

**To:** Education and Children's Services Policy Board

**On:** 18 January 2018

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**Report by:** Director of Children's Services

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**Heading:** Consultation on Education (Scotland) Bill

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## **1. Summary**

- 1.1 This report updates members on the most recent consultation on the changes to education governance proposed by the draft Education Bill. The Bill is intended to give greater powers to head teachers in regard to curriculum, the improvement agenda, staffing and funding. It also intends to refresh arrangements for parental involvement and pupil participation in the decision making process in schools, and establish regional improvement collaboratives. Furthermore, it proposes to introduce a new body which will replace the General Teaching Council and the Community Learning and Development Standards Council and replace it with one organisation that registers all education professions.
- 1.2 It should be noted that further clarification regarding roles and responsibilities will be required as the new legislation is developed in order to ensure head teachers, local authorities and the new regional improvement collaboratives are able to work closely together in order to improve outcomes for children and young people. This will be particularly important as risk associated with actions taken by one may have significant implications for another.
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## **2. Recommendations**

- 2.1 It is recommended that elected members:
- approve the council's response to the consultation exercise (Appendix 1 to this report); and
  - note the changes proposed to education governance and the implications for local authorities and for schools

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### **3. Background**

- 3.1 This consultation is the latest in a series of public consultations in relation to educational governance reform. The main elements of the consultation relate to the proposed Head Teachers' Charter; Parental and Community Engagement; Pupil Participation; Regional Improvement Collaboratives (RIC); and the Education Workforce Council (EWC) for Scotland. The consultation exercise is open until 30 January 2018. It contains 24 questions covering the five key areas. These do not concern the principles behind the changes, which have already been consulted on. Rather, they are largely focused on the practical arrangements and the opportunities for improvement.
- 3.2 It should be noted that further clarification regarding roles and responsibilities will be required as the new legislation is developed in order to ensure head teachers, local authorities and the new regional improvement collaboratives are able to work closely together in order to improve outcomes for children and young people. This will be particularly important as risk associated with actions taken by one may have significant implications for another.
- 3.3 The proposed Head teachers' Charter will give decision making powers to Heads in four key areas – Curriculum, Improvement, Staffing, and Funding. The Scottish Government believes that Heads are best placed to make decisions about how learning happens in schools and the charter will set out their rights and responsibilities.
- 3.4 The proposals would give head teachers more scope to determine the design of their school's curriculum but they will also have a duty to work collaboratively with other schools and partners to drive improvement in learning and teaching. Schools will determine their own improvement priorities and will be entitled to determine the level of staffing and the management structure of their school within available resources. The local authority will retain responsibility for ensuring employment law is adhered to and address issues of performance, grievance and/or discipline. Local authorities will remain the overall budget holder for education spending but will be required to delegate the staffing budget to schools. Heads will be accountable to the local authority as to staffing and budget decisions. Responsibility for spending on specialist services, additional support needs, school transport and the school estate will remain with the local authority.
- 3.5 The Bill is intended to strengthen parental involvement in education. The existing duties on Heads to inform and consult with Parent Councils will be replaced with a duty to work collaboratively with Parent Councils. There will also be a duty on Heads to communicate with the wider parent forum, and to carry out a review of parental involvement strategies at least every 3 years. Broader parental involvement duties will be developed for early years provision. Statutory guidance on parental involvement will be updated to reflect legal duties in relation to 'learning at home' and the Equality Act 2010. There will be a clarification of the duties of Parent Councils, and Regional Improvement Collaboratives will be obliged to include parental involvement and engagement as one of their improvement areas.

