

## Education, Children and Young People Committee

Wednesday 25 September 2024  
24th Meeting, 2024 (Session 6)

# Education (Scotland) Bill

## Introduction

1. The Scottish Government introduced the [Education \(Scotland\) Bill](#) on 4 June 2024.
2. The Bill establishes a new body called Qualifications Scotland. It also creates a new office His Majesty's Chief Inspector of Education in Scotland.
3. The Education, Children and Young People's Committee has been designated as the lead committee for the Bill at Stage 1.

## Call for views

4. The Committee issued two calls for views – a [shorter call for views](#) and a [detailed call for views](#) - on the provisions of the Bill on 28 June. These ran until 30 August 2024.
5. The responses to both calls for views have now been published. A summary of the responses was published in the meeting papers for 18 September 2024.
6. SPICe has also prepared a [briefing on the Bill](#).

## Committee meeting

7. The Committee began to take oral evidence at its meeting on 18 September. The Committee will continue to take evidence at its meeting today, and on 2 October and 9 October.
8. At today's meeting, the Committee will take evidence from two panels.
9. On panel one—
  - Gillian Hamilton, Chief Executive, Education Scotland
  - Janie McManus, His Majesty's Chief Inspector of Education for Scotland
  - Fiona Robertson, Chief Executive, Scottish Qualifications Authority
10. On panel two—
  - Laurence Findlay, Director of Education and Children's Services, Aberdeenshire Council and Vice President, Association of Directors of Education (ADES)
  - Anne Keenan, Assistant Secretary, Educational Institute of Scotland (EIS)
  - Graham Hutton, General Secretary, School Leaders Scotland

- Seamus Searson, General Secretary, Scottish Secondary Teachers Association (SSTA)

## **Supporting information**

11. A SPICe briefing has been prepared for this meeting. This is included at **Annexe A**.

12. The Scottish Qualifications Authority, ADES, EIS and School Leaders Scotland responded to the call for views. Education Scotland and the Scottish Secondary Teachers Association have also provided written submissions ahead of this meeting. These are included at **Annexe B**.

**Clerks to the Education, Children and Young People Committee**

**September 2024**

## Annexe A



# Education, Children and Young People Committee

**25 September 2024**

## Education (Scotland) Bill

### Introduction

This briefing is to support the Committee for the second of its evidence sessions on the Education (Scotland) Bill.

The Committee will be taking evidence from two panels. The first will be from representatives from Education Scotland and the SQA; the second panel will include representatives of teaching trade unions and the Association of Directors of Education Scotland (ADES).

### Qualifications Scotland

#### *Culture*

A key part of the rationale for replacing is around creating an improved culture in Qualifications Scotland compared to the SQA. The Policy Memorandum stated—

“Replacing the SQA with a new body was an opportunity to reset the culture and engagement arrangements with all stakeholders, ensuring the national qualifications body’s governance structures reflect, represent and are accountable to the range of stakeholders it serves and users of its services.

...

“The new structures recognise that Qualifications Scotland requires more knowledge and understanding of, representation from, and accountability towards young people and all learners, teachers, lecturers and practitioners, and the wider stakeholders it engages with than seen in the SQA. Qualifications Scotland will have a strong focus on young people and adult learners, teachers and other education and skills professions, and the wider education system. These stakeholders will have clear roles in how

qualifications are devised, delivered, supported, assessed for and awarded.”  
(PM Paras 12 & 15)

Last week, the Committee heard from academics and who suggested that legislation on its own would not create better cultures; rather leadership of the organisation would be key.

Some of the submissions the Committee received identified discussed this issue. COSLA’s submission said that it was broadly “supportive of the plans to create a new body to oversee the delivery of qualifications in Scotland.” But, COSLA said, “we believe it will be equally important that there is a change in approach and culture in how Qualifications Scotland operates once established.” ADES’ submission said,

“In recent history we default to structure change rather than looking at the root causes and making plans for significant change. There is a disproportionate focus on structures when cultural and behavioural change in national organisations is also required.”

Some submissions identified recent improvements in the communication of SQA. South Lanarkshire Council also said that “there is evidence of increased transparency and consultation with young people and other stakeholders” by the SQA since the publication of the Muir Report.

The SQA’s submission said the bill is “an important step forward” but “if reform starts and stops with the creation of Qualifications Scotland and changes to governance, then a major opportunity will be missed”. It continued—

“The Bill proposes that the awarding and regulatory functions of Qualifications Scotland will remain largely the same as those of SQA – that is, delivering credible qualifications and maintaining the highest standards. However, we want to go further. There is a chance to change the culture of Scotland’s qualifications body, particularly in terms of how it works with others across the education community and how products and services are delivered. If we succeed in achieving that change, everyone we work with and work for – in particular learners and educators – will see and experience a tangible difference.”

## *Learner and teacher involvement*

One of the main legislative differences of the Bill compared to the current legislative framework for the SQA is around the structures to increase the influence of educators and learners in the work of Qualifications Scotland. These include the creation of Learner and Teacher Charters and a Learner Interest Committee and a Teacher and Practitioner Interest Committee.

The new body would be required to consult “such persons it sees fit” in developing the charters. The Charters would set out what learners, teachers and practitioners “should expect from Qualifications Scotland in the exercise of its functions”. Qualifications Scotland would have to set out how it satisfies the expectations set out in its charters both in its Corporate Plan and its Annual report. The EIS’s submission commented “much will depend on the status of the charter, its ability to influence and

deliver change and the willingness of the new qualifications body to commit to meaningful engagement and communication”.

The function of the Learner Interest Committee would be—

“to advise Qualifications Scotland in relation to the exercise of Qualifications Scotland’s functions from the perspective of persons undertaking a Qualifications Scotland qualification.”

Similarly the Teacher and Practitioner Interest Committee would be to advise QS “from the perspective of persons providing teaching or training in respect of a Qualifications Scotland qualification.”

In both cases the majority of the Committee should not be members, or members of staff of QS. That is neither a board member nor an employee. Of the members of these committees that are not members or members of staff of QS, a majority would need to be:

- In the case of the Learner Interest Committee, “undertaking, or have recent experience of undertaking, a Qualifications Scotland qualification.”
- In the case of the Teacher and Practitioner Interest Committee, “persons who provide teaching or training in respect of a Qualifications Scotland qualification.”

The total number of members is not prescribed. The minimum proportion of learners or teachers and practitioners on these committees will depend on the proportion of members that are from QS and whether any of those QS members are of learners or teachers and practitioners (e.g. are on the board in that capacity). The minimum would be over a quarter.

Last week the witnesses the Committee heard from were somewhat mixed on these proposals. The Committee was told that the key question will be how the organisation responds and incorporates the ideas and feedback from these bodies into their work. Professor Donaldson suggested that these were “analogue solutions in a digital age” and that more of a citizen’s panel approach should be taken. Professor Donaldson last week said that it should be clear whether the people sitting on these committees as practitioners or learners are appointed as individuals or as representatives. Professor Mark Priestley said that it was important there be a variety of views and types of expertise in policy-making bodies. SSTA’s submission stated—

“Teachers involved in the new institutions need to represent and be accountable to the teaching profession. The teacher unions represent most teachers in Scotland and the teacher union representative structures have a built-in accountability system that offers a unique and credible view of Scottish teachers. This is not the case at present where teachers nominated to serve on a range of education bodies do not represent or are accountable to teachers in schools. These teachers are often used by the institutions as the ‘voice’ of teachers that gives a ‘veil of respectability’ for decisions taken.”

Professor Priestley referred to his experience sitting on strategic boards in the Government. He said that these meetings can be too short and could be viewed as “rubber stamping” civil service papers rather than forums where policy is developed.

ADES’ submission stated—

“Greater clarity is required to describe how the implementation of the new Bill will engage with a variety of key players, seek and respond to their views and demonstrate that their voices have been taken fully into account. Increased detail is required to explain the ways in which the new agency must link to other agencies and how will it work in partnership with the system to build capacity. A clear partnership model approach needs to be set out. The qualification system relies on the local authority workforce but does not appear to take account of the voice of local authorities.”

Teachers and practitioners have a significant role in the functions of SQA currently. [There are a number of roles practitioners can take as appointees of the SQA](#). These range from marking exam scripts to being a [Principal Assessor](#), who is “responsible for ensuring all duties and tasks associated with externally set/assessed Course assessments are undertaken within the conditions, timeframes and arrangements set by SQA.”

The SQA [currently has “panels” to seek views](#) from learners, professionals and parents/carers.

## *Board and the Strategic Advisory Council*

The Bill includes some prescriptions around the appointments, membership and terms of office of those members. The Bill provides that Ministers must appoint to the board of Qualifications Scotland a Chair, the Convener of the Accreditation Committee and between six and 10 further members. In addition, the Chief Executive would sit on the board.

The Bill provides that, of the appointed members of Qualifications Scotland:

- one or more should “have knowledge of the interests” of people taking relevant qualifications (i.e. a qualification devised or accredited by Qualifications Scotland)
- two or more be registered teachers who are teaching learners taking relevant qualifications
- two or more must be college teaching staff teaching courses leading to a relevant qualification
- one or more “with knowledge of the interests” of the staff at Qualifications Scotland.

These conditions are new and are not found in the Education (Scotland) Act 1996, with the exception of the member with knowledge of staff interests. Ministers have had wide discretion in who they have appointed to the SQA board.

EIS's submission welcomed the aim to increase the contribution of practitioners in the governance structures of the new body. However, it argued that the Bill does not go far enough. It said—

“It would appear that teachers and lecturers could still be in the minority of the membership of the new governance body. If this is the case, then in our view, they will not play the central role in governance as envisaged in by Professor Muir and the risk will be that the same governance-related problems prevail.

“If the necessary culture change is to be effected, we would recommend the adoption of a robust structure of governance, such as that of GTCS Council, where teacher and lecturer voice is truly represented or with an additional provision inserted to ensure that Qualifications Scotland must comprise of a majority of teachers and lecturers.”

The Bill introduces four-year terms for the board members of Qualifications Scotland. The 1996 Act does not specify term limits for board members of the SQA. The Bill also provides additional powers (compared to the 1996 Act) for Ministers to remove members of Qualifications Scotland.

The Policy Memorandum explained that there is expected to be a level of continuity between the current board of SQA and the new body, it said—

“The Scottish Ministers recently appointed a new Chair of the SQA who will oversee the SQA and the transition to Qualifications Scotland. To support this transition, the new SQA Chair will become the first Chair of Qualifications Scotland. The appointment of the SQA Chair was made after fair and open competition and was regulated by the Commissioner for Ethical Standards in Public Life in Scotland, and the Code of Practice for Ministerial Appointments to Public Bodies in Scotland on the express basis that the successful candidate would transition to the new body.” (Para 48)

SLS' submission said—

“Whilst we need to use the expertise and experience which the current SQA body has, those involved cannot transfer lock-stock and barrel to the new body, as this would not be a reform but a rebranding. There must be new blood and new thinking, and this must be seen by the open, competitive appointment to senior posts in Qualifications Scotland. We therefore question why the Chair of the SQA will automatically become the Chair of Qualifications Scotland.”

The Bill provides that there will be a Strategic Advisory Council. The role of this council will be to provide advice to Qualifications Scotland and Ministers on matters relating to:

- qualifications devised or awarded by Qualifications Scotland
- the functions and procedure of Qualifications Scotland.

The Bill states that Ministers must make regulations to create the Strategic Advisory Council and those regulations can cover a variety of matters in relation to the functioning of the council.

The Scottish Qualifications Authority Act 2002 provided for powers to establish an Advisory Council in relation to the SQA and its qualifications. The SQA council was established by the [Advisory Council \(Establishment\) \(Scotland\) Regulations 2002](#). The Bill substantially replicates the provisions in the 2002 Act in this respect.

The EIS's submission said that it is "unclear as to how the Teacher and Practitioners Interest Committee and the Learner Interests Committee will interface with the Strategic Advisory Council."

## *Accreditation*

The Muir review recommended that the accreditation function be separated from the awarding function under new arrangements. The Government initially agreed with this recommendation but subsequently revised its approach. The Policy Memorandum states:

"The location of accreditation functions has been fully considered and the Scottish Government believes the functions should remain at arms-length from government and that they should sit within Qualifications Scotland. It is how these functions are exercised, through changes to governance, that will be the key difference in the new body." (Para 14)

As with the current situation with the SQA, the Bill provides that the accreditation function will be overseen by an Accreditation Committee. Paragraph 12 of Schedule 1 provides that the work of the Accreditation Committee cannot be directed by the overall board of Qualifications Scotland and is operationally independent. The Bill provides that Ministers appoint the convener of the Accreditation Committee and this person sits on the board of Qualifications Scotland. Sections 19 and 20 provide that the Accrediting Committee develops a separate corporate plan and annual report.

The Policy Memorandum explained:

"Continued separation between the two functions is essential. The Scottish Government is committed to ensuring that the policy, strategy and processes for accrediting qualifications and regulating awarding bodies in Scotland are robust, fair, proportionate and importantly, as independent from the awarding functions as possible, without the expense of creating a new, separate organisation. An accreditation service with integrity in its processes and without undue outside influence will inspire trust and support in qualifications in Scotland that gives all learners, education and training establishments, employers and other stakeholders, confidence in the qualifications they use." (Para 58)

Last week Professor Muir said that "the awarding side of the SQA requires greater scrutiny" particularly following decisions around the pandemic. Professor Muir said that his preference was that Scotland establish an agency similar to Ofqual in England.

