



Education, Children and Young People Committee's Call for Views on Education Reform

Children in Scotland response

August 2024

About Children in Scotland

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 changes 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.

Background

In line with the UN Convention on the Rights of the Child (UNCRC), children and young people have a right to education that recognises their individual interests and abilities. The importance of the topic is regularly highlighted to us by the children and young people we work with through our participation and engagement work.

Children in Scotland delivers a range of work with children and young people on their experiences of education. Current projects include managing the Inclusion Ambassadors network¹ and a project funded through the Keeping the Promise Fund, in which we work alongside young people with care experience

¹ [Inclusion Ambassadors, Children in Scotland Project](#)

and Pupil Support Staff². We have also delivered previous engagement work with children and young people about what they want from Pupil Support Staff.³

'Education and Learning' is also a 'hot topic'⁴ chosen by Changing our World, our children and young people's advisory group, reflecting its ongoing importance for children and young people. We have been working with them over a number of months on this topic and have shared a series of short pieces from Changing our World members alongside this response to demonstrate the views of children and young people on this topic.

Children in Scotland also delivers a range of services to support children and young people to access their rights to education, including Enquire, Resolve and My Rights, My Say.^{5 6 7}Evidence from these services has informed our response to this consultation.

The importance of education and learning was reflected in our 2021-26 Scottish Parliament Election Manifesto, which made a series of key calls for change. In 2022, Children in Scotland also published a learning and education briefing paper, which highlighted key evidence from our work and our calls for change.^{8 9}

Children in Scotland has been an active partner in the education reform process over a number of years. We have engaged at various stages of the process including Professor Ken Muir's review, the independent review of the implementation of additional support for learning, the Hayward Review and the National Discussion. This response draws from our previous engagement in these education reform discussions.

As context for our response, we would like to highlight a section of our 2022 education and learning briefing paper that was submitted to the National Discussion. This section of text was also highlighted at the start of our response to the Scottish Government education reform consultation in 2023. Our briefing stated that:

² [Pupil Support Staff Learning Project, Children in Scotland](#)

³ [Pupil Support Staff Engagement Project, Children in Scotland](#)

⁴ Changing our World select 2 Hot Topics a year to work on, these are the topics that as a group they have decided they think are most important to focus on.

⁵ [Enquire](#)

⁶ [Resolve](#)

⁷ [My Rights My Say](#)

⁸ [Children in Scotland Scottish Parliament Election Manifesto, 2021-26](#)

⁹ [National Discussion Briefing, 2022, Children in Scotland](#)

*'Our national agencies must become agents of change and not perpetuate the status quo. They need to be brave in their work and remain independent of government. To support this, there needs to be significant structural and cultural change with a more collaborative approach to ensure that our national agencies foster an environment that supports all children and young people to learn in safe and inclusive environments, where their rights are met.'*¹⁰

To support governance reform, we highlighted the following calls:

- The refreshed national agencies to have a governance structure which has an explicit role for children, young people, parents, teachers, school leaders and the third sector.
- Approaches to engagement and communication must reflect this range of stakeholders and be accessible and inclusive.
- Recruitment to leadership roles within the new national agencies should actively seek to recruit people from diverse backgrounds, experiences and with diverse skill sets.
- The Scottish Government to commit to adequate funding to fully integrate Youth Work, Community Learning and Development, home link workers, and other forms of learning, with formal education.
- Developing opportunities for third sector providers and those outside of formal education to be meaningfully involved in the governance of education in Scotland.

These calls have been key to our assessment of the Education (Scotland) Bill.

We also responded to the pre-legislative consultation from the Scottish Government on the proposals contained within the Education Reform (Scotland) Bill in December 2023 and highlighted our views on the proposals at that stage.¹¹ In our response, we highlighted that:

'We are concerned that the proposals within this consultation document fall short of the expectations of children and young people and will not amount to the meaningful change that has been called for.' (Children in Scotland Submission to Pre-Legislative Consultation on Education Reform, December 2023).

We are not currently confident that the proposals within the Education (Scotland) Bill have responded to these concerns.

¹⁰ [National Discussion Briefing, 2022, Children in Scotland](#)

¹¹ Education (Scotland) Bill Consultation, 2023, Children in Scotland (Can be provided on request)

Children in Scotland's general comments on the proposals

While Children in Scotland is pleased to see legislation brought forward on the reform of education, we are disappointed in the scale and scope of the proposed reforms. The legislative proposals appear to miss key opportunities to respond to recommendations made across the various reviews of Scottish education.

