about the pace of reform. The Scottish Government has not yet released its draft Parental Engagement Action Plan, however it would have been helpful for this to be available when considering the proposed reforms to allow comment on the proposals as a whole. At present we are unclear as to what the Scottish Government sees as a meaningful collaboration between parents and schools and this would have been supported by the action plan.

The Scottish Government also needs to provide more guidance on how communities can engage with schools and education as a result of the proposed reforms. This would support schools to identify solutions and methods that work for their school community.

As we have said, we are pleased to see a focus on parental involvement. However, this cannot come at the expense of the wider community. To build a school community on the foundations of partnership, all these pillars must be supported - but this is not reflected in the consultation. It

would also be extremely beneficial for the Scottish Government to outline what the school community will cover. This should include former pupils, local amenities, third sector partners, youth groups and local businesses.

Pupil Participation

Children in Scotland is firmly committed to ensuring children's rights are upheld in every aspect of their lives. Article 12 of the United Nations Convention on the Rights of the Child outlines that all children and young people have the right to be heard in decisions that affect them¹⁶. We are pleased that the Scottish Government is committed to involving children and young people in decisions about their education, in line with these rights and several key pillars of the GIRFEC approach.

However, we have several concerns with the proposals. Firstly, the principles identified in the document could be far clearer. We understand the Scottish Government does not want to be prescriptive and we are supportive of this approach, but clearer principles would be extremely valuable, particularly for headteachers who are not so confident in supporting meaningful participation.

Secondly, as we have articulated in previous responses and in the 10-point plan provided by the Children's Sector Strategic and Policy Forum to the Scottish Government, we are not convinced a legal duty will ensure good practice in this area and support children and young people to be involved in their school community¹⁷. It may be more effective to pursue a duty to report on pupil participation. This would encourage headteachers to reflect on the process as they undertake it and access the necessary support when they are struggling. It would be for the Scottish Government

¹⁶ <https://www.cypcs.org.uk/rights/uncrcarticles/article-12>

¹⁷ <https://childreninScotland.org.uk/wp-content/uploads/2018/01/Strategic-Forum-Briefing-FINAL-3009-Rebrand.pdf>

to identify accountability measures, but we would support peer assessment and children and young people-led evaluations. This could mark a starting point for understanding how children and young people want to be involved.

We are also unclear as to why the proposed reforms are required to promote pupil participation, as there are many examples of good practice in this area within the current structure.

The Scottish Government instead should look at how it can support headteachers to better understand meaningful participation. That is, participation that goes beyond the usual pupil councils and explores how to involve children and young people in decisions throughout the school. While there is much good practice, we are concerned there is a lack of understanding of the considerations needed to meaningfully include all aspects of the school community and the breadth of issues they can be involved in.

Headteachers should be supported with ongoing CPD to understand the theory of participation. Further support should also be provided through clear practice guidance on what meaningful participation in the school community actually is or could be. The Scottish Government should explore how the [Leaders of Learning](#) approach can be rolled out across Scotland. The Scottish Government should also explore how organisations like Children in Scotland can support schools in this regard. One route may be through the new Regional Improvement Collaboratives.

Embedding an understanding of meaningful participation and bolstering this with guidance will encourage headteachers to be creative in their approach. All pupils have the right to be heard under the UNCRC, however not all will want, or be able to, participate in the formal structures such as pupil councils. We have particular concerns that certain voices can be excluded from such models and we know children and young

people want to be involved in other ways¹⁸. Headteachers should be involving children and young people in the development of schools' participative structures to ensure these are fully inclusive and reflect the needs of the school community. The Access All Areas approach is one that the Scottish Government should consider here; Children in Scotland worked with pupils in the Borders to support the development of a resource to enhance pupil voice¹⁹.

We would also take this opportunity to identify that meaningful participation is time-consuming and resource-intensive; headteachers and schools will need to be adequately resourced to ensure this is supported.

Regional Improvement Collaboratives

We understand the rationale for the Regional Improvement Collaboratives, and understand the Scottish Government's desire to support schools to work together. However, we have concerns about a duty on schools to collaborate. Effective collaboration is based around shared values and as such cannot be enforced effectively.

We would urge the Scottish Government to reconsider plans to impose this duty and instead explore more developmental and consensual approaches, built around ambitious targets, such as reduction in the attainment gap, and improvements in literacy, numeracy and health and wellbeing, for example. It would also be useful to describe and build on examples where regional collaboratives are well underway, for example the Northern Alliance²⁰.