- 3.6 Based on evidence which shows that pupil involvement and participation improves outcomes, the Bill will introduce a general duty to support effective pupil participation. However, there is no prescribed approach or model to be used. Head teachers will have discretion to undertake this general duty in the way they consider is most appropriate to their school.
- 3.7 The Bill will formally establish Regional Improvement Collaboratives (RIC), giving a legislative footing to existing local arrangements. As elected members will be aware, Renfrewshire is already a partner in the Glasgow City Regional Improvement Collaborative. The role of RICs is to:
- provide educational improvement support for head teachers, teachers and practitioners using teams drawn from existing staff in Education Scotland, local authorities and others;
  - provide a clear focus across all partners by delivering an annual regional plan (and associated work programme) aligned with the National Improvement Framework;
  - facilitate region-wide collaborative working which includes the sharing of best practice, collaborative networks and partnership approaches; and
  - the publication of a regional plan will mean there will no longer be a requirement for local authority plans.
- 3.8 The Scottish Government intend to replace the existing registration bodies (the General Teaching Council and the Community Learning and Development Standards Council) with a new single body, provisionally titled the Education Workforce Council (EWC). This body will allow for the registration of other staff within the education workforce and set professional standards and values across the wider education system. The Scottish Government intends for the EWC to be independent of government.
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## Implications of the Report

1. **Financial** – The proposed changes may have significant financial implications for the local authority. The Education Bill would remove a portion of education funding from local authorities and devolve it directly to schools. Head teacher salaries are based on a national job sizing scheme. Changes to their duties may have implications for grading and salaries of these staff.
2. **HR & Organisational Development** – The proposed changes may have significant implications for the recruitment of staff employed in schools which will not only include posts within children's services but may also extend to other services where support staff are provided. There are also possible implications for the provision of places for student and probationer teachers. Empowered schools should seek to improve outcomes for all children and young people.
3. **Community/Council Planning** –
  - Our Renfrewshire is thriving – our children and young people should have access to equitable opportunities for learning.
  - Tackling inequality, ensuring opportunities for all – changes aim to reduce inequality of educational outcomes.

4. **Legal** – At this stage the legal implications require to be clarified. It is likely that certain duties currently relating to local authorities will move to head teachers or to the regional collaborative.
5. **Property/Assets** - None
6. **Information Technology** - None
7. **Equality & Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** – None
9. **Procurement** – There may be implications for procurement in the future as an increased proportion of funding is devolved to schools.
10. **Risk** - None
11. **Privacy Impact** – None
12. **Cosla Policy Position** – There is currently ongoing discussion between COLSA and the Scottish Government

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**List of Background Papers** - None

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GMcK/SQ/LG  
9 January 2018

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## Empowering Schools

### A Consultation on the provisions of the Education (Scotland) Bill RESPONDENT INFORMATION FORM

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

Are you responding as an individual or an organisation?

- ☐ Individual  
☒ Organisation

Full name or organisation's name

Renfrewshire Council

Phone number

0141 618 7194

Address

Renfrewshire House,  
Cotton St  
Paisley

Postcode

PA1 1TZ

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- ☒ Publish response with name  
☐ Publish response only (without name)  
☐ Do not publish response

#### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

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

- ☒ Yes  
☐ No

### Question 1

The Headteachers' Charter will empower headteachers as the leaders of learning and teaching and as the lead decision maker in how the curriculum is designed and provided in their schools. What further improvements would you suggest to enable headteachers to fulfill this empowered role?

There is broad agreement that empowering head teachers may lead to improved outcomes for children and young people. In Renfrewshire, head teachers already have autonomy to develop the broad general education in their schools to meet the needs of their children. To ensure we best meet the needs of young people in the senior phase, there is a requirement to adopt a more collaborative approach. This includes maximising the resource through a common timetable structure which is adopted across the local authority. However, freedom remains in to order to develop choices across schools. There needs to be clear definition within the charter to ensure continued collaboration across schools otherwise young people, particularly at the margins, have the potential to be disadvantaged. There must be a continued focus on an inclusion agenda which meets the needs of all young people. Consideration should be given to ensuring head teachers interpret national curriculum guidance in a consistent manner whilst responding in their local context.

Further clarification regarding roles and responsibilities will be required as the new legislation is developed in order to ensure head teachers, local authorities and the new regional improvement collaboratives are able to work closely together in order to improve outcomes for children and young people. This will be particularly important as risk associated with actions taken by one may have significant implications for another.

### Question 2

The Headteachers' Charter will empower headteachers to develop their school improvement plans collaboratively with their school community. What improvements could be made to this approach?

There is already extensive evidence to support the view that high quality collaboration within school communities informs strong improvement planning. Therefore, we would agree that this approach should continue. Local authority oversight will ensure the shared duty can be implemented effectively. It is difficult to understand how a regional collaborative would be able to offer greater support than is presently available. Rather, the regional collaborative should be able to offer additional support mechanisms to allow best progression improvements identified.