[Ofqual summarises its responsibilities](#) as regulating "awarding organisations that design, deliver and award qualifications and apprenticeship end-point assessments in England. Ofqual controls entry to the regulated market, and we create rules and



provide guidance for awarding organisations to help make sure regulated qualifications are fit for purpose, valid and delivered securely.”

The Stirling Centre for Research into Curriculum Making suggested that not having a separate accreditation body threatens competition and creates a conflict of interest. It said—

“The Muir report recommended a separation of the awarding and regulation functions of SQA. The decision to ignore this recommendation is a mistake, in our view, as there are potentially conflicts of interest inherent in the current situation, exacerbated due to the persistent low levels of trust across the system (parents, teachers, young people, universities) in SQA. A recent example is the inexplicable drop in the History Higher pass rate (from 78.7% to 65.7%).

“In many countries, there is a variety of awarding bodies, offering different types of qualifications, both academic and vocational. In Scotland there exists a virtual monopoly, where SQA both awards the majority of qualifications and regulates other bodies which might compete with it. There are definite advantages to having a mixed economy of qualifications, as this offers choice and diversity. We would argue that alternative qualifications should be more easily available and affordable to all schools in Scotland (e.g. IBO, iGCSEs), but this would require a different governance structure and presumably subsidised access for schools, so that alternative providers are not significantly undercut by the monopoly provider. It would also, presumably, involve a change to Insight and other accountability metrics.”

EIS’s submission stated—

“The fact that the Accreditation Committee is established by Qualifications Scotland with the convener having the authority to appoint Committee members further dispels any notion that there is, in reality, a separation between the main body and the Committee. The Bill is otherwise silent on the appointments’ process and how it will be conducted. We also note that whilst there is little information about who would be eligible for selection, members of Qualifications Scotland and indeed, members of staff of Qualifications Scotland can be appointed to the Committee, albeit that they cannot form the majority of membership. The interface between the discharge of the accreditation, regulation and awarding functions is clear, perpetuating the concerns which currently exist in this regard and which have been highlighted consistently in Education Reform reports.”

## **HM Chief Inspector of Education in Scotland**

### *Independence*

The structure of the inspectorate will be based around the Chief Inspector of Education in Scotland (“Chief Inspector”). The Policy Memorandum states that this position will “separately be designated an office-holder in the Scottish Administration [and this will be] taken forward by subordinate legislation of the UK Parliament” under powers in the Scotland Act 1998. (Para 104)

The Chief Inspector will be appointed by His Majesty by Order of the Privy Council on recommendation of the Scottish Government. Individual inspectors will continue to be appointed in this way.

A key aim of the Bill is to strengthen the independence of the inspectorate. Schedule 2 of the Bill states that the Chief Inspector is “not subject to the direction or control of a member of the Scottish Government” other than where this is explicitly set out in legislation.

Ministers retain the ability to direct the Chief Inspector to secure the inspection of specific or types of educational establishments and a power to specify the intervals at which inspections take place. These broadly reflect the current powers of ministers contained in the Education (Scotland) Act 1980 ([s66](#)).

EIS’s submission said that it was “not satisfied that the Bill as currently drafted ensures that the new Inspectorate will be sufficiently independent of the Scottish Government and believes that amendments to the Bill would be required to provide this reassurance.” EIS suggested amendments around ministerial approval of appointments and remuneration, as well as the powers of ministers to determine the frequency of inspections and to direct the Chief Inspector to undertake specific inspections.

The RSE’s Learned Societies Group submission said—

“One of the key recommendations from Professor Muir’s report was to introduce a new inspectorate body with *‘its independence enshrined in legislation’*. The LSG is disappointed that the Bill still has the Chief Inspector reporting to Scottish Ministers instead of Scottish Parliament at large and would recommend amending this provision to adequately reflect Professor Muir’s recommendation.”

Glasgow Council’s view was that “The role of [the inspectorate] is unlikely ever to be entirely independent as it is reasonable that they deliver on the will of the democratically elected Government of the day. However, the proposals go some way to ensuring greater independence and a distinction between policy development and inspection.” NASUWT said, “while Ministers retain the ability to direct the Chief Inspector to secure the inspection of specific or types of educational establishments, NASUWT is content that the legislation will provide the Chief Inspector with greater autonomy over the inspection regime compared to the 1980 Act.”

## *Coverage of the inspectorate*

The inspection function will cover “relevant educational establishments”. The Bill defines “relevant educational establishments” as:

- schools (including local authorities’ provision of ELC)
- funded ELC provided by a partner provider
- a provider of further education
- a school of education providing initial teacher education (only to the extent that it provides such education)

- residential accommodation connected to a school (only in relation to the welfare of the pupils)
- an education authority (only in relation to its school education functions).

The Bill sets out “excepted establishments” which are a sub-set of “relevant educational establishments”, which are the types of relevant educational establishments that may be inspected only at the request of Ministers. These are:

- funded colleges
- schools of education providing initial teacher education.

## ELC

The Muir review recommended—

“As a matter of urgency the new independent Inspectorate should re-engage with the Care Inspectorate to agree a shared inspection framework designed to reduce the burden on early learning and childcare (ELC) practitioners and centres.”

The Care Inspectorate has a key role in inspecting day-care of children services, including nurseries and childminders providing funded ELC. Its submission stated—

“Our understanding is that inspection will continue to be carried out in the full range of educational establishments and services as are currently inspected, however we note that neither the Bill, Explanatory Notes nor the Policy Memorandum address the issue of the inspection arrangements for the early learning and childcare (ELC) sector. The Policy Memorandum notes that currently, nursery schools (i.e. those providing early learning and childcare, and funded partner providers of early learning and childcare) are inspected. ... more clarity would be helpful to the sector around the definition of ‘ELC funded partners’ and the role of HM Inspectors in the inspection of funded ELC, in particular within the role of funded childminders.”

Midlothian Council said that the “interface [between the inspectorate and] other bodies such as the Care Inspectorate is unclear”. AHDS’s submission argued that the Chief Inspector of Education in Scotland should be the “the sole agency involved in inspection of local authority nursery schools and classes” but “the remaining early years provision could stay under the Care Inspectorate inspection systems but no longer have HMIE visits”.

COSLA’s view was—

“We believe that a single body should be established for the inspection of early learning and childcare. There is a shared understanding across Scottish Government and Local Government of the importance of ELC in improving outcomes for children and young people. A single body would be the most effective way to overcome the burdens, bureaucracy, and pressures that many in the sector experience under the current system.”

The Scottish Government consulted on the [inspection of early learning and childcare and school age childcare services in Scotland](#). Subsequently, the Care Inspectorate and Education Scotland agreed to develop a shared inspection framework. A further consultation on a draft framework was undertaken last winter and the [framework is expected to be published](#) this month.

## HE and FE

The Scottish Funding Council said—

“We do not consider that the HM Chief Inspector of Education should have responsibility for publicly funded colleges or higher education institutions delivering teacher training, in light of SFC’s existing legislative duty for assuring quality in respect of these institutions. This position was informed by a concern that the potential overlap in quality assurance responsibilities could lead to confusion and duplication, with additional cost and burden falling on institutions.”

## Institutional focus

Last week, Professor Donaldson suggested that a focus on inspecting institutions could be limiting. Rather he said that the focus of inspections may be on the learning experience of individual learners and this would include more than a single school, for example.

The Bill provides that the Chief Inspector must prepare and publish annual reports on the performance of the education system, insofar as it relates to the functions of the Chief Inspector. This is a new statutory duty. Education Scotland currently publishes summaries of its inspection findings from time to time, as well as thematic national reviews. Fife Council’s submission to the committee said—

“At a system wide level we have missed the collated three yearly accounts as evidenced in previous years through the Improving Scottish Education Series. It would be useful to have a more truncated annual account followed by a much more detailed three yearly summary as was the case with the ISE series. A much more significant gap is the subject based curricular accounts of what is happening across the country. This has been a huge gap of late as schools have taken steps to improve the quality of the curriculum offer without there being any meaningful national summary to reference their work or benchmark it against. The curriculum in Scotland is comprised of individual subjects which together make their own unique contribution to pupils' learning experience - we need a national collation of how this is happening similar to the Effective Learning and Teaching in ..... series of yesteryear and /or the subject based portraits which have not been produced for a number of school sessions now.”

A number of responses suggested that the inspectorate should have a role in inspecting other national organisations. For example, Angus Council’s said, “Independent inspection is an important part of the whole systems improvement approach. Consideration should be given to including the function of evaluating the work of national organisations.” NASUWT’s submission said—

“The quality of education depends on the government and others, not just schools and it is important that the Chief Inspector is empowered to recognise the role played by others, especially the Government, in establishing and maintaining a framework of investment and support for schools to deliver high-quality educational standards. Too often, inspection remains viewed as punitive because our system allows blame to fall on schools and lets others off the hook. Against a decade of real-terms cuts to school funding, teachers and headteachers have battled to deliver the very best education possible for children and young people. Our members report that they are increasingly swimming against a tide of cuts and a lack of resources.”

Professor Donaldson said that the fact that Scotland has called in the OECD to undertake reviews of the education system suggests that the inspectorate has not been providing sufficient early-warning of a system that is not working as intended. He said that he expected fast-moving changes in education in the coming years and this role is therefore especially important in the coming years.

## *Inspections’ Purposes and Approaches*

The Bill would leave the approaches to inspections to the Chief Inspector to determine. She or he would have to include, among other things, “information about the different types of inspection model which may be used” in an inspection plan that would need to be laid before Parliament.

A number of responses to the Committee’s call for views suggested that there should be more explicit provisions in the Bill about the purposes of inspection. SLS’s submission said—

“We would welcome more direction with regard to the review of inspection models, particularly regarding thematic inspections across sectors and subjects as well as fuller inspections of Local Authorities and how they support schools in their jurisdiction. The fact that the plan must also set out the standards against which establishments will be evaluated is also welcome and this should include a revision and updated version of HGIOS or a new approach which replaces HGIOS.

“We feel this should lead to an increase in peer reviewing with a larger and more influential role for Associate Assessors, who are practising school leaders, as this will enhance the currency and standing of HMIE.”

AHDS suggested that the Bill should be an opportunity to reimagine the inspection regime “to develop a more modern, efficient and effective system which better supports school improvement.” It said—

“It is our view that individual school inspections do not strategically contribute to system assurance or system improvement. Very infrequent school level inspections resulting in a moment in time summative report cannot perform these roles effectively. Further, this approach fails to recognise the important statutory role of local authorities in relation to school improvement.

“Instead, in relation to schools, the Inspectorate should inspect local authorities to ensure they have staffing and systems in place that allow them

to effectively know and support improvements in education provision. (The exception to this would be grant-aided schools and independent schools where individual inspections might continue to take place.) This would provide much greater reach for the inspectorate, streamlining and simplifying accountability models and offer more meaningful and regular system level assurance in relation to education provision and improvement.”

EIS said—

“EIS asserts that inspection, in the context of an Empowered system, is an outdated model for educational improvement. It is costly, in terms of resource and in terms of the time lost to teaching and learning, and it is of very limited value in supporting accurate self-evaluation and informing professional practice. It frequently fails to get to the heart of a school’s endeavour to serve the needs of its community. Teachers will, therefore, be frustrated at the lack of ambition shown in the Education (Scotland) Bill. They are told they work in an Empowered system which is poised for radical change for the future; yet they will continue to be subjected to an antiquated and disempowering process of top-down accountability which is culturally specific and for which there is scarce evidence of positive impact. ... The EIS is clear that the current models of inspection need to be rationalised and reformed, rather than being extended and expanded. Imposing yet another layer of top-down accountability and performativity drivers on the system, in lieu of addressing the chronic resourcing crisis in education, will only hamper the efforts to improve children and young people’s educational experiences, and the outcomes of these. The EIS view is that time, money and resources could be better spent in the current climate.”

Last week, Professor Donaldson said that the Bill should include a statement of purpose for the Chief Inspector. But he cautioned against being overly prescriptive in legislation to allow for the inspectorate to be flexible in the medium and long term.

[Education Scotland is undertaking a review of school inspections](#). This will “look at the current inspection framework and approaches with the aim to develop a new quality framework, and adapt and enhance approaches to school inspections.” Education Scotland’s submission to the Committee said—

“The provisions in the Education Bill establishing an independent Office of the Chief Inspector alongside the review of inspection frameworks and models presents an opportunity to fundamentally reimagine education inspection in Scotland putting learners at its very heart.”