At present, the Bill appears to do little more than create new bodies. There is very little clarity about what contribution these organisations will make to an improved education system in Scotland. As such, we are concerned that the current proposals will promote continuity, rather than reform. The education reform proposals do not appear to align with previous Scottish Government commitments made in response to the various reviews of Scottish education. It is unclear why there has been a change in approach and why key commitments originally proposed have now been disregarded. One example of this is the change in position regarding the role of Education Scotland. This inconsistency makes it difficult to have full confidence in the delivery of the proposals outlined at present, particularly those which are not included within the legislation itself.

While it is positive to see reflection on how the Bill will uphold children's rights within the policy memorandum, we are concerned that the opportunity to solidify this within the legislation has been missed. The proposed legislation does not currently make any reference to the UNCRC Incorporation (Scotland) Act or the convention more broadly. It also does not look to embed the convention and a rights-based approach within either the new qualifications body or the new independent inspectorate from a legislative perspective. We do not believe this is aligned with Scotland's new obligations under the UNCRC Incorporation (Scotland) Act, or the wider commitment to rights-based approaches in Scottish policy-making. While we appreciate some effort has been made to reflect on this in the policy memorandum, Children in Scotland believes children's rights should be reflected within the legislation itself.

Finally, we would like to highlight that running this call for views over the summer holiday period has made it challenging for Children in Scotland (and other organisations we work with), to engage directly with children and young people to support them to share their views.

Children in Scotland is unaware of any specific engagement work commissioned by the Scottish Government to help inform these education reform proposals. We are also unclear about how these decisions have been informed by the views that children and young people have shared as part of

Professor Ken Muir's review, the National Discussion and the Hayward Review.

1. Several reports, including the OECD Review of the Curriculum for Excellence and Professor Ken Muir's report "Putting Learners at the Centre. Towards a Future Vision for Scottish Education", have recommended reforming the current Scottish Qualifications Authority. How well do you think the Bill addresses the concerns raised in those reports?

We are not convinced that the Bill in its current form responds to the concerns raised by Professor Ken Muir or the OECD. In particular, we are aware of how the reform proposals differ from the recommendations made within Professor Ken Muir's 'Putting Learners at the Centre' report. As a result of an extensive period of engagement, Professor Muir recommended splitting up the functions of the qualifications authority, with elements relating to regulation sitting with the national agency. We are not confident that the proposals have achieved this and there does not appear to be any reference to the national agency taking on any functions of the SQA.

Children in Scotland does not have a specific position on the different roles and functions of the SQA, however, we were confident in the findings of the 'Putting Learners at the Centre' report as they were developed over a period of extensive engagement with children, young people, education partners and the wider children's sector. We are unclear why the recommendations made in the report around the functions of the qualifications body have not been carried out.

In our response to the pre-legislative consultation, we also reiterated the calls from the OECD to ensure alignment between the curriculum and assessment. We are unclear how the proposals in the current Bill would respond to this.

We also wish to highlight that there appears to be little reflection on the wider array of proposals for qualifications and assessment that resulted from the Independent Review of Qualifications and Assessments conducted by Professor Louise Hayward. This review provided a clear outline of how qualifications and assessments could be reformed to better reflect the needs and priorities of children and young people.

In relation to the awarding function, the policy memorandum highlights that *'flexibility will ensure Qualifications Scotland can suitably implement any reforms to Scottish qualifications, assessment or the skills landscape that may come in*

response to the Independent Review of Qualifications and Assessment'.¹² We would like to see a strengthened commitment to carrying out the recommendations made in the Independent Review of Qualifications and Assessments.

The current Bill does not provide any clarity on how the new qualifications authority would respond to these recommendations. We believe there should be a clearer reference to Professor Hayward's independent review and a firm commitment to taking forward the findings of the review.

2. The Bill sets out measures designed to better involve learners, teachers and others in the new body's decision-making. What do you think about these measures?

Participation of children and young people is central to our work at Children in Scotland. As we have described in the introduction to this response, we have conducted a range of work with children and young people focusing on the topic of education and learning.

We firmly believe that the meaningful engagement of children and young people in the governance of our education bodies would improve the delivery of Scottish Education. As we outlined in our response to the pre-legislative consultation, the views of children and young people (and other key stakeholders) should be central to the new body.¹³

It is positive to see some mechanisms for the engagement of children, young people and other key stakeholders in the work of the new qualifications body. However, we are concerned about how these may work in practice.

In our response to the pre-legislative consultation, Children in Scotland said we were pleased that there would be opportunities for children and young people to be involved in the board of the qualifications body and for there to be a learner interest committee.¹⁴ However, we also highlighted that clear consideration needed to be given to how these opportunities would be facilitated and how appropriate support would be provided to ensure they offer meaningful participation opportunities to children and young people.