### Question 3

The Charter will set out the primacy of the school improvement plan. What are the advantages and disadvantages of this approach?

We agree that there should be a focus on the importance of school improvement planning. This should already be at the heart of improving outcomes for the whole school community and this must continue to be the case. To support this, there should be a requirement for continued local authority improvement planning. This will support and facilitate school planning. Regional collaborative planning



should offer additional support and resource as and when appropriate. Although there should be a clear relationship between all planning arrangements, we do not believe this should be seen in a hierarchical fashion.

The current proposal could be seen to undermine the principles of the Standards in Scotland's Schools etc Act (2000) which places responsibilities on local authorities to formulate improvement plans. This in turn necessitates a subsequent standards and quality report detailing progress and achievements which can then be scrutinised by local communities and elected representatives. In addition, this reporting mechanism allows detailed feedback to support the National Improvement Framework reporting and Scottish Attainment Challenge progress.

#### Question 4

The Headteachers' Charter will set out the freedoms which headteachers should have in relation to staffing decisions.

- a. What are the advantages and disadvantages of headteachers being able to have greater input into recruitment exercises and processes adopted by their local authority?

**Advantages:** The obvious advantage is that individual head teachers are in a position to appoint the very best staff for their school. However, given the issues identified below, the ideal scenario would be for head teachers to work in partnership with the local authority to agree the most appropriate appointment mechanisms dependent on the scale and type of vacancies to be filled. It would be beneficial to adopt models of practice, agreed by all parties, which best serves the needs of the school within a manageable framework.

**Disadvantages:** Recruitment within individual schools could place an excessive burden on individual Head Teachers if there were numbers of teachers to be recruited at any one time. Short leeting and selection can be a time consuming process and interviewing often requires a number of days to be set aside. Properly applying recruitment processes could see individual head teachers giving up the majority of their time to this task alone particularly around the commencement of school terms.

Where there a number of vacancies for the same 'type' of job eg Primary teacher, this has the potential for a number of challenges to be overcome. Including; individuals having to be interviewed many times; strong candidates not being leeted and becoming disillusioned; schools not agreeing on an order of interviewing etc.

Moving recruitment to schools could also mean that Local Authorities would no longer be able to meet various national and local agreements reached with teaching unions. For example, agreements on rights to permanency, and redeployment policies could not be met. The Bill would have to specifically address these issues by revoking the agreements as LAs cannot unilaterally withdraw from these but could not be bound by them when they will no longer be directly responsible for recruitment. Failure to do so could give rise to compulsory redundancies and Employment Tribunal claims against councils including unfair dismissal claims.

- b. What are the advantages and disadvantages of headteachers' ability to choose their teams and decide on the promoted post structure within their schools?

It is reasonable that head teachers should be able to construct their own promoted post structure within the allocated resource. There should be a mechanism established which will ensure head teachers are able to justify the structure they establish. However, it should be noted that this will not address perceived issues with disparity of management structures across Scotland as these will continue to be established locally. In addition, it must be clear that any significant opportunities available to heads will only become so with appropriate funding.

It should also be noted that restructures within schools could give rise to displaced teaching staff. Given Local Authorities would no longer have the ability to redistribute staff to other schools, this could give rise to compulsory redundancies and unfair dismissal claims against LAs.

### **Question 5**

Should headteachers be able to decide how the funding allocated to their schools for the delivery of school education is spent? If so, what is the best way of doing this?

There is already a well established scheme for devolved management of resources which gives head teachers responsibility within a clear framework. Whatever freedom given to head teachers must be set in the context of the local authority's established procedures for financial management and control, procurement etc. The local authority will ultimately hold responsibility and be accountable for the use and control of the financial resources.

### **Question 6**

How could local authorities increase transparency and best involve headteachers and school communities in education spending decisions?

Head teachers are already involved in these processes along with their school communities. Any changes to governance should clarify expectations and seek to build on existing good practice across the country. Council budget setting processes are based on national requirements regarding consultation which include local accountability with elected representatives.

### **Question 7**

What types of support and professional learning would be valuable to headteachers in preparing to take up the new powers and duties to be set out in the Headteachers' Charter?