Education Scotland and ADES have been working together on a “Programme of Collaborative Improvement”. This might be considered to be a different model of external evaluation of the work of an education authority, which would be a “relevant educational establishment” under the Bill. A report of this programme explained—

“Scotland’s Collaborative Improvement (CI) programme aims to bring together local authorities (LAs) to work collaboratively on shared priorities and to exchange effective practices. It was launched in 2021 by Education Scotland (ES) and the Association of Directors of Education in Scotland (ADES). Each month, a different local authority hosts a CI review. This process typically involves a CI team of around eight/nine members (comprised of Education

Scotland staff and volunteers from other local authorities) intensively working with the host authority for approximately three days to support them in their improvement process. The host local authority proposes a topic and discusses it with ES and ADES staff to agree on the focus of the Collaborative Improvement activity, drawing on the local authority's self-evaluation. Once the focus has been established, ADES and ES select members for the core CI team from the ADES pool of volunteers and ES staff team based on their expertise and to ensure the diversity of participating LAs. During the subsequent fieldwork visit, the core CI team works with the host local authority and offers support and challenge. The Collaborative Improvement also encourages the engagement of school leaders and practitioners. After the visit, the host local authority records the process in an evaluative summary, identifying strengths and areas that may require further focus. The reporting of progress on the identified action points is incorporated into the local authorities' regular improvement planning processes."

Following this work, ADES has published a framework for self-evaluation of local education authorities called "[How Good is Our Education Authority](#)".

The Bill broadly replicates the powers in the 1980 Act of the inspectorate to make reference to Ministers when schools or education authorities fail to take steps to secure improvement, having regard to the seriousness of that failure. As in the 1980 Act, Ministers may eventually give enforcement directions requiring the body to take specific actions.

## *Advisory Council*

The Bill provides that the Chief Inspector must establish an advisory council. The Chief Inspector would have a duty to endeavour to ensure that the council be representative of the "interests of persons likely to be affected by the Chief Inspector's functions". The Chief Inspector would have a duty to have regard to any advice provided by the council and provide reasons should he or she not act on the advice given.

SLS' submission said—

"We welcome the setting up of an Advisory Council. This must involve stakeholders in the governance of the Inspectorate. We would welcome further details on who and how stakeholders are appointed or elected to this Council, which must play a full, strong and guiding role in the Inspectorate. The Advisory Council should be of a commensurate size and must reflect the stakeholders and be populated by people who understand the Scottish system and are involved in education."

## **Remainder of Education Scotland and wider reforms**

The removal of the inspection function from Education Scotland will mean that there is a new-look curriculum support agency. A [Parliamentary Question \(S6W-28044\) answered on 5 June 2024 explained:](#)

“The primary purpose and focus of Scotland’s national education agency will be to lead curriculum design, delivery and improvement, including the provision of resources to support high quality learning and teaching.

“The national agency will also have an important role in supporting a thriving professional learning sector through a national framework for professional learning and will build on the existing and well-regarded national leadership professional learning programmes.

“The Scottish Government is ambitious for all of Scotland's children and young people and Scotland’s local authorities and schools have an important role in creating the conditions for them to thrive. The national agency will work with local authorities to inform approaches to wellbeing, inclusion, behaviour and enabling better support for those with additional support needs. The national agency will also employ its unique national perspective to inform, share and promote wider approaches to improvement to close attainment gaps as set out in the National Improvement Framework.

“The Scottish Government has determined that refocussing Education Scotland will deliver the change and improvement necessary to achieve excellence and equity for Scotland’s children and young people including across Gaelic Medium Education.

“Work is underway to set out further detail on transition plans and associated timescales, including for the appointment of a permanent Chief Executive for a refocussed Education Scotland and HM Chief Inspector of Education, both of which will be taken forward as quickly as practicable. In line with previous commitments, there will be no compulsory redundancies as a result of this reform.”

Education Scotland’s submission noted that in November 2023 the Cabinet Secretary had set out her priorities for Education Scotland and these included, “sharper focus on Curriculum support and the Scottish Attainment Challenge, as well as a shift from regional working”. It also said—

“To support this refocussed remit, we are extending our corporate planning cycle by a year to align with the reform timetable and so have developed an action plan setting down clearly the key areas that Education Scotland will focus on over the coming year. We remain committed to supporting the Scottish Government to deliver an ambitious reform of education in Scotland.”

Last week Barry Black told the Committee that the Bill should have included provision for the establishment of the national curriculum support agency. COSLA’s submission stated, “ensuring the reformed Education Scotland is responsive to local needs will be paramount, and we believe this should be reflected within a new approach to governance.” It said that the new-look agency could report jointly to local government and the Scottish Government.

## *Wider reforms*

The Bill can be considered as one part of a wider reform programme.



The Government is taking forward a range of work which could be considered under the banner of reform.

This would include the [establishment](#) of "a regular Curriculum for Excellence improvement cycle". This will "consider curricular areas in a planned and systematic way, including considerations around the relevance of curriculum content, role of knowledge, transitions between primary and secondary, and alignment between the broad general education and senior phase."

Also, the Government plans to establish [a Centre of Teaching Excellence](#) to "support research and innovation in teaching practice for all children and young people, with the aim of making Scotland a world-leader in teaching practice." There is also ongoing work to improve the support for pupils with additional support needs, to close the poverty related attainment gap, and to better support care-experienced children and young people.

Last week the Government announced its response to the Independent Review of Qualifications and Assessment. The Government has chosen not to take forward many of the recommendation of that review but will review the current suite of school-level qualifications and include greater emphasis on continuous assessment. The Cabinet Secretary wrote to the Committee setting out the Government's position and this is included as an Appendix to this paper. The [Government's news release stated](#)—

"The Education Secretary committed to ensuring that qualifications reform is done in full partnership with teachers, pupils and other professional bodies, with a secondary Headteacher to be seconded to the Scottish Qualification Authority (SQA), and its replacement Qualifications Scotland (QS), to oversee that."

Professor Muir said that in Scotland the volume and lack of coherence in policy-making within education is an issue. Professor Muir said that the Bill could be a "reasonable start" to the wider reform programme and he called for a 5-10 year strategy on how to take forward education reforms in the context of the 2021 OECD reviews, the Muir Report, the National Discussion and the Independent Review of Qualifications and Assessment. Barry Black last week indicated that structural reform is necessary to drive consequential culture change, but that the Bill's provisions are too similar to existing structures. The second panel last week also discussed the principle of subsidiarity, whereby decisions are made at the lowest level possible.

The Policy Memorandum stated—

"The education reform programme governance structures include a Ministerial group chaired by the Cabinet Secretary for Education and Skills and a programme board chaired by the Senior Responsible Officer for the education reform programme. Membership of the Ministerial group includes independent experts and professional advisors. Membership of the programme board includes Scottish Government officials, the Confederation of Scottish Local Authorities and the Association of Directors of Education in Scotland as well as experts, professional advisors and individuals working across Scottish education, ensuring insights, assurance and challenge on the delivery of the new organisations." (Para164)

## Equality

A number of submissions highlighted some issues in relation to equality policies.

The submission from the ECHR said, “any new qualification or inspection bodies should be listed for the PSED and Scottish specific duties, as their current equivalents are.” Close the Gap’s submission argued that more focus should have been placed on how the Bill could support gender equality.

CRER said, “all developments and actions should be subject to equality impact assessment, including the development and operation of the Advisory Council, to ensure that decisions do not disproportionately affect Black and minority ethnic groups.”

The Bill makes reference to the need for both Qualifications Scotland and His Majesty’s Chief Inspector of Education in Scotland to have regards “to the needs and interests of persons” in Gaelic Medium Education or Gaelic Learner Education, or those that may wish to do so. (Sections 7 and 34) This was welcomed by a number of organisations, including those with a specific interest in Gaelic. Other organisations noted the absence of a similar provision for BSL. The National Deaf Children’s Society said—

“Gaelic and BSL have similar legal and demographic status. Access to Gaelic or BSL allows children and young people in Scotland access to a rich culture, heritage and identity. It therefore seems appropriate that the bill be amended to place similar specific requirements on the new bodies to be created by the bill around addressing the specific needs of those who use or wish to learn BSL ... It should be noted as well that the term British Sign Language includes both the visual form of British Sign Language and to the tactile form of British Sign Language used and understood by some deafblind people.”

**Ned Sharratt, Senior Researcher (Education, Culture), SPICe Research**  
**19 September 2024**

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# Appendix: Letter from the Cabinet Secretary on the Government's response to the Independent Review of Qualifications and Assessment (19 September 2024)

Dear Convener,

## Publication of the Scottish Government Response to the Independent Review of Qualifications and Assessment

This afternoon I will publish the [Scottish Government response to the Independent Review of Qualifications and Assessment](#) setting out the Government's next steps on qualifications and assessment, ahead of making a statement to Parliament.

Alongside the response I will also publish a number of associated Impact Assessments: [Equalities](#), [Child Rights and Wellbeing](#), [Fairer Scotland Duty](#), [Consumer Duty](#) and [Islands Communities](#).

## Background to the IRQA

As Committee members are aware, Professor Louise Hayward led an Independent Review of Qualifications and Assessment. The Review was initiated in response to recommendations in the [OECD's Independent Review of Scotland's school curriculum](#) (2021) and [Professor Gordon Stobart's OECD paper](#) setting out possible options for Scotland's future approach to assessment and qualifications (2021).

[The final report of the IRQA](#) was published in June 2023. The report contains a series of far-reaching recommendations related to qualifications and assessment, including removal of exams at National 5 and the introduction of a Scottish Diploma of Achievement (SDA) which in effect would act as a leaving certificate.

## Overview of Scottish Government response

In view of the importance of decisions around qualifications reform, I have taken the time necessary to very carefully consider the proposals, reflect how they could work in practice and undertake further stakeholder engagement.

The Scottish Government response sets out our intended approach to delivering a fair and credible qualifications and assessment system that enhances learning and teaching while supporting better outcomes for young people. Commitments made seek to achieve a balance between ambition and action that is deliverable given the resources available, and the post pandemic challenges being faced in our schools.

## Assessment/Programmes of Learning

I accept that the balance of assessment in the Senior Phase should now change so that there is less reliance on high stakes final exams, with internal and continuous assessment contributing to a greater percentage of a final grade, while being mindful of potential impacts on teacher workload. This will help more young people successfully evidence their learning and for many it will reduce the stress associated with exams. However the value of exams in applying a consistent and objective

standard as part of an overall approach is well evidenced and, as such, I will not be removing them as a matter of course at National 5. That said written exams may not be appropriate for more practical national courses and the SQA is already consulting on whether they should remain in some practical subjects.

I am also supportive of a move towards greater digitisation of exams and a pilot of digital onscreen assessment across various subjects, including Computing Science will start next year. Work to rationalise the qualifications offer in the Senior Phase will also be taken forward as will further work to explore how National 5, Higher and Advanced Higher could be organised into 'modules', to allow pupils maximum flexibility to build credit as they go.

### **Inter-Disciplinary Learning (IDL)**

I recognise the desire, including from young people themselves, for IDL opportunities to be more consistently available across all secondary schools and the skills and benefits this form of learning can bring. However, I am clear that these benefits can only be realised if the IDL on offer is of high quality, and it is clear that there is more work to do to ensure this is consistently the case. Therefore, building on the existing IDL co-design group facilitated by Education Scotland, a refreshed working group, chaired by a senior secondary school teacher experienced in the delivery of IDL, will bring together relevant partners already active in this space. This group will lead a new phase of work with the objective of better determining the place of IDL in secondary schools while ensuring an equitable and high quality offer for all young people.

### **Personal Pathway/Wider Achievement**

Young people in Scotland undertake a wealth of activity that builds their skills and confidence, and this breadth of achievement should rightly be recognised and celebrated. We will explore how best to recognise wider achievement with a range of stakeholders including young people. In doing so, and before considering whether or not wider achievement could be included as part of any leaving certificate, we will need to work through significant concerns raised by a wide range of stakeholders, principally that such a step would entrench and exacerbate social inequity. We will also support the continued development of the digital profile now housed within [My World of Work](#) which provides a platform for young people to capture wider achievements and plan learning by recording the totality of their skills, strengths, experiences and qualifications over time.

### **Leaving Certificate**

The development of a leaving certificate is a shared long-term goal for Scottish education. We understand the potential benefits of a leaving certificate as a means of recognising a broader range of a young person's achievements. However, we also know that more work needs to be done to determine the content of the leaving certificate and how it will operate.

### **Support for the teaching profession**

I recognise that teachers will require support and professional learning if the changes being proposed are to be implemented successfully and we will ensure teachers are directly involved in the process of change and are empowered to lead the

improvements we all want to see. I agree that teachers require more time if they are to accept a greater responsibility for formal assessment and I remain fully committed to the delivery of our commitment to reduce class contact time by 90 minutes per week.

Taken together this suite of actions relating to qualifications is an integral part of our wider plans to improve the curriculum and develop a national skills framework. However, our ambition to improve Scottish education does not start and end with curriculum improvement and qualifications reform. A holistic and longer-term approach, which takes account of the changes in our schools' post pandemic, is required to drive the changes that will support better outcomes for our children and young people. I will set out an overarching improvement plan later this year as part of the National Improvement Framework. This will set out the short, medium and longer term improvement priorities for Scottish Education, with a clear focus excellence and equity.

I hope that this overview of the response is helpful, and I look forward to continuing to work constructively with the Committee to make improvements to our education system and improve outcomes for young people.

Yours sincerely,

**JENNY GILRUTH**

## **Annexe B**

# **Scottish Qualifications Authority response to the Education (Scotland) Bill Call for Views**

## **Information about your organisation:**

We are the national accreditation and awarding body for Scotland. Our purpose is to help people fulfil their potential and maintain standards across Scottish education.

We engage with learners, schools, colleges and training providers across Scotland, the rest of the UK and internationally, to develop, maintain, and improve a framework of qualifications, and to set and maintain standards for many other awarding bodies, and accredited qualifications.