¹² [Education \(Scotland\) Bill, Policy Memorandum, 2024](#)

¹³ Education (Scotland) Bill Consultation, 2023, Children in Scotland (Can be provided on request)

¹⁴ Ibid

From our reading of the Bill and the associated policy memorandum, we are not fully confident that these considerations have been made at this stage. While we appreciate that these groups will develop over time, it is important to consider how approaches to participation will work from the outset. There also does not appear to have been an opportunity for children and young people to provide input on how they would like to participate in the new qualifications body. As such there is a significant risk that we have created an adult-led solution to the participation of children, that will not work for children and young people themselves.

We also believe that there continues to be a lack of clarity on how the different elements of stakeholder participation would relate to one another. At present the Strategic Advisory Council is mentioned in the Bill, while the Learner Interest Committee and Teacher and Practitioner Interest Committee are laid out within the policy memorandum. This suggests a lack of parity of esteem between the different advisory committees for the new body, with a more prominent role for the Strategic Advisory Council. For the Bill to provide confidence on this, both the Learner Interest Committee and the Teacher and Practitioner Interest Committee would need to be written into the legislation.

In our response to the Scottish Government consultation, we also highlighted that there must be a clear commitment to engaging with a diverse range of children, young people and other stakeholders. It is positive to see this commitment reflected in the policy memorandum, however, we feel that it could also be reflected within the legislation itself.

3. The Bill also creates several Charters, designed to let people know what they can expect when interacting with Qualifications Scotland. What is your view of these Charters?

During the pre-legislative consultation, we were broadly supportive of the idea of a series of charters to support people to understand what they can expect when interacting with the new qualifications body. We continue to be supportive of this idea in principle, however it is difficult to comment in detail on the charters at this stage due to a lack of detail about their content. It is positive to see the intention for children and young people, as well as other key stakeholders, to be involved in the development of these charters.

It is positive to see reference to the UNCRC within the policy memorandum in

relation to the charters. However, at present this is focused entirely on Article 12 and children's rights to participation. We believe that greater consideration is needed of how the learner charter (and indeed the qualifications body as whole) contributes to children's rights, in a more holistic manner. In particular, we would like to see consideration of how the new body will support the rights of children with additional support needs who may not engage as directly with formal qualifications. We know from our work with the Inclusion Ambassadors on the Hayward Review that children and young people with additional support needs want the qualifications system to take account of their learning more meaningfully.¹⁵ Reflection on this should be written into the charters for the qualifications body if this is taken forward.

Another concern that we have at present is around accountability of the new body and opportunities for redress if someone believes the qualifications body is not upholding the principles of the charters. A key issue highlighted in the various reviews of Scottish Education, and a principal basis for reform of the qualifications body, was a lack of trust in the Scottish Qualifications Authority (SQA). While having charters for stakeholders helps to provide some assurance over how the new body will work, there also needs to be clarity on how issues would be raised in relation to the new body. Having this clearly defined within the legislation would support confidence in the charters going forward.

4. Part 2 of the Bill establishes the role of HM Chief Inspector of Education in Scotland, setting out what they will do and how they will operate. What are your views of these proposals? E.g. Do they allow for sufficient independence?

Children in Scotland has not engaged directly on the topic of school inspection with children and young people or with our members. As such we have less detail to provide on how inspections operate at present. We did however provide input on the 2022 consultation on inspection of ELC. It is important to ensure there will be consistency, where appropriate, across inspection in different settings to ensure all parts of the inspection system are focused on a

¹⁵ [Inclusion Ambassadors response to the Independent Review of Qualifications and Assessment, 2022](#)

shared aim and approach towards improving outcomes for children and young people.¹⁶

The proposals within the Bill are very focused on the creation of the new role of HM Chief Inspector of Education in Scotland. We believe that the creation of a new independent inspectorate is a positive move for Scottish Education, but do not feel we are in a position to provide detailed input on whether the current proposals will provide sufficient independence. We would encourage the Committee to examine this in detail as part of the ongoing scrutiny of the Bill.

One concern we have about the creation of the new HM Chief Inspector of Education in Scotland is the lack of engagement with children and young people about this topic. As we have described, Children in Scotland has heard very little from children and young people in relation to the inspection process. We are also unaware of any work about the inspection process being carried out by partners across the sector. We believe that focused engagement with children and young people on this topic would have supported the development of this new role and upheld children and young people's right to be heard.

We are also concerned about the lack of detail about the role of children and young people's participation within the new inspectorate. While we are pleased to see the commitment to increasing the participation of children and young people in the inspectorate's work within the policy memorandum, there is a lack of detail about how this will work in practice.