In Renfrewshire, our experience is that the scheme of devolving resources to schools allows head teachers to make decisions locally which will have a positive impact on learning and teaching, attainment and school improvement. Head teachers find that a consistent allocation formula provides a degree of certainty of future budget. This facilitates effective planning and equity across the local authority area. The role of the Head Teacher is to be a leader of learning and teaching, and the proposed changes risk diluting this role by requiring Heads to



take on leadership which cuts across other professions, including Finance, Human Resources and Facilities Management. Any support and professional learning would have to include not only Head Teachers but other teaching professionals if they are to be equipped to apply for leadership roles in the future.

### **Question 8**

Are the broad areas for reform to the Scottish Schools (Parental Involvement) Act 2006 correct?

The areas identified for review would seem to be reasonable. However, there should be a clear understanding that the potential exists for very small numbers of parents being able to exert undue influence and not to be representative of all families within the school community. It would be welcome if appropriate safeguards were established to ensure the best interests of the school are always uppermost. This should include a mechanism whereby the parent council must seek the support and agreement of the wider parent forum.

### **Question 9**

How should the Scottish Schools (Parental Involvement) Act 2006 be enhanced to ensure meaningful consultation by headteachers with parents on substantive matters of school policy, improvement planning and curriculum design?

Unfortunately, despite significant effort throughout the country, there still remains a disparity of involvement and influence of parent councils in schools. Although not exclusively, this can be associated with the socio-economic demographic of the school. Rather than legislating, there is a requirement for further work and research into how best to engage parents meaningfully in decision making processes. In addition, there must be a focus on ensuring the needs across the school community are best supported and met.

### **Question 10**

Should the duties and powers in relation to parental involvement apply to publicly funded early learning and childcare settings?

The same levels of accountability should apply across all establishments working with children and young people. The less formal nature of the setting for early learning should, however, be taken into account when planning the application of duties in this sector.

**Question 11**

Should the Bill include a requirement that all schools in Scotland pursue the principles of pupil participation set out in Chapter 3? Should this be included in the Headteachers' Charter?

Where pupil participation is undertaken in a truly engaging manner, schools provide opportunities which are not formulaic in nature and ensure the voice of children and young people can be heard in a meaningful way. There could be a concern that legislating for pupil participation could lead to a tokenistic approach being taken leading to a reduced level of engagement. It may be preferable to provide guidance and exemplification of good practice rather than seek to legislate for particular activity. Pupil participation is already a focus in National Inspections.

**Question 12**

What are your thoughts on the proposal to create a general duty to support pupil participation, rather than specific duties to create Pupil Councils, committees etc...?

Supporting pupil participation is welcomed in principle. A general duty exemplified by examples of good practice would provide a helpful context for improvement in schools. Care should be taken, however, when considering a duty which could be perceived as being bureaucratic in nature rather than facilitative in practice. It is of far greater importance that we ensure schools and head teachers have the time and resource to create an ethos of participation.

**Question 13**

Should the Bill include provisions requiring each local authority to collaborate with partner councils and with Education Scotland in a Regional Improvement Collaborative?

Regional collaborative practice is currently being established across Scotland. Whilst planning is at an early stage in many areas, emerging practice is already demonstrating benefits in sharing of practice across wider areas and communities. In this context, it is important to highlight that meaningful collaboration should be undertaken where this will have a beneficial impact on the outcomes for children and young people. Careful consideration will require to be given as to the context of each local authority as it seeks to meet the needs of its communities.

The regional collaborative should be seen as an opportunity to add value to existing supports and challenges provided by the local authority. It is very difficult to see, under current frameworks, how the regional collaboratives will be able to replace what is currently offered.

**Question 14**

Should the Bill require each Regional Improvement Collaborative to maintain and to publish annually its Regional Improvement Plan?

The regional improvement plan should be in addition to local authority planning. The focus must be on adding value to the improvement being made locally.

All public bodies must be held accountable for their actions. As such regional collaboratives should be treated in a way that will ensure public scrutiny and accountability. Regional improvement plans will provide an appropriate mechanism for ensuring this scrutiny and public accountability.