## **1. What are your views on the proposals for Qualifications Scotland?**

The Education (Scotland) Bill marks an important milestone on the road to education reform. It provides the legislative basis for the creation of SQA's successor, Qualifications Scotland, and contains important proposals about how the new body will be governed.

In particular, the Bill includes a number of proposed measures to give learners and educators a significant say in the decisions taken by Qualifications Scotland. We welcome these measures, which build on the recent steps we have taken to give a stronger voice to learners and educators, for example through the Learner Panel we set up with the support of the Scottish Youth Parliament.

The Bill is therefore an important step forward. It must also be a catalyst for wider transformation; if reform starts and stops with the creation of Qualifications Scotland and changes to governance, then a major opportunity will be missed.

The Bill proposes that the awarding and regulatory functions of Qualifications Scotland will remain largely the same as those of SQA – that is, delivering credible qualifications and maintaining the highest standards.

However, we want to go further. There is a chance to change the culture of Scotland's qualifications body, particularly in terms of how it works with others across the education community and how products and services are delivered.

If we succeed in achieving that change, everyone we work with and work for – in particular learners and educators – will see and experience a tangible difference.

SQA staff have a strong hunger and desire for change and have already begun a programme of transformation. We will be saying more about these changes when we publish our 'prospectus for change'.

The prospectus, developed collaboratively through extensive engagement with learners, educators, stakeholders, partners and staff, will set out our ambition for Qualifications Scotland and provide details of a number of innovations and improvements.

Subject to investment from the Scottish Government, notably in the digital transformation of our services, these changes will create strong foundations for Qualifications Scotland to build upon from day one.

At the heart of the prospectus will be a pledge to reset our relationship with learners educators by striving to give each and every one of them the opportunity to have their voice heard and to shape the decisions, products and services of Qualifications Scotland.

This reflects the Bill's proposals for new charters setting out what learners and educators should expect from Qualifications Scotland and new 'interest committees' to ensure their knowledge and experience are at the core of the new body's decisions.

We have already been taking significant steps in this direction; getting out and about to schools and colleges to hear first-hand from pupils and frontline educators, and listening more through wide-reaching consultations and surveys on issues such as artificial intelligence and set texts in English courses.

Our Learner Panel has enabled us to engage directly with hundreds of learners on a range of issues relating to assessment and qualification. And our annual evaluation of awarding, drawing on views from across the education system, has helped inform our decision-making in recent years.

SQA is proud to be at the heart of public service in Scotland and to have the privilege of helping change the lives of hundreds of thousands of learners every year, empowering them through our qualifications. We are equally proud to have the opportunity to help shape Qualifications Scotland.

The publication of the Bill is undoubtedly an important step forward in the creation of Qualification Scotland and in the wider programme of education reform.

It must also be the platform for wider transformation and change if we are to realise the collective ambition to improve educational outcomes. Scotland's qualifications body, the Scottish Government, other national bodies, local authorities and stakeholders across the education and skills community all have a responsibility to recognise and play their part.

Working collaboratively on this change agenda, and on implementing the decisions arising from the Scottish Government's response to the Hayward and Withers reports, will mean together we can build a brighter, long-term future for learners and educators.

# Education Scotland written submission on the Education (Scotland) Bill

## Introduction

1. Education Scotland welcomes the opportunity to respond to the Education (Scotland) Bill and in particular the creation of the office of His Majesty's Chief Inspector of Education in Scotland.
2. In June 2021, the OECD report 'Scotland's Curriculum for Excellence Into the Future', found that having the Inspectorate as part of an organisation that is also responsible for supporting school leaders, curriculum design and support, teacher professional learning and a range of other initiatives is an "unusual configuration".
3. Subsequently, Professor Muir's report, 'Putting Learners at the Centre: Towards a Future Vision for Scottish Education', was published in March 2022 and included his view that having an inspection function within the same body charged with supporting improvement (Education Scotland) created potential conflicts of interest and compromised the organisation's ability to perform both roles well.
4. Education Scotland welcomed the important findings of both of these significant reports. In our consultation response to the Muir review in November 2021, we recognised that reform presented a considerable opportunity to rethink roles and responsibilities within Scotland's education system.

## Education Scotland's readiness for reform

5. Since then, Education Scotland has been committed to constructively supporting the Scottish Government education reform programme. Colleagues sit on both the Education Reform Programme Board and the Chief Executive Forum and are working positively to support the development of target operating models and transition plans for the new and refocused bodies.
6. When taking up post in March 2023, Gillian Hamilton, Interim Chief Executive committed that Education Scotland should not stand still. She set three clearly defined priorities - to lead Education Scotland through reform, to begin to move towards a new model of how we work to align more closely with the remit and aspirations of the new organisations and to effectively engage and enhance relationships with our stakeholders. In setting these, Education Scotland has made changes to our Leadership Team, organisational structure, our governance, our external communication and engagement, as well as our ways of working to support one organisation with two functions; support and improvement and inspection.
7. In November 2023, the Cabinet Secretary for Education and Skills wrote to our Interim Chief Executive setting out her priorities for Education Scotland,



which included a sharper focus on Curriculum support and the Scottish Attainment Challenge, as well as a shift from regional working.

8. To support this move to two distinct functions, in December 2023, Janie McManus was appointed as Interim Chief Inspector, leading the development and delivery of new approaches to inspections.
9. Following the publication of the Bill on 5 June, the Cabinet Secretary for Education and Skills also announced that Education Scotland will remain as the national education agency but will be refocussed with curriculum design, delivery and improvement as its primary focus, including the provision of resources to support high quality learning and teaching. Education Scotland will also have an important role in supporting a thriving professional learning sector through a national framework for professional learning.
10. This announcement is an important step forward in reforming education in Scotland. To support this refocussed remit, we are extending our corporate planning cycle by a year to align with the reform timetable and so have developed an action plan setting down clearly the key areas that Education Scotland will focus on over the coming year. We remain committed to supporting the Scottish Government to deliver an ambitious reform of education in Scotland.

### **Office of His Majesty's Chief Inspector of Education in Scotland**

11. In our response to Professor Muir's report, we recognised that an Independent Inspectorate will provide assurance and public accountability to stakeholders about the quality of education locally, nationally and at individual establishment/service level. It will play a crucial role in supporting improvement as well as providing assurance. Learners, the quality of their experiences and outcomes will continue to sit at the heart of inspection.
12. The Bill, as introduced, will establish the Office of the Chief Inspector as a public body independent of Education Scotland. Education Scotland believe that the establishment of the Office of the Chief Inspector will deliver on the recommendations of Professor Muir's report 'Putting learners at the centre'.
13. The bill would provide independence for the office of HM Chief Inspector. If passed, the Bill would give further clarity on the role of the Inspectorate. The bill would strengthen the Inspectorate's ability to provide public accountability and assurance on the quality of education, share evidence about education and training to support services to improve, and to inform the development of education policy and practice.
14. Education Scotland also welcome the provisions in the Bill, as introduced, which would establish an Advisory Council for the Inspectorate. This mechanism will further embed the expertise of interested parties, including learners and educators in our work and provide assurance to those we serve.
15. Legislation alone will not create the changes to education inspection that are needed to realise the rights of learners and this is why His Majesty's Interim

Chief Inspector, Janie McManus has set out a review of the school inspection frameworks and models.

16. The provisions in the Education Bill establishing an independent Office of the Chief Inspector alongside the review of inspection frameworks and models presents an opportunity to fundamentally reimagine education inspection in Scotland putting learners at its very heart.

### **Qualifications Scotland**

17. In our response to the Bill consultation in November 2023, Education Scotland recognised that qualifications, awards and achievements are an important part of life for children, young people and adult learners in Scotland and that approaches to delivering qualifications must be responsive to all learners needs and to the wide range of needs that society has.
18. We would support and welcome plans for a clear, easy to understand and non-bureaucratic approach to qualifications which takes on board the views of learners, and which learners help to design.
19. We also indicated that ensuring that the views of teaching professionals are taken into account appropriately within the new qualifications body is crucial for the success of system wide education reform. Teachers and people who deliver qualifications should be clear about their role in the delivery of qualifications, and how their role fits into the wider education system.
20. Education Scotland welcome the provisions in the Education Bill for a learner charter and a teacher charter. These, alongside other provisions, will provide a new strengthened framework which will better involve a diverse range of stakeholders, giving young people and other learners, teachers and practitioners, a central role in the organisation's decision-making.

### **Conclusion**

21. Education Scotland remains committed to supporting the Scottish Government to deliver an ambitious reform of education in Scotland.
22. We continue to work closely with colleagues in the Education Reform Directorate to work through the detail of what the refocussed remit and the provisions in the Education Bill mean for Education Scotland as a national education agency. As well as the transition of the inspection functions being removed from Education Scotland and preparations for a new independent Inspectorate.
23. Throughout, our staff continue to work tirelessly to support the Scottish education system and through a period of uncertainty, putting learners at the centre of our work and striving to make positive changes to better support the system.

# **Association of Directors of Education Scotland (ADES) response to the Education (Scotland) Bill call for views**

## **Information about your organisation**

ADES is an independent professional network for leaders and managers in education and children's services. We inform and influence education policy in Scotland working in partnership with local and national government, regional improvement collaboratives, Education Scotland, COSLA and other relevant agencies.

### **Question 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?**

The Bill does not address the concerns raised in the reports for the following reasons: There is a danger that change will be minimal and that the existing elements of the system are being repackaged and reinstated in a different order. This does not meet what is required or recommended by Muir, Hayward and OECD. A change of name and structure is not a sufficient response to Muir and OECD recommendations. In recent history we default to structure change rather than looking at the root causes and making plans for significant change. There is a disproportionate focus on structures when cultural and behavioural change in national organisations is also required. The Bill looks autocratic and top down at a time. There are concern around the language used with terms such as enforcement. This detracts from the genuine need for whole system working with the active engagement of all stakeholders. There is too much emphasis on the 'how' rather than the 'what'. There needs to be an agreed theory of change to underpin the proposed changes. This requires to be reflective of the need to review, amend and improve the existing curriculum offer for all learners. The announcement of 'no compulsory redundancies' reinforced that job titles and structures may be changing but the same people will still be involved leading to the criticism that the process is a simple means of 'moving the deckchairs'. As outlined in Muir report should the agency responsible for curriculum not also be responsible for assessment qualifications.

### **Question 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?**

The implementation of the Bill will determine the extent to which learners, teachers and stakeholders will be partners in the decision making process for the new body. Greater clarity is required to describe how the implementation of the new Bill will engage with a variety of key players, seek and respond to their views and demonstrate that their voices have been taken fully into account. Increased detail is

required to explain the ways in which the new agency must link to other agencies and how will it work in partnership with the system to build capacity. A clear partnership model approach needs to be set out. The qualification system relies on the local authority workforce but does not appear to take account of the voice of local authorities.

**Question 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?**

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?

The concept of Charters is a positive one. The challenge will be to ensure that expectations are met fully. The question arises as to the way in which the Charters are used and the extent to which this will be monitored, evaluated and challenged at an independent level rather than internally by the new Body.

**Question 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?**

The independence of the new HM Chief Inspector of Education will be essential if they are to support and challenge the system in an impartial and non political manner. At present the level of interference by politicians has diminished the credibility of the post. The Bill offers a fresh start opportunity for the new post holder. Following implementation, it will become apparent very quickly if the proposal for an independent role is rhetoric or reality. The inspection process and decisions on the nature and format of inspections must be the sole responsibility of the new HM Chief Inspector. This will require genuine independence and the freedom for the Chief Inspector to be able to speak truth to power without fear of political reprisal. In this way the new agency could carry out its role and report its findings without fear or favour.

**Question 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?**

The reporting requirements set out in the Bill are positive and welcomed with the following caveats: There must be a focus on improvement and a commitment for genuine partnership working to drive the change process across the system. Reports must reflect local and national contexts rather than adopt a 'one size fits all' model. This should include core issues and challenges such as financial constraints, teacher recruitment and retention issues. It will be very important that reporting is carried out in a timely manner so that emerging messages and exemplars of good practice can be shared quickly.

### **Question 6 - Are there any powers HM Chief Inspector should have that are not set out in the Bill?**

The new Chief Inspector will need to move at pace to ensure that relevant changes and improvements are made to the new agency quickly. This will include: the power to simplify the existing scrutiny landscape; the freedom to engage fully with key stakeholders; the opportunity to work in partnership with national groups to minimise duplication of effort in existing areas of work such as Collaborative Improvement and What Makes a Good Local Authority.

### **In your view, what should the outcomes of the Bill be?**

The outcomes of the amended Bill should be that stakeholders at every level of the system have the opportunity and voice to ensure the development of a self-improving system. From the perspective of learners, the curriculum offer and examination system should reflect individual needs and be future looking in terms of design and offer.

### **Do you have any other comments on the Bill?**

The Scottish education system for the 21st century requires a more significant change in its qualifications and national agency model rather than surface make-over. The Bill does not pay enough attention to the questions and recommendations raised in the Muir report, Hayward report, OECD and ICEA recommendations over the last few years. It feels as though these have now been set aside and replaced by a watered-down version of reform.