If the legislation is to proceed, then greater consideration needs to be given to the views of children, young people and stakeholders on how the new inspection body should deliver inspections. One key step would be to include proposals for participation within the Bill itself to give them weight, rather than simply referring to them in the policy memorandum.

We also believe that far more clarity and detail could be provided on how the inspectorate will deliver inspections and how the approach will be rights-based. It is positive to see some reflection on children's right to information in the policy memorandum, in relation to how information can be provided in rights-based ways. However, at this stage we can see little detail on how rights-based, participative approaches will be used to gather the views of children and young

¹⁶ [ELC Inspection Framework Consultation, 2022, Children in Scotland response](#)

people about their experience of their school. While we have not spoken directly to children and young people about this topic, we know from anecdotal evidence from children and young people that they do not find the process engages well with them, and that they feel it creates a pressured environment within their school. We would encourage far greater consideration of the inspection process from the outset and, in particular, consideration of how the process can uphold the UN Committee on the Rights of the Child's definition of child participation (see reference below).¹⁷

While we appreciate much of this will perhaps be considered through work to develop the new inspection frameworks, Children in Scotland believes that this evidence is needed to help inform the creation of the new role of HM Chief Inspector of Education in Scotland.

5. What are your views on the reporting requirements set out in the Bill, including the requirement to report on the performance of the Scottish education system?

At present, the level of detail on school inspection reporting is limited. As such, this makes it hard to comment on the specifics of the reporting process. However, as previously highlighted, it is positive that the policy memorandum includes some detail on how information from inspections can be communicated in a rights-based way. We strongly encourage the inspectorate to work closely with children and young people on how school inspection reports (and any annual reports) can be communicated in a way that is accessible for children and young people.

We see the benefits of setting out a requirement to report on the performance of the Scottish education system. We believe reporting of this nature could provide a tool for understanding key successes and challenges nationally. It may also be a way to assess the impact of (and progress of) key national policy drivers on the delivery of education.

However, for this to add value the inspectorate would need to be a truly independent body that provided clear, impartial information. As Children in

¹⁷ **Ongoing processes**, which include **information sharing** and dialogue between children and adults, based on **mutual respect** in which children can **learn how their views** and those of adults are **taken into account** and **shape the outcome**. (UN Committee on the Rights of the Child)

Scotland highlighted in our response to the pre-legislative consultation, a national report would need to be considered as a tool to support improvement.

18

Careful consideration would also need to be given to any national report to ensure that it does not contribute to negative messaging about education. While it will be important to focus on challenges, this should be in the context of supporting improvement and sharing good practice to overcome challenges. The report should also share successes and examples of good practice as shown in our recent reports on the Success Looks Different Awards.¹⁹²⁰

6. Are there any powers HM Chief Inspector should have that are not set out in the Bill?

We do not have any views on specific powers that are not set out in the Bill. However, we believe that far greater consideration could be given to how the inspection process will engage with additional support for learning and support improvement within this area.

We know from our work with the Inclusion Ambassadors, delivery of our services and from recent reviews such as the Independent Review of the Implementation of Additional Support for Learning and the recent Education, Children and Young People Committee Inquiry into Additional Support for Learning that there are ongoing challenges with the delivery of ASL.

We also know from our Success Looks Different Awards that there are examples of good practice to be explored and celebrated.²¹

We would encourage further consideration of how the independent inspectorate will support the education system to respond to these challenges but also to support celebration of examples of good practice.

7. In your view, what should the outcomes of the Bill be?

8. Do you have any other comments on the Bill?

¹⁸ Education (Scotland) Bill Consultation, 2023, Children in Scotland (Can be provided on request)

¹⁹ [Success Looks Different Awards Year 1 Report, Inclusion Ambassadors, 2023](#)

²⁰ [Success Looks Different Awards Year 2 Report, Inclusion Ambassadors, 2024](#)

²¹ See references above

Children and young people continue to clearly articulate their vision for Scottish education. Alongside this submission we have shared a series of short pieces by members of Changing our World, Children in Scotland's children and young people's advisory group, which highlights their views on education as a whole. These have not been written directly in response to the Bill, however, we believe they demonstrate the level of disconnect between the desires of children and young people, and the reform that the Scottish Government is currently proposing to undertake. As such, we find it challenging to fully support the proposals for reform as we do not believe they go far enough or meet the scale of ambition that children and young people have for their education system.

For more information please contact David Mackay, Head of Policy, Projects and Participation, dmackay@childreninscotland.org.uk.