¹⁸ <http://www.gov.scot/Resource/0052/00521082.pdf>

¹⁹ <https://childreninScotland.org.uk/wp-content/uploads/2018/01/PupilAuditFINAL-copy.pdf>

²⁰ <http://northernalliance.scot/page/4/>

The Scottish Government could provide clarity over how the collaboratives will actually meet certain needs and interact with the schools and the individual local authorities. We have concerns about the ability of some of the regions to provide the intended support due to their size. It appears impractical for schools as far apart as those in the Northern Alliance (Shetland to Argyll, for example) to access the same specialist provisions such as Speech and Language Therapists. Again, staffing provision in these areas is a national challenge that cannot necessarily be supported by regional collaboration in a way that is any more effective than the current system. The points we make above in relation to statutory requirements and responsibilities for integrated children's services planning are also relevant here. The Scottish Government must rationalise the pathways to improvement through clear examples to support understanding of the approach.

The reporting by the Regional Improvement Collaboratives is not a key issue for Children in Scotland. However, we feel that providing annual improvement plans seems likely to create excessive bureaucracy. Such regular improvement planning could also lead to a lack of focus on long-term and sustainable approaches and will not allow the opportunity to gauge impact. We would support longer-term planning with regular feedback loops to support improvement.

We would also support reporting on achievements to be inline with the publishing of the Regional Improvement Plans. This would allow for the most coherence between the two reports and for transparency about where success is being built on and areas where problems are being tackled.

We also know from discussions with our partners, NPFS, that parents have concerns about the loss of local improvement planning. There are concerns around the ability of such large regions to respond to the needs

of families and schools. Parents can also have a say in education policy at local authority level through the education committees. This will be lost under the new structure. The Scottish Government should clarify how regions will respond to school needs and also the role for parents in the collaboratives. Children in Scotland has a similar concern in relation to how the collaboratives will engage with children and young people and would like clarity in this regard.

We would recommend reporting and reviewing schedule years are aligned with Children's Services Plans and produced every three years. It is a statutory requirement to produce integrated children's services plans. But at present there is no comment on how these will fit into the proposed planning and reporting cycles and in turn an assumption that education and schools can operate effectively in isolation from wider children's services. There are concerns about the complexity of the current landscape of children's services planning and the lack of reference to this in the consultation document reinforces these concerns.

Education Workforce Council

We will be working with the General Teaching Council for Scotland (GTCS) to review the Professional Values section of the teaching standards. As such, to avoid a conflict of interest, we will not comment on this aspect of the governance structures for the Education Workforce Council. However, we are able to respond to the consultation on the aims and functions of the body.

The relationship of the Education Workforce Council with children and young people must be clarified; we would support explicit reference to engagement with these key stakeholders. We also support an explicit commitment in the purpose of the body for it to work with children and young people to enhance professionalism and standards.

The aims should also include a specific commitment to representing the interests of children and young people. Furthermore, there should be an aim to bring the views of children and young people into the heart of higher level decisions about standards. At present they are not mentioned within the aims of the Education Workforce Council, despite, in our view, being the key stakeholder in education.

The Education Workforce Council's principles should make reference to and involve all key stakeholders, principally children and young people, and those representing their interests.

We know that the GTCS is already working in this area as we will be working with them to refresh the values section of the Professional Standards. The Scottish Government should ensure that the learning from this is incorporated throughout the Education Workforce Council. Children and young people will know better than anyone where teachers and other education professionals need to improve and have a key contribution to make about the types of training that is available to teachers.

Children in Scotland supports the proposals to widen registration to include other staff and also to incorporate non-professional staff. It is important that we recognise the vital role non-teaching and non-professional staff play within schools and within the education of children from their earliest stages. Registration of staff is vital for improving standards and this will ensure many of these staff receive the essential training and support that goes with registration.

There will be other professions which are not included and yet they contribute significantly to the aims of our education system. We are not arguing that they should necessarily be brought into the Education

Workforce Council. Nevertheless, there should be alignment around best meeting the needs of the child and young person, across all relevant regulatory professions. This alignment should be based on a parity of esteem and mutual value accorded to all professionals who work for children and their families.

In this regard, we are dismayed at the consultation's lack of respect shown towards early years professionals and other care staff and their regulatory body, Scottish Social Services Council (SSSC). The SSSC has made significant progress in increasing the knowledge, understanding and expertise of these professionals, especially the early years workforce, through their registration pathways. We agree with the consultation that greater alignment between the early years workforce and teachers is essential, given the importance of early learning and childcare to improving a child's outcomes. However, this alignment needs to be based on valuing the current strengths of registration arrangements and building on these. We are not yet convinced that the registration arrangements and pathways for the early years workforce, for example, will be improved by moving to the Education Workforce Council.

We also support measures that would take the burden of the cost of registration away from lower-paid staff and into the hands of employers. Many non-professional staff or those on temporary or part-time contracts may not wish to pay the registration fee; moving the burden to employers below a certain scale should encourage registration.