## **Educational Institute of Scotland (EIS) response to the Education (Scotland) Bill Call for Views**

### **Information about your organisation**

The Educational Institute of Scotland ('EIS'), the country's largest teaching union, representing almost 65,000 members across all sectors of Education and at all career levels, welcomes the opportunity to respond to the Education, Children and Young People Committee's detailed call for views on the Education (Scotland) Bill. The introduction of this legislation is the culmination of years of consultation on Education Reform and marks the first concrete step in progressing key recommendations, to which the Scottish Government committed back in 2021. Over this time, the Institute had repeatedly called for an end to the delay and for action to implement change, starting with the dissolution of the SQA, a body whose reputation is irreparably damaged, having become distant from and unresponsive to the professional viewpoints of teachers and lecturers. We have been clear that in establishing a new qualifications body, there must be genuine participation of teaching professionals at all levels of governance and that a simple rebranding of the old organisation will not be acceptable to our members who expect real and meaningful change. Similarly, we have highlighted the imperative for independence from the Scottish Government within the provisions to create a new Inspectorate and for the proposed structural changes to be accompanied by cultural change around the inspection process. In determining whether the recommendations arising from the extensive consultations on Education Reform will be implemented through this measure, it is essential to consider the Bill in detail. We, therefore, welcome the scrutiny which the Committee will give both to the principles of the Bill and to its drafting. To assist in this process, we have the following comments to offer:

### **Question 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?**

The EIS is not satisfied that the Bill, as currently framed, addresses the concerns raised in the OECD Review of the Curriculum for Excellence or in Professor Muir's report, 'Putting Learners at the Centre'. Both reports were clear that significant change had to be implemented if the concerns expressed by education stakeholders, including teachers and learners, are to be addressed. Professor Muir commented: 'Overall, it was evident to me in my engagements that there are significant relationship issues within the current SQA. Feedback from some of my engagements with PSAG members and others also questioned the effectiveness of leadership, the culture, accountability, and appropriateness of current governance structures within SQA.' Reflecting this, both reports signalled a number of key features of reform which would require to be implemented if the Scottish qualifications system is to be 'trusted and respected by all'.

- Separation of Accreditation and Regulation from the Awarding Function

Understandably, both reports recognised the central role which accreditation and regulation play in maintaining high standards of qualifications in Scotland, with the current process being the subject of intense debate in the reviews conducted over the last four years. The OECD acknowledged the concerns which many stakeholders had expressed, stating that it was not appropriate for both functions to be carried out by a single body. Ultimately, it suggested that: 'consideration should be given to a separate body that might be responsible for the regulation and quality of qualifications which is currently part of the remit of the Scottish Qualifications Authority (SQA)'. In endorsing the OECD's recommendation, Professor Muir went further, citing the need to restore the trust and confidence of the public, practitioners and learners in a revitalised single qualifications body, saying: 'When taken together with what many saw as the organisation's poor record of communication and ineffective engagement with the teaching profession, it was suggested that allowing SQA to 'mark its own homework' in this way further called into question its credibility ... Separating the SQA's functions will help ensure that the proposed qualifications, examination and awarding body is able to give increased attention to those functions.' Despite the recommendations emerging from these two independent reports and initial indications that the Scottish Government would accept this aspect of the Muir Review, the Scottish Government in December 2022 issued a statement, indicating that on further reflection, it intended to maintain the status quo, retaining accreditation, regulating and awarding functions within the remit of the new qualifications agency. It sought to provide some reassurance that separation and independence would be 'emphasised and strengthened through specific governance measures'. However, on review of the Education (Scotland) Bill, it is difficult to see how it will provide the necessary separation of functions to deliver the independence, and importantly the perception of independence, required to build professional and public trust in the new body. Section 4 of the Bill makes specific provision that the accreditation of qualifications and regulation of bodies offering qualifications will be functions of Qualifications Scotland. These functions will co-exist with the awarding powers outlined in section 2 of the Bill, with the new qualifications body having responsibility to discharge all these duties. The Bill seeks to provide some separation between these functions by creating an Accreditation Committee to discharge the accreditation function and making express provision that the Committee 'is not subject to the direction or control of Qualification Scotland' and 'must act independently of Qualifications Scotland'. Whilst ostensibly, this seems helpful, we would question the reality of this separation in practice. On further examination of the provisions of the Bill, it is apparent that the Accreditation Committee is to be established and maintained by Qualifications Scotland, with the convener of the Committee being a member of Qualification Scotland and appointed by Scottish Ministers. With the convener sitting on the main body of Qualification Scotland as well as the Accreditation Committee, there is an apparent conflict of interest. The dual nature of the role of the Convener and the potential for them to intervene in an awarding function, lacks the necessary transparency and independence, which the Reform Reports called for. Any apparent separation is diluted further with the provision of paragraph 12(3)(b) which initially seeks to preserve the independence of the Accreditation Committee but then goes on to state that there is nothing to prevent the Committee or any of its Sub-Committees from sharing information with Qualifications Scotland and vice versa. In what circumstances would such data sharing be envisaged and how would this compare with the data sharing agreements with any other awarding bodies, being regulated by the Committee? The fact that the

Accreditation Committee is established by Qualifications Scotland with the convener having the authority to appoint Committee members further dispels any notion that there is, in reality, a separation between the main body and the Committee. The Bill is otherwise silent on the appointments' process and how it will be conducted. We also note that whilst there is little information about who would be eligible for selection, members of Qualifications Scotland and indeed, members of staff of Qualifications Scotland can be appointed to the Committee, albeit that they cannot form the majority of membership. The interface between the discharge of the accreditation, regulation and awarding functions is clear, perpetuating the concerns which currently exist in this regard and which have been highlighted consistently in Education Reform reports. This gives rise to a number of questions about how the accreditation and regulation function will be discharged in relation to the awarding function of the new body. How could members of the Accreditation Committee fairly and impartially accredit qualifications which they are involved in awarding? What would happen if the Accreditation Committee had concerns about the standards being applied by Qualifications Scotland in terms of its awarding function? How can there be complete confidence that there will be parity of approach in the accreditation of qualifications for all providers? Given the close relationship potentially between the membership of Qualifications Scotland and the Accreditation Committee, we believe these arrangements lack transparency and independence, with the clear potential for conflict of interest. The EIS has been clear that if there is to be renewed trust and confidence in the new qualification agency, it must also be seen to be independent of the Scottish Government. With Scottish Ministers having the power to direct the Accreditation Committee, we would question whether the Bill, as currently drafted, meets this objective. There is also a lack of clarity in relation to the reporting requirements of the Accreditation Committee and Qualifications Scotland. Section 20 provides that the Accreditation Committee must prepare and publish an annual report for Scottish Ministers which will be laid before the Scottish Parliament. Section 15 places an obligation on Qualifications Scotland to publish an annual report but then goes on to state that it 'need not' report on the functions of the Accreditation Committee. This looseness of language would tend to suggest that whilst there is no requirement for Qualifications Scotland to report on the Accreditation Committee's functions, it could do so if it wished. How would this interface with the separate reporting requirements under section 20 and the assertion that they operate independently of each other? If there is to be transparency, equity and fairness in the discharge of these functions, then we believe that accreditation and regulation should be separate from the awarding function and a new national body created for this purpose, as recommended by the OECD and Professor Muir, and initially accepted by the Scottish Government. We would urge the Scottish Government to reconsider its decision in this regard, particularly if the remit of Qualifications Scotland in terms of accreditation, regulation and awarding is to cover all qualifications, other than degrees.

- Restoring Trust and Confidence

The imperative for reform is underpinned by the need to build renewed confidence and trust in the new qualifications agency. The EIS has been clear that Qualifications Scotland cannot simply be an exercise in the rebranding of the SQA. Professor Muir acknowledged this in his report stating: 'It was argued by some that in such a small education system as we have in Scotland, there are advantages of integration and cost benefits in having SQA's current awarding and accrediting/regulating functions within a single body. However, it is my view that these advantages are significantly



outweighed by the need to restore the trust and confidence of the public, practitioners and learners in a revitalised single qualifications, examination and awarding body for Scotland. Separating the SQA's functions will help ensure that the proposed qualifications, examination and awarding body is able to give increased attention to those functions.' Clearly, therefore the arguments which are currently being advanced in favour of the practical and cost benefits of integration were fully canvassed by Professor Muir as part of his review and conclusively dismissed by a recognition that failure to separate these functions would incur a much more fundamental cost to the reform process, by sacrificing the opportunity to build professional and public trust and confidence in the qualifications system. Trust and confidence are central to the integrity of any education system and the decision to ignore this clear and considered advice jeopardises confidence that reform will be effective. The decision to retain both functions within one body may leave teachers, lecturers and learners wondering what, if anything has changed, and will do little to deliver the culture change necessary to provide reassurance that the new body will be truly responsive to and engage meaningful with key education stakeholders.

- Listening and responsive to the needs of users

Professor Muir in his report made it clear that the needs of users of the new qualifications agency had to be central to its operation, to help foster the requisite change of culture and generate the confidence that it would be truly responsive to users' needs. Prof Muir stated: 'I propose that a new executive Non-Departmental Public Body (NDPB) should be set up. NDPB status would recognise the specialist expertise required to conduct its proposed role, set out below, and would maintain the appropriate distance from government that provides public confidence. This new body should take on board SQA's current awarding functions, i.e. chiefly the responsibility for the design and delivery of qualifications, the operation and certification of examinations and the awarding of certificates. The make-up of the new organisation's board of management should be reviewed to ensure the involvement of a wider range of stakeholders.' 'The creation of the proposed public body, Qualifications Scotland, provides an opportunity for its culture and engagement arrangements with all stakeholders to be set positively from the outset. It also provides an opportunity to ensure its governance structures reflect and represent the range of stakeholders it serves and users of its services; those to whom it should be accountable. Overall, creating this body will provide the opportunity for all users of its services and the public in general to have increased trust and confidence in qualifications and assessments, including examinations.' The EIS welcomed wholeheartedly Professor Muir's recommendation that a new qualifications body had to have greater representation from, and accountability to, the teaching profession in its governance.<sup>18</sup> This was, in the EIS's view, a recognition that the SQA has become distant from, and unresponsive to, the professional viewpoints of teachers, and that this failure had contributed significantly to the difficulties experienced in the Senior Phase. These reached their nadir in the 2020 Alternative Certification Model, which required decisive political intervention. The EIS is clear that in an empowered system, as Scotland has claimed to aspire to be, the genuine participation of teaching professionals in governance at all levels is essential. To this end, we would contend that there should be teacher trade union representation as a permanent feature in its governance structures to ensure that the teacher voice is central to the decision-making function. This is essential if the 'greater sense of ownership of educational policy and greater sensitivity to the realities of implementation', envisaged by ICEA is to be achieved, with a view to

'embedding responsibility for the quality of educational experience in schools and classrooms.' The EIS, therefore, welcomes the proposed increased representation of teachers and lecturers in Qualifications Scotland outlined in the Bill but believes that the current proposals do not go far enough. As currently drafted, the final composition of the new agency is unclear. Schedule 1, Part 2, Paragraph 2 provides that in addition to the Chief Executive, a chairing member and the convener of the Accreditation Committee, Scottish Ministers can appoint 'at least six but no more than ten other members'. Of those members, there must be inter alia, '2 or more registered teachers' and '2 or more college teaching staff'. In the absence of definitive numbers and the reference to 'or more' throughout this provision, it is unclear what the final composition of Qualifications Scotland will be. This will be key to governance arrangements, yet the lack of certainty prohibits a firm assessment of the fairness of the proposed arrangements which is concerning. Furthermore, it would appear that teachers and lecturers could still be in the minority of the membership of the new governance body. If this is the case, then in our view, they will not play the central role in governance as envisaged in by Professor Muir and the risk will be that the same governance-related problems prevail. If the necessary culture change is to be effected, we would recommend the adoption of a robust structure of governance, such as that of GTCS Council, where teacher and lecturer voice is truly represented or with an additional provision inserted to ensure that Qualifications Scotland must comprise of a majority of teachers and lecturers. Furthermore, governance processes should ensure that teacher and lecturer membership of Qualifications Scotland and of the Teacher and Practitioner Interest Committee are genuinely and democratically representative of the voices of the profession. Professional Associations (in the EIS's case, representing over 60,000 teachers and lecturers, in all sectors and at all career levels) have carefully considered positions based on democratically agreed policy, proper research and structured member consultation. Within the Bill, the reference to 'registered teachers providing relevant teaching or training' is alarming in its neglect of this context. To be clear, teachers require a representative, informed, collective voice, not an atomisation of their experiences. The Institute is also concerned about the current drafting of Schedule 1, Part 2, paragraph 3(2). Paragraph 3(2)(b) states that Qualifications Scotland must include two or more persons who are 'registered teachers providing relevant teaching or training', whilst paragraph 3(2)(c) makes similar provision for 'college teaching staff'. Paragraph 3(7) defines 'registered teacher' by reference to section 135(1) of the Education (Scotland) Act 1980. This means a 'teacher registered under the Public Services Reform (General Teaching Council for Scotland) Order 2011'. As such, it would appear that this could include college lecturers who are now obliged contractually to register with the GTCS in a separate category from school teachers. Given the reference to the inclusion of 'college teaching staff' in paragraph 3(2)(c), we assume that this is not the legislative intent and would suggest that further clarity is provided in this regard. Similarly, paragraph 3(7) defines 'college teaching staff' as persons employed as teaching staff by colleges of further education within the meaning of section 35 of the Further and Higher Education (Scotland) Act 2005. It is unclear to whom this relates. We would assume college lecturers as they are responsible for the delivery of teaching and learning. In this case, we would recommend that the interpretation provision is amended to reflect this. The National Working Practices Agreement which sets out college lecturers' national terms and conditions refers to them as 'lecturing staff' and given the link to employment, this terminology might be more definitive. Clarity in this regard will be important as the definition will determine with whom the duty to consult will apply in terms of paragraph 3(3).