It is unclear from the proposals why local authorities would no longer be expected to publish their own improvement plans. It is the local authority which will retain the duty for GIRFEC and children's services planning. As such, it is important to consider the relationship between regional collaborative planning and that of community planning partnerships in order to meet the needs of children and families in the communities we serve.

Given the size and nature of some of the collaborative, we feel there would be benefit in a three year plan, with annual monitoring and revision.

### **Question 15**

If we require Regional Improvement Collaboratives to report on their achievements (replacing individual local authority reports), should they be required to report annually? Would less frequent reporting (e.g. every two years) be a more practical and effective approach?

We do not believe that regional improvement planning should replace local authority planning. Reporting on improvement should reflect the improvement planning cycle. In this regard, it would make sense for reporting at a regional level to reflect that of the school and authority improvement planning cycle. However, if as suggested that the proposal to replace local with regional planning takes place, timescales will not be a major consideration. If school plans (in some cases as many as 700!) need to feed into a regional plan in a meaningful way, this will take considerable management and time. Therefore, annually may not fit within adequate time frames.

### **Question 16**

In making changes to the existing planning and reporting cycle, should we consider reducing the frequency of national improvement planning and the requirement on Ministers to review the National Improvement Framework?

It is unclear from the consultation document the role that local authorities will play in reporting on the national improvement framework. If the obligation for local authority planning is removed then it is unclear how it will be possible to report on the NIF priorities as the scale of the regional collaboratives may not be able to offer the level of detail required at school level.

### **Question 17**

Are the proposed purpose and aims of the Education Workforce Council for Scotland appropriate?

It is important to recognise the value that a range of professionals bring to learning and teaching for our children and young people. If we are to ensure that we get it right for every child, then these professionals need to be able to work together effectively.

An education workforce council will not necessarily improve the professionalism

and knowledge of all those who work within our school communities. This will continue to be the remit of individuals, schools and local authorities.

Although admirable, the purpose and aims may not be realised through an education workforce council on its own.

It is important to consider whether the creation of an education workforce council could be perceived as reducing the highly regarded status of the GTCS. Whilst a replacement council may potentially seek to encompass a wider cohort achieving the same regard, much greater detail is required in order to comment on how this may be achieved. Care needs to be taken to ensure there is no dilution of standards within the teaching workforce.

### **Question 18**

What other purpose and aims might you suggest for the proposed Education Workforce Council for Scotland?

See Question 17.

### **Question 19**

Are the proposed functions of the Education Workforce Council for Scotland appropriate?

Yes, however, without major resource being allocated to the new workforce council, it is difficult to see how it might evaluate progress and understand if every member is fulfilling the functions required of them. The broad range of professional backgrounds will make it challenging to be able to regulate against a range of professional standards.

### **Question 20**

What other functions might you suggest for the proposed Education Workforce Council for Scotland?

This would be dependent on the resource available and greater details/clarity on its exact role and format. Without this, it is difficult to offer any further comment.

### **Question 21**

Which education professionals should be subject to mandatory registration with the proposed Education Workforce Council for Scotland?

It is important to recognise that there are already a number of mechanisms for the registration and regulation of those working with children and young people. For example, teachers require to be registered with the GTCS and to have current PVG scheme membership. As all those who work in an educational setting require PVG scheme membership, it is unclear what other membership for some groups would add. For example, early years practitioners are already governed by registration with SSSC.

Registration in itself will not improve professionalism and standards. Professional development and training opportunities, support and challenge will be key. The remit, from the detail offered, does not suggest the Education workforce council will do this.

**Question 22**

Should the Education Workforce Council for Scotland be required to consult on the fees it charges for registration?

The General Teaching Council for Scotland currently acts as independent body with governance arrangements reflecting its membership. As such, it must currently consult with its members where there is a proposal to make a significant change to fees for registration. It is appropriate that such a mechanism is continued with a new regulatory body.

**Question 23**

Which principles should be used in the design of the governance arrangements for the proposed Education Workforce Council for Scotland?

Governance arrangements should seek to ensure appropriate representation of the breadth of the workforce being represented if the proposal is to be progressed.

**Question 24**

By what name should the proposed Education Workforce Council for Scotland be known?

The name should not be seen as the primary focus for the new workforce council. It should be on ensuring development of current best practice in regulation.