- Culture Change

Professor Muir also highlighted the importance of the structural changes proposed being accompanied by cultural change: 'Following the decision by the Cabinet Secretary for Education and Skills to replace SQA, a number of those with whom I engaged offered the reminder that altering structures alone would not, in itself, bring about the changes needed.' He went on to conclude that: 'the establishment of a new body, Qualifications Scotland creates the opportunity for the new body to ... rebuild the trust and reputation in the examination system by resetting the organisational culture and the relationship with the users of the services they provide... and develop new governance arrangements that take better cognisance of the views and expertise of those the body is designed to serve.' The Institute is concerned that in retaining accreditation and regulation within Qualifications Scotland and in failing to provide sufficiently for representative teacher and lecturer voice in terms of governance, the Bill will do little to effect practical change in the examination and qualifications system and so, will fail to deliver the culture change which is so urgently required. The right of Scottish Ministers to amend or reject the corporate plan developed by Qualifications Scotland, ostensibly allowing the Scottish government arms' length control over the agency, perpetuates these concerns.

**Question 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?**

**Involvement of Teachers and Lecturers in decision-making**

Since the 2017 governance review, 'teacher agency' and 'empowerment' have been watchwords in education, yet teachers continue to be frustrated by top-down decision-making, external data demands, unresponsive national education bodies and pressure to continuously improve in an environment of rising additional support needs in our schools and unprecedented financial cuts. Secondary teachers identify the current qualifications body as the key driver of workload in the Senior Phase and as an organisation which has been completely unresponsive to their concerns, and indeed has, in its public pronouncements, previously cast aspersions on teacher professionalism. Against this backdrop, the EIS has been clear that teachers must have a greater role in decision-making of the new qualifications body. This concurs with not only with Professor Muir's recommendations but also with that of ICEA, which stated: 'the teaching profession... should be given a more central place in the internal governance arrangements of national organisations and local structures.' We are clear, however, that the acid test is how this commitment translates into reality and how this is framed within the Education (Scotland) Bill. In response to question 1, we have outlined our concerns about the composition of Qualifications Scotland and emphasised the importance of majority representation of teachers and lecturers in the decision-making function. As currently drafted, the Bill fails to guarantee this majority and we are therefore not satisfied that it will adequately involve teachers and lecturers in the body's decision-making processes and governance arrangements. Schedule 1, Part 4, Chapter 1, paragraph 11 of the Bill makes provision for the creation and maintenance of the Teacher and Practitioner Interest Committee. However, in the absence of strong, representative teacher-voice in the membership and governance of Qualifications Scotland, the creation of this advisory committee does not allay our concerns. It is clear from the Bill that the function of the Committee is to 'advise Qualifications Scotland' in relation to the exercise of its

functions from the perspective of teachers and practitioners. There is no provision for the Committee to challenge decision-making or to hold Qualifications Scotland to account. Indeed, Schedule 1, Part 4, Chapter 1, paragraph 9(4) states that 'a committee or sub-committee must comply with any directions given to it by Qualifications Scotland' (emphasis added). It would appear, therefore, that the Committee has no meaningful involvement in governance arrangements. The EIS has been clear that a situation where, once again, the professional voice of teachers is merely 'advisory' and can be ignored when decisions affecting teachers, learners and the wider system are made, will not be acceptable. It is of further concern that the Bill does not even provide that the membership of this Committee, which has as its focus 'teacher and practitioner interest', will be comprised principally of teachers and lecturers. Paragraph 11(3) makes it clear that the Committee can comprise of members of Qualifications Scotland as well as members of staff of Qualifications Scotland, although they cannot form the majority of the membership of the Committee. There is nothing prescribing who the other members may be, other than to state that of those comprising the majority of membership, a further majority must be persons providing teaching or training in respect of Qualifications Scotland qualifications. Accordingly, there is no guarantee that teachers and lecturers will even form the majority membership of this advisory Committee. Thus, representative teacher-voice is diluted in this context also. The Institute also notes the requirement for Qualifications Scotland to consult the Scottish Ministers before appointing a person as a member of the Committee. This is concerning as it strengthens government influence and dilutes the independence of the new qualifications agency. We would suggest that the consultation and representation should more appropriately be with and from the teacher professional associations, given the central role of the Committee in representing the views of the profession. The Institute is not, therefore, satisfied that the provisions of the Bill will ensure adequate representation from the profession, either in terms of the governance of Qualifications Scotland or in terms of the advisory role discharged by the Teacher and Practitioner Interest Committee.

## **Involvement of Learners in decision-making**

In previous consultation responses, the EIS has been clear that learners should have greater involvement in decisions affecting their education and specifically, in how qualifications are developed and delivered. We would reference the political intervention to over-rule the SQA's approach to certification in 2020 which was occasioned, in large part, by learners, outraged at the perception that their individual achievements were being nullified by a faceless algorithm. We would further highlight the pressure and stress placed upon learners (and teachers) the following year, when the 2021 Alternative Certification Model generated a tsunami of 'exams in all but name', which brought to the fore the wider issues of the health and well-being impacts and the counter-educational effects of a high-stakes approach to qualifications. Undeniably, qualifications are important to young people and to society, but if we want to change the high-stakes culture around qualifications, we must change the language to reflect the fact that qualifications are but one part of learners' education and that not all learners' life choices are determined by qualifications. Further, in capturing the voices of learners, it is critical that they are representative of the whole gamut of experiences and that the necessary steps are taken to enable a genuine diversity, as opposed to reinforcing participation by those for whom the current system works. We would highlight the importance of including learners with Additional Support Needs who now constitute 37% of all learners in our

schools. Some of these learners have very specific requirements which must be heard. The Institute, therefore, supports the ICEA report's recommendation to 'develop additional mechanisms' to ensure the voices of children, young people and communities, with particular attention to those 'experiencing the greatest challenges', can be heard and affect change. We would also reinforce the ICEA's call for parents, carers and families – as well as learners themselves – to have a strong understanding of the opportunities and learning pathways available for them. The 'Choice, Attainment and Positive Destinations' report highlighted a counter-educational culture whereby schools, geared to boosting attainment data and restricted by a narrowing curriculum and depleted resources, placed learners in courses to which they were poorly suited. Whilst this is concerning in itself, more worrying is that some learners and their families were unaware of the impact on their future progression. With the implementation of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, it is vitally important that the voices of learners are heard and can actively influence the decision-making process of the new agency. Schedule 1, Part 2, Paragraph 3(2)(a) of the Education (Scotland) Bill makes provision for 'one or more persons who appear to the Scottish Ministers to have knowledge of the interests of persons undertaking a relevant qualification' to be appointed as a member of Qualifications Scotland. This affords some assurance that the interests of learners will be represented in the governance of the new body. However, in the absence of clarity about total membership numbers and uncertainty as to how many such representatives will be appointed, we are unable to make more meaningful comment on the balance of interests. Schedule 1, Part 4, Chapter 1, Paragraph 10 of the Bill makes provision for the creation of a Learner Interest Committee. The function of this Committee is purely advisory, with Qualifications Scotland having the authority to direct the Committee. Paragraph 10(3) would suggest that members of Qualifications Scotland and members of staff of Qualifications Scotland can be appointed to this Committee, although they cannot form the majority. Of the majority remaining, a further majority must be of persons 'undertaking, or have recent experience of undertaking, a Qualifications Scotland qualification'. The Bill provides no further information about people who, otherwise may be eligible. It is unclear, therefore, who will be adjudged as suitable contributors to this Committee and whether teachers, as advocates of young people, will also be included. In these circumstances, it is difficult to assess how meaningfully, learner voice will be able to influence the decision-making process of the new agency. The intended influence of the Scottish Government in determining governance arrangements, is again clear, in that Qualifications Scotland must consult with the Scottish Ministers prior to appointing a person to the Learner Interest Committee.

## **Interface of these Committees with the Strategic Advisory Council**

The EIS is unclear as to how the Teacher and Practitioners Interest Committee and the Learner Interests Committee will interface with the Strategic Advisory Council. Section 9 of the Bill provides that Scottish Ministers will establish a Statutory Advisory Council. The Strategic Advisory Council has an extensive remit in considering matters relating to Qualifications Scotland qualifications; the functions and procedure, of Qualifications Scotland; and can provide advice in relation to those matters to Qualifications Scotland and Scottish Ministers. Membership, tenure and the procedure of the Advisory Council will all be stipulated by regulation and are not included on the face of the Bill, making comment in this regard challenging. The EIS is concerned about the paucity of information around the constitution of this body, which will have such wide-ranging functions and is unclear as to how this will

interface with the Advisory Committees, which are intended to capture the interests of teachers, lecturers and learners. Will the interests of teachers, lecturers and learners be represented on the Strategic Advisory Council? Will the Council replicate the current provisions of the Advisory Council for the SQA? What is the status of the advice given by the Strategic Advisory Council? If there is a discrepancy between the advice from the Committees and that provided by the Council, which will take priority? If the Council has the ability to override decisions of the Committees, then this would further nullify the impact of the voices of key stakeholders, running counter to key recommendations of Education Reform reports. These are all important questions which currently remain unanswered and make a detailed assessment of the impact which learners, teachers and lecturers will have on decision-making, even in an advisory capacity, difficult to gauge. Overall, the Institute believes that the governance arrangements lack the robustness and representative nature of a structure such as that of GTCS Council.

### **Question 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?**

The EIS strongly endorses the aim for the new qualifications body to communicate effectively and transparently with learners and to be accountable to them. This will be a fundamental element if the cultural change referred to above is to be achieved.

#### **Learner Charter**

Section 10 of the Bill seeks to advance this ambition by providing that Qualifications Scotland must prepare and publish a learner charter within 6 months of the section coming into force. The Charter will set out what those undertaking a Qualifications Scotland qualification can expect from Qualifications Scotland. In preparing the learner charter, Qualifications Scotland 'must consult such persons as it considers appropriate'. Section 10(4) expands on this, providing that consultation must include 'persons undertaking a Qualifications Scotland qualification' as well as persons appearing to Qualifications Scotland to represent the interests of those undertaking such qualifications. Whilst the requirement to consult is welcome, the EIS would prefer to see explicit reference to a much more collaborative approach, reflective of an Empowered School system, with the learner charter being co-designed and developed by all relevant stakeholders. We would expect teachers' participation in this process. With their professional practice and standards grounded firmly in an understanding and respect for children's rights, teachers are 'advocates' for learners. However, as currently drafted, it is unclear whether teachers and lecturers would fall within the definition of 'persons appearing to Qualifications Scotland' as representing the rights of those learners. Clarification of this would be welcomed. In evaluating the charter, it would be important to understand its status. The Bill does not currently outline the status of the learner charter, either in relation to learners' rights in the event of an alleged breach of the charter or the extent to which it would impinge upon teachers' or lecturers' practice in delivering qualifications. For example, where such a charter establishes a mutuality of expectations between learners and the system, teachers and lecturers would require a clear understanding of their role in that relationship and the material requirements for such expectations to be met within a school and college context. In a broader sense, we would echo the calls in the Third ICEA report for "a commonly agreed clear definition for what 'equity in education' actually means, especially in relation to inclusion and well-being across

the system, including in qualifications and for the charter to reflect this. Without such an understanding, there is a risk that the system continues to focus on a narrow band of attainment data in relation to the achievement and attainment gap and neglects to consider the multi-faceted aspects of equity in learners' educational experiences, including the individual and social aspects of equity.

## **The Teacher and Practitioner Charter**

As highlighted above, the EIS strongly endorses the aim for the new qualifications body to communicate effectively and transparently with teachers and to be accountable to them. The teacher and practitioner charter, outlined in section 11 of the Bill, may be a mechanism of formalising this and embedding a more collegiate culture within what has been a tested relationship. However, notwithstanding the proposal's recognition of the requirement for consultation with 'persons providing teaching or training in respect of a Qualifications Scotland qualification' and with those representing their interests, the charter appears to originate in the new qualifications body; we would argue that a much more co-created approach would be appropriate. This could identify the specific problems that teachers and lecturers believe currently exist— such as circulation of information, navigation of websites, timelines and bureaucracy, provision for learners with for ASN etc. - and afford an opportunity for genuine collegiate discussion in moving forward in a responsive and solution-focused manner. Like any policy initiative, implementation will require to be supported by the allocation of sufficient resources. However, much will depend on the status of the charter, its ability to influence and deliver change and the willingness of the new qualifications body to commit to meaningful engagement and communication. The Bill is silent on the status of the charter and its role in driving the culture change so urgently needed to build positive engagement and collaborative practice between Qualifications Scotland and the teaching profession.

## **Question 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?**

The EIS welcomes the introduction in section 26 of the Education (Scotland) Bill of the office of His Majesty's Chief Inspector of Education in Scotland and the assurance provided in Schedule 2, Part 1, Paragraph 2 that in discharging the functions of the role, the Chief Inspector is not subject to the direction or control of any member of the Scottish Government. This reflects the recommendation in the OECD Report and the Muir Review and is necessary to ensure that the new Inspectorate will be truly independent of government. In addition to having this independence enshrined in legislation, the Muir Review was clear that the governance arrangements for the new inspection body should reflect this independence. To that end, funding arrangements, reporting functions and staffing must all be distinct from government. The Institute is not satisfied that the Bill as currently drafted ensures that the new Inspectorate will be sufficiently independent of the Scottish Government and believes that amendments to the Bill would be required to provide this reassurance. There are a number of provisions within the Bill which in our view unduly fetter the role of the Chief Inspector and as such, their independence. We would cite the following as examples of this:

- The Chief Inspector requires the approval of Scottish Ministers to appoint a Deputy Chief Inspector;
- Scottish Ministers, rather than the Chief Inspector, will make recommendations for the appointment of Inspectors;
- the number of Inspectors to be appointed is determined by the Scottish Ministers;
- the terms and conditions of appointment (other than tenure) of Inspectors must be approved by the Scottish Ministers;
- the Chief Inspector requires the approval of the Scottish Ministers to determine remuneration and allowances for those appointed to assist with inspections;
- although ostensibly the Chief Inspector can determine the intervals and extent to which establishments will be inspected, this is subject to regulations which may be made by the Scottish Ministers, to specify the intervals at which establishments can be inspected;
- Scottish Ministers can direct the Chief Inspector to inspect a relevant educational establishment, a type of relevant educational establishment and a sample of a type of relevant education establishment;
- Scottish Ministers can make regulations to modify the frequency with which the Chief Inspector must review the inspection plan.

The Institute believes that the discharge of these functions should lie within the sole remit of the Chief Inspector to ensure independence and provide sufficient separation from government. The Inspectorate must be free to operate independently, being accountable and reporting directly to the Scottish Parliament. As part of the recommendations for reform, Professor Muir referred to the ‘possibility of relevant stakeholders being involved in the governance of the new body’. He indicated that this would support the drive towards Empowerment with a strong focus on self-evaluation and teacher voice. In accepting Prof Muir’s recommendations on the need for an independent Inspectorate, the Scottish Government said that the new body will operate ‘a supportive inspection system to foster improvement across education settings, facilitating a trusting environment between our national agencies and our learning institutions’. This approach aligns to a large extent with the principles underpinning the EIS’s vision of inspection. The EIS would wish to see the emergence from co-creation, of a model of practitioner-led evaluation that features professional collaboration and learning across settings, with time invested to facilitate a more collegiate approach, for peer review, and for reflection on the outcomes of such collaboration, and to support any change processes that are required. Such a model would be founded on the premise that trust in teacher professional judgement extends to the improvement agenda, also and that teachers as inhabitants of school communities are best placed to work with learners, parents and other stakeholders within their communities, and colleagues outwith, to determine the priorities and the best means of achieving associated objectives. Where they judge it necessary, schools should be able to seek assistance in going about their work from national agencies. In line with this vision, we believe that teacher voice should be represented by the inclusion of the professional associations in the composition of governance arrangements of the new Inspectorate. Although it might be argued that it is critical to public confidence that ‘decision-making within the inspectorate is not unduly influenced by those it inspects’, the Institute would challenge this statement which reinforces top-down accountability driven inspection processes associated with the current system. We would instead advocate a more



collegiate approach to quality assurance, adopting the approach, outlined by Professors Carol Campbell and Alma Harris in the final report of the National Discussion, of 'human-centred educational improvement' with 'the education profession leading the way forward with professional expertise and judgement informing decisions and actions'. It is disappointing that the Bill does not embrace this vision in terms of governance arrangements and instead outlines a very limited model of stakeholder engagement through the creation of an Advisory Council. We do not believe that this provides sufficient meaningful engagement of teachers and lecturers in the governance of the new body. Although section 35(4) of the Bill places a legislative duty on the Chief Inspector requiring them 'to have regard to' any advice provided by the Advisory Council, it is clear that the Chief Inspector would not be obliged to follow the advice given. If the Scottish Government is committed to delivering meaningful change to the inspection process, more radical reform is necessary. We would suggest a governance model, similar to that of GTCS Council, which is truly independent of government and includes representation from teachers and other stakeholders in the governance arrangements. Section 35(2) currently only requires the Chief Inspector to 'endeavour to ensure that the Advisory Council (taken as a whole) is representative of the interests of persons likely to be affected by the Chief Inspector's functions'. There is no requirement to ensure that the majority of the Council are representatives of teachers or lecturers.

### **Question 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?**

The EIS asserts that inspection, in the context of an Empowered system, is an outdated model for educational improvement. It is costly, in terms of resource and in terms of the time lost to teaching and learning, and it is of very limited value in supporting accurate self-evaluation and informing professional practice. It frequently fails to get to the heart of a school's endeavour to serve the needs of its community. Teachers will, therefore, be frustrated at the lack of ambition shown in the Education (Scotland) Bill. They are told they work in an Empowered system which is poised for radical change for the future; yet they will continue to be subjected to an antiquated and disempowering process of top-down accountability which is culturally specific and for which there is scarce evidence of positive impact. The ICEA has recommended "leadership approaches that emphasise distributed responsibility and engagement, professional judgment and agency, robust collaborative professionalism, local energy and ownership leading school improvement and continued learning by school leadership and the teaching profession." The EIS believes that school inspection, as currently operated, does not achieve this, but moreover, contributes to a culture which militates against this. This is evident in the proposals in relation to reporting for individual establishments. Reporting, combined with publication of the scoring attributed to the establishment, can be disempowering and have significant detrimental impacts on the health and wellbeing of staff. The bald system of scoring fosters an ethos of competition and fear of failure rather than of confidence, innovation and collaboration; and encourages misinformed critique of how schools and other educational establishments are going about their work. If scoring continues to feature in the publication of reports, then the Institute believes that the culture change which is so badly needed in the context of inspection will not be achieved. We welcome the provisions of section 37(4) of the Bill which will allow the Chief Inspector to determine the form and content of each report. This presents

an opportunity to put an end to the insidious practice of labelling schools through simplistic grading processes and to reframe the narrative around publication, with an emphasis on support and the agreed outputs from collaborative engagement. Section 39 makes provision for the publication of an annual report on the performance of the Scottish Education system. There is certainly an argument for evaluating and reporting on the extent to which government at national and local levels, through the provision of proper financial resources, staffing and professional collaboration, support schools to maintain quality provision and to move forward in the interests of young people and school communities. It is highly questionable as to whether annual reporting of the kind proposed would provide sufficient useful information on meaningful, consistent system-level progress which by its very nature would take longer to enable and embed than 12 months. The EIS is clear that the current models of inspection need to be rationalised and reformed, rather than being extended and expanded. Imposing yet another layer of top-down accountability and performativity drivers on the system, in lieu of addressing the chronic resourcing crisis in education, will only hamper the efforts to improve children and young people's educational experiences, and the outcomes of these. The EIS view is that time, money and resources could be better spent in the current climate.

### **Question 6 - Are there any powers HM Chief Inspector should have that are not set out in the Bill?**

We would refer to the comments made above in relation to the need for greater independence from the Scottish Government and the extension of the powers of the Chief Inspector to facilitate this aim.

### **In your view, what should the outcomes of the Bill be?**

#### **Overarching Outcome**

There has been a considerable investment both of time and public resources on the range of consultations focusing on Education Reform over the last four years. The consensus reached in the changes required and identified in Muir, Hayward and through the National Discussion cannot be ignored. As ICEA have highlighted, the time for commissioning reviews is over and now is the time for action. An overarching outcome of the Bill must, therefore, be clear evidence of demonstrable change in the operation of the new national bodies, particularly Qualifications Scotland. The deep distrust that the teaching profession holds towards the SQA cannot be ignored. The actions of the SQA have inflicted significant damage upon its relationship with the profession, which now largely views the organisation with cynicism and suspicion. If the Bill is to be successfully implemented to deliver the meaningful reform outlined in the OECD and Muir Reports, then teachers, lecturers, learners and parents must be satisfied that the Bill is more than a rebranding exercise. Failure to address such a perception with action will render the reform process a vain endeavour and will be an opportunity missed.

#### **Specific Outcomes**

- The creation of a new qualifications agency with the sole responsibility to focus more closely on the core business of awarding qualifications;
- The creation of an independent national body to discharge the accreditation and regulation functions, currently part of the remit of the SQA;

- Robust governance arrangements for each body to ensure transparency, equity and fairness in the discharge of their functions, with teacher-voice as a central feature and clear independence from government;
- Teachers, lecturers and learners participating meaningfully in decision-making within the new qualifications agency;
- A departure from top-down accountability approaches to collaborative engagement between the new national agencies and the teaching profession as part of an Empowered school system, built upon professional trust and respect;
- Effective communication between the new qualification agency and the teaching profession, with evidence of the former being responsive to the needs of teachers, lecturers and learners;
- Streamlined processes to reduce bureaucracy and resultant workload;
- The creation of an independent Inspectorate, accountable to the Scottish Parliament and free to act without interference from the Scottish Government;
- The development through co-creation of a model which is based on practitioner-led evaluation that features professional collaboration and learning across settings, with time invested to facilitate collaborative processes, to enable reflection on the outcomes of such collaboration, and to support any change processes that are required;
- An end to grading schools and a focus on support and agreed outcomes from collaborative engagement in reports published;
- Robust governance arrangements for the new Inspectorate, with teacher-voice as a central feature.

### **Do you have any other comments on the Bill?**

Although the Bill deals with the replacement of the SQA with Qualifications Scotland, there needs to be a complete change of culture in the new body. It cannot be a rebranding (which currently it seems to be) with the same attitudes, and a lack of transparency and of trust. The Bill also focusses on the separation of HMIE and Education Scotland, but only concentrates on the format of the new independent inspectorate. This raises other questions: What is the position of the remaining part of Education Scotland? What structure and standing will it now have? There is no mention of it being an independent body like HMIE. Is it to be left to wither on the vine? The areas of curriculum and learning and teaching are crucial to closing the poverty related attainment gap. What also is the role of the Centre for Teaching Excellence? Where does this fit in with the bigger picture? There is a definite lack of clarity here. Crucial to moving Scottish Education forward is the introduction of new assessment procedures and new curriculum models as recommended by the Hayward proposals which will support our young people of every ability and help our country to have a better economic future. Hayward is a clear blueprint for the future and needs to become a reality, providing an articulate and robust vision for the future, something sadly lacking in the overall thrust of the Bill. The Hayward proposals along with the other reports such as Muir, Withers, Stobart, OECD. etc., provide a golden opportunity for the future of our country which sadly is in danger of being missed.

## **School Leaders Scotland response to the Education (Scotland) Bill Call for Views**

### **Information about your organisation**

School Leaders Scotland (SLS) is an inclusive and supportive association, providing an influential and respected voice in Scottish education which represents the interests of our members across Scotland. Over 1250 Secondary School Leaders - Head Teachers, Deputes, Faculty Heads/Principal Teachers and Business Managers - have joined the Association and over 75% of secondary Head Teachers are in our community.

### **Question 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?**

SLS feels that the reform of the SQA is long overdue. There needs to be more transparency and accountability by the new qualifications body than was previously the case. Qualifications Scotland must show it is listening and must react constructively to criticism and advice from the Education sector out with the organisation. We welcome the new structure, with its functions outlined clearly. We would also wish Qualifications Scotland to have an agreed, shared set of Values and a clear Vision for moving forward. These should be an integral part of the proposed Corporate Plan. The Bill does not separate the two core functions of the old SQA, which Professor Muir envisaged and recommended. It does set up the Accreditation Committee, a sort of watered-down version of his recommendation, which SLS would have much preferred. However, we are not entirely clear on who and how members of this Accreditation Committee would be appointed. They must be people who have regard to the needs and interests of learners, teachers and lecturers involved in Qualifications Scotland's assessment processes. They cannot be people who have in the past moved from one semi-official board/QUANGO to another and have very little interest or knowledge of Scottish education – this also applies to the main QS Advisory Council. Whilst we need to use the expertise and experience which the current SQA body has, those involved cannot transfer lock-stock and barrel to the new body, as this would not be a reform but a rebranding. There must be new blood and new thinking, and this must be seen by the open, competitive appointment to senior posts in Qualifications Scotland. We therefore question why the Chair of the SQA will automatically become the Chair of Qualifications Scotland. The creation and establishment of Qualifications Scotland must provide a clear opportunity for its culture and engagement with stakeholders to be set positively, right from the start. This needs to be more transparent, open and honest than the current culture in SQA, which has developed recently in this direction, but needs to go much further and be wholly inclusive. There must be more collaboration, consultation and engagement with other stakeholders and educational bodies in Scotland. We welcome the clear acknowledgement of both Gaelic medium education and users of the Gaelic language in this Bill.

**Question 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?**

We agree with the setting up of a Strategic Advisory Council but are of the opinion that this must have a clear majority of members who are not employees of Qualifications Scotland. The membership of the Advisory Council must reflect the interests of learners, teachers, lecturers, who have direct involvement in the Qualifications process and have experience of the process in schools/colleges. The governance structures of the new body must reflect an increase in representation from the range of stakeholders with lived experience of the current procedures relating to assessment, qualifications and examinations.

**Question 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?**

We also approve very much of the Learner Charter and the Teacher and Practitioner Charter, and we see these as being a positive way to influence Qualifications Scotland and ensure that reform does happen. The construction of these Charters must be a co-creation and have majority representation from out with Qualifications Scotland to ensure they reflect the needs and wishes of the learners (and those representing learners in schools/colleges) and the teaching profession. These need to be robust and strong documents that have some teeth and are not just paying lip-service to the needs of those being represented through the Charters.

**Question 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?**

On the whole, SLS finds the proposals acceptable. They follow some of the recommendations from Professor Muir's report, which we supported. The Chief Inspector must be independent from the Scottish government and ministers, and we welcome this. However, we feel the Chief Inspector must also be answerable and accountable directly to Parliament. We would also wish HM Inspectorate to have an agreed, shared set of Values and a clear Vision for moving forward. We welcome the setting up of an Advisory Council. This must involve stakeholders in the governance of the Inspectorate. We would welcome further details on who and how stakeholders are appointed or elected to this Council, which must play a full, strong and guiding role in the Inspectorate. The Advisory Council should be of a commensurate size and must reflect the stakeholders and be populated by people who understand the Scottish system and are involved in education. We agree that the Chief Inspector must prepare, publish and lay before the Scottish parliament a coherent Inspection Plan. We are pleased this includes information about the different types of inspection model which will be used. Here we would welcome more direction with regard to the review of inspection models, particularly regarding thematic inspections across sectors and subjects as well as fuller inspections of Local Authorities and how they support schools in their jurisdiction. The fact that the plan must also set out the standards against which establishments will be evaluated is also welcome and this should include a revision and updated version of HGIOS or a new approach which

replaces HGIOS. We feel this should lead to an increase in peer reviewing with a larger and more influential role for Associate Assessors, who are practising school leaders, as this will enhance the currency and standing of HMIE. We are also pleased about the inclusion of Gaelic learner and Gaelic medium education within the provisions of the Bill.

**Question 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?**

We agree that there must be a full report on each inspection carried out and that the report is published. We feel each report must be laid before the Scottish Parliament, rather than at the Chief Inspector's discretion. Although we concur that it is for the Chief Inspector to determine the form and content of each report, we feel the format should be open to full consultation with stakeholders in the first instance. We agree with the stipulation that there should be an annual report on the Chief Inspector's activities throughout the year and an annual report on the performance of the Scottish Education system. Again, we feel the format of these reports should be discussed initially with stakeholders for their input. We feel that the report on the performance of Scottish education should include the sharing of good practice to aid improvement across the system. This could also be done in collaboration with other partner agencies – e.g., Education Scotland, Qualifications Scotland and the proposed Centre for Teaching Excellence.

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

We would welcome the power for the new Chief Inspector to remove gradings from reports. We would welcome a narrative of improvement for each inspection and where they are at, how they got there and where they need to go next as part of a journey of improvement. We also feel that the Chief Inspector should have the power, in certain circumstances, to instruct the Local Authority or Governing body to set up a "Team around the School" to ensure there is appropriate support available to help a school improve. Not all Local Authorities or independent schools, have the ability or capability to support schools in the aftermath of an inspection, be it due to resources (human or financial), size or geographical spread, and thus help from outside (e.g., Education Scotland, Centre for Teaching Excellence, GTCS) may be required.

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

An independent, user-friendly qualifications body which focuses on the needs of learners and how to get the best out of them. A qualifications body which is transparent, open and flexible. A qualifications body that trusts teachers/lecturers and can be trusted by learners, teachers and other stakeholders. A qualifications body that supports a curriculum for equity and excellence and hence will help narrow the attainment gap and adapt and reform to the recommendations of the Hayward proposals. An independent Inspectorate which helps and supports schools to improve through quality advice, guidance and the sharing of good practice. An Inspectorate which reports to the Scottish parliament and is accountable for its standards. An Inspectorate that helps to narrow the attainment gap. An inspectorate

which has currency and relies on the expertise of school/college professionals to develop a culture of positive self-evaluation and improvement.

### **Do you have any other comments on the Bill?**

Although the Bill deals with the replacement of the SQA with Qualifications Scotland, there needs to be a complete change of culture in the new body. It cannot be a rebranding (which currently it seems to be) with the same attitudes, and a lack of transparency and of trust. The Bill also focusses on the separation of HMIE and Education Scotland, but only concentrates on the format of the new independent inspectorate. This raises other questions: What is the position of the remaining part of Education Scotland? What structure and standing will it now have? There is no mention of it being an independent body like HMIE. Is it to be left to wither on the vine? The areas of curriculum and learning and teaching are crucial to closing the poverty related attainment gap. What also is the role of the Centre for Teaching Excellence? Where does this fit in with the bigger picture? There is a definite lack of clarity here. Crucial to moving Scottish Education forward is the introduction of new assessment procedures and new curriculum models as recommended by the Hayward proposals which will support our young people of every ability and help our country to have a better economic future. Hayward is a clear blueprint for the future and needs to become a reality, providing an articulate and robust vision for the future, something sadly lacking in the overall thrust of the Bill. The Hayward proposals along with the other reports such as Muir, Withers, Stobart, OECD. etc., provide a golden opportunity for the future of our country which sadly is in danger of being missed.

# **Scottish Secondary Teachers' Association (SSTA) written submission on the Education (Scotland) Bill**

## **Introduction**

The Scottish Secondary Teachers' Association (SSTA) represents and speaks on behalf of Scottish secondary teachers. The SSTA 6,000 membership consists of teachers in all roles in schools as well as Headteachers, Deputes and local authority officers in the secondary sector.

## **Overview**

The SSTA welcomes the introduction of the Education Bill in so far as the current institutions need to be replaced as they have over a number of years, become distant from the needs of schools and teachers. However, the current Bill includes references to teachers being more involved in the organisations but fails to acknowledge that teachers are partners in the delivery of education and not just stakeholders. The current institutions have include teachers at particular levels but usually well away from the decision making processes. Teachers involvement appears to be 'tokenism' rather that a valued contributor. Likewise the role of Teacher Unions/ Professional Associations do not appear at all in the Bill and this is a major omission.

Teachers involved in the new institutions need to represent and be accountable to the teaching profession. The teacher unions represent most teachers in Scotland and the teacher union representative structures have a built-in accountability system that offers a unique and credible view of Scottish teachers. This is not the case at present where teachers nominated to serve on a range of education bodies do not represent or are accountable to teachers in schools. These teachers are often used by the institutions as the 'voice' of teachers that gives a 'veil of respectability' for decisions taken.

The teacher unions must be seen as a valuable partner in the future of Scottish education and not as many believe an unwelcome hindrance.

## **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. How well do you think the Bill addresses the concerns raised in those reports?**

The series of reviews/reports have advocated that the institutions need to focus on the needs of the learners and not about furtherance and power of the institutions. The Bill is focussed upon structures and as written, appears not to address and differentiate the importance of partners in the education system and blends stakeholders as entities of similar value. The notion of including all interested groups is a worthy principle but how they have meaningful engagement to make changes and make the institutions inclusive and accountable is not clear.



## **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?**

The Bill increases the involvement of teachers in these bodies but it must be meaningful and at every level of the decision making process.

The general view of SSTA members is that the SQA is 'adrift' from teachers and, as an organisation, has not led the way or anticipated the challenges that teachers have faced for several years. The current qualification model has been fraught with difficulties and required several modifications by teachers in schools. Unfortunately, the work of the SQA has not complemented the work of teachers in schools but has narrowed the subject diet away from a broad balance curriculum.

This was highlighted during the pandemic. The attitude of the SQA had been to proceed as normal throughout the pandemic and not accept that teachers needed to be supported by responding positively to the difficulties teachers and learners faced. The SSTA has advocated the cancellation of the exam diet in 2020 and 2021 due to the practical difficulties created by the pandemic but this was ignored. In addition, the SSTA has pressed for teacher professional judgement to be a major factor in assessment of learners, particularly during the challenges of the pandemic.

The SQA established the National Qualifications 21 Group (NQ21) and drew upon only members from the CERG thereby excluding the SSTA. This action prevented the SSTA from being involved and expressing the views of its members who were delivering the qualifications in schools.

By failing to include a significant body of teachers focused entirely on secondary education and ensuring the success of national qualifications the NQ21 group missed out on an important and valuable source of expertise. The SSTA was keen to seek a solution to the forthcoming qualification crisis that would be achievable and approved by teachers in schools. The SQA continued to focus on the implementation of the exam diet and not consider alternatives.

Delivering the qualifications is a partnership between schools (and their teachers) and this can only be to the benefit of all if this approach is used in future.

Reform of the SQA is necessary and the Bill has highlighted a wider base for teacher involvement, but an important factor is need for the teachers to be accountable for the decisions that are made.

## **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?**

A Charter, a formal document outlining the standards, responsibilities, and expectations for the delivery and management of qualifications in Scotland. The Requirements for a Qualification Scotland Charter are clearly specified by including

- a) Standards and Expectations: Clear articulation of the quality standards for qualifications, including curriculum content, assessment methods, and

teaching practices. Benchmarks for performance and outcomes that institutions must meet to ensure consistency and fairness.

- b) Roles and Responsibilities: Detailed roles and responsibilities of key stakeholders, including the Scottish Qualifications Authority (SQA), educational institutions, teachers, students, and parents. Defined processes for how qualifications are to be developed, assessed, and awarded.
- c) Equity and Accessibility: Policies to ensure that qualifications are accessible to all students, regardless of background or ability. Provisions for additional support needs (ASN) to ensure inclusivity.
- d) Quality Assurance and Monitoring: Mechanisms for regular quality assurance and monitoring to ensure that institutions comply with the standards. Procedures for internal and external reviews and audits.
- e) Feedback and Improvement: Systems for collecting feedback from students, teachers, and other stakeholders to continuously improve the qualifications framework. Action plans for addressing any identified issues or gaps in the system.
- f) Legal and Regulatory Compliance: Compliance with relevant education laws and regulations in Scotland. Clear guidelines for how institutions can ensure they meet all legal requirements.

However, there remains a fundamental question at the heart of the proposed Charter: Is it enforceable and are there sanctions for failure to comply?

The enforceability of a Qualification Scotland Charter is dependent on several factors:

- a) Legislative Backing: For the charter to be enforceable, it needs to be underpinned by legislation passed by the Scottish Parliament. This gives it legal authority and ensures compliance is mandatory.
- b) Regulatory Framework: The charter should be integrated into the broader regulatory framework governing education in Scotland. This includes oversight by bodies such as the SQA and Education Scotland.
- c) Compliance Mechanisms: There must be clear mechanisms for monitoring and ensuring compliance, including audits, inspections, and reporting requirements. Penalties or sanctions for non-compliance should be specified, such as revocation of accreditation or funding cuts.
- d) Stakeholder Engagement: Effective engagement and communication with all stakeholders to ensure they understand and adhere to the charter's requirements.
- e) Support and Resources: Provision of adequate support and resources to educational institutions to help them meet the standards set out in the charter.

The basic mechanics of implementing a meaningful charter that is enforceable and fit for purpose would require 3 regular ongoing processes:

1. Training and Development: CPD and training for teachers and other stakeholders.

2. Transparent communication: All parties need to be informed about changes, expectations, and best practices.
3. Continuous Review: Regular review and updating of the charter to reflect changes in educational standards, societal needs, and technological advancements.

Therefore, whilst a Qualification Scotland Charter can set high standards for educational quality and equity, its enforceability relies heavily on strong legislative support, robust regulatory mechanisms, and active stakeholder engagement.

#### **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?**

Whilst the current key focus of the inspections will be educational standards within each school, including powers to enforce changes, there is a distinct lack of reference to the role of the employing authorities of each school.

The SSTA believes the establishment of an Independent Inspectorate should give an opportunity to examine the purpose and value of education inspections. Inspectors must become a source of support for teachers and schools that encourage collaboration and benefits for all learners in the community.

The SSTA believes that inspections should be focussed upon Local Authorities as they have significant responsibilities and accountability for the delivery of education services including:

- a) Provision of Education Services:
- b) Implementation of National Policies:
- c) Educational Attainment and Improvement:
- d) Support for Additional Needs:
- e) Financial Management:
- f) Staffing and Professional Development:
- g) Quality Assurance and Improvement:
- h) Engagement with Stakeholders:

The current system focusses upon those managing a resource that is determined by the local authority rather than those who are responsible for the allocation of the resource and the policy direction.

#### **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?**

The SSTA believes the current model of inspection and reporting needs to be reformed as the current models have not benefitted all learners and all schools across Scotland. The current model at best, is a 'snapshot' of a school at a given time that creates an environment of 'winners and losers' to the detriment of many young people.

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

The SSTA would advocate that the Chief Inspector must work with the education system and be responsive to the challenges and be independent of political pressure. However, the Chief Inspector does need to have an accountability mechanism that is transparent.

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

The Education Bill must deliver a culture change that allows schools to develop and encourage collaboration across the system to the benefit of all learners and all communities.

This response has been informed by the Association's Education Committee on behalf of members.