

EIS RESPONSE TO GOVERNANCE REVIEW

Empowering Teachers, Parents and Communities to Achieve Excellence and Equity in Education

1 Responding to the review

The Governance Review is a very open consultation. Whilst this is welcome in the sense that it suggests nothing is predetermined and allows for some scope in terms of response, it also creates a degree of challenge in that there are no specific proposals to which a response can be directed. For this reason, the EIS is strongly of the view that this should be stage one in an iterative process which allows for much more detailed dialogue and discussion on future specific proposals which emerge from this initial consultation.

This will be of importance in ensuring that there is sufficient “buy-in” to any proposed changes from the teaching profession and other key players and partners in Scottish Education – an essential prerequisite to the success of any changes to be enacted.

The Review is also all encompassing in its scope, covering as it does every aspect of the current delivery and governance arrangements. The comprehensive nature of the review is sensible as the key elements and organisations within Scottish Education interact with each other to create the totality of our service but again the very scale of the consultation presents some challenges. The EIS would express caution about the capacity of schools, and the system generally, to cope with a possible pace and reach of change which might induce an unwelcome element of instability to service delivery.

It is essential that sufficient time is taken to make the correct decisions and to prepare for changes, rather than rushing to judgment and implementation simply to meet political rather than educational imperatives.

Having stated these caveats, however, the EIS is responding as a constructive partner in Scottish Education. As Scotland’s largest Education union, representing over 55,000 members across all sectors and posts, we welcome the opportunity to set out below our initial response to the consultation questions with a view to contributing to the debate about where change might advance and support effective teaching and learning and the well-being of students and staff, and where stability might achieve the same objective.

2 Context

Scottish Government and Local Authorities

Following the establishment of a Scottish Parliament, the relationship between the Scottish Government and the Local Authorities in Scotland, as far as school education is concerned, was established in the Standards in Scotland's Schools Act 2000.

The Act sets out the role of the Scottish Government as follows:

“The Scottish Ministers shall endeavour to secure improvement in the quality of school education provided for Scotland; and they shall exercise their powers in relation to such provision with a view to raising standards of education.”

The role of the Local Authorities is set out in the following terms:

“An education authority shall endeavour to secure improvement in the quality of school education which is provided in the schools managed by them; and they shall exercise their functions in relation to such provision with a view to raising standards of education.”

In broad terms, these definitions have remained operationally uncontested with policy primarily lying with Scottish Government and service delivery lying with Local Authorities. More recently, particularly under the pressure of UK driven austerity measures, tensions have emerged not only in terms of resource debates but also in relation to policy implementation – Scottish Government's commitment over the past 4 years to maintaining teacher numbers would be a case in point.

Such tensions between national and local government have led some to question whether the current model of delivery through Local Authorities is the best means of delivering education at a local level. It could be argued, however, that the checks and balances which exist between the different layers of government is an important aspect of a pluralist approach to democracy.

The EIS does not believe that it would be useful at this point to look at any significant restructuring of the basic relationship between the two arms of government; in fact, we would go further and state that it would be a significant distraction from the real needs of Scottish Education to engage in such a process. Accordingly, the EIS supports the current structure and division of responsibility within Scottish education. Scottish councils provide a mechanism for ensuring a level of local democratic accountability which, for us, remains an important principle as far as public service delivery is concerned. Departing from a model with clear local accountability should not be considered lightly.

The EIS welcomes the fact the Cabinet Secretary for Education has made public statements to the effect that it is not the intention of Scottish Government to pursue the removal of Education from Local Authorities, and indeed he has ruled out any move towards the disastrous policies pursued south of the border in relation to academies and free schools. The open nature of this consultation makes it imperative, however, that the EIS is clear on the principle enunciated above.

Despite the open nature of the consultation, it is a matter of regret that a consultative document of such import is silent on the legal responsibilities that currently lie with Councils, given that the delivery of education is subject to a raft of statutory provision, which place legal duties on Scottish Councils and establish the powers that flow from statutory responsibility.

Question 1

What are the strengths of the current governance arrangements of Scottish Education?

The single greatest strength of the current arrangements lies in the partnership approach which characterises Scottish Education. This is partly owing to the diversity of organisations which play a role in our system, including the professional associations, but is also a reflection of the consensus which has characterised educational development in Scotland and which has been strengthened in the era of the Scottish Parliament.

System-wide support for the principle of comprehensive education, for example, including from both arms of government, is firmly rooted in the Scottish outlook of education being a societal good. The social partnership approach of our education system has been fundamental to the development of the inclusive principles of CfE, the delivery of which is reflective of this strength.

It is worth remarking that any existing tension between Scottish and Local Government is largely predicated on resourcing challenges rather than fundamental policy differences.

The governance of education through local authorities is well understood and Scotland had not been subject to a fragmentation of education delivery we see in England. In this regard the absence of reference to the statutory roles currently undertaken by Local Authorities in the consultative paper means this question is not properly constructed.

Indeed, given the lead role of Scottish Government in terms of policy issues, and in determining significant budget delivery, it might not be clear to service users as to where exactly governance, however it is defined, currently lies.

Scottish Negotiating Committee for Teachers (SNCT)

The EIS believes that the SNCT is a key strength of the Scottish Education system and should not be undermined by any changes in governance arrangements. The tripartite nature of the SNCT (involving the Scottish Government, COSLA and the Teaching Unions) has delivered a robust forum for discussion of pay and conditions and the body of policy papers issued from the SNCT provide a strong framework for operational guidance to the Education system.

In 2001 the Tripartite Agreement entitled “A Teaching Profession for the 21st Century” was signed. The agreement (also referred to as “The McCrone Agreement” or TP21) introduced a significant alteration to the existing national pay and conditions of service of Scotland’s teachers and established a framework which include new negotiating machinery at national and local levels; the SNCT and LNCTs respectively.

It is the EIS position that the SNCT, national conditions of service for teachers and associated professionals and LNCTs should remain and that any changes to governance should not undermine their continuation.

If staffing issues and funding are devolved to school level, the impact on the education industrial relations environment would be significant and, in our view, would not contribute to either excellence or equity.

The consultative document is silent in relation to schools set up for specific functions such as behaviour units and special schools.

Question 2

What are the barriers within the current governance arrangements to achieving the vision of excellence and equity for all?

The greatest barrier is and has been the imposition of austerity driven budgets and the underfunding of the Scottish Education system over the past period. It is clear that in significant areas, such as pupil support and local pedagogical leadership, previous levels of provision have simply disappeared and this inevitably creates barriers for children's learning. It is significant to note that in Finland, an education success story in anyone's book, special support for pupils can be provided to as many as 33% of students. That is simply beyond the capacity of Scottish schools to provide.

It might be argued, also, that the current governance arrangements were those which gave rise to the need for the "Tackling Bureaucracy" reports which highlighted layers of bureaucracy within the system. This level of bureaucracy was created by several partner bodies and has distracted from teaching and learning, thereby hampering the achievement of the goals set out. In this regard the perceived need for teachers, and schools generally, to be accountable to too many layers of governance could be cited as an impediment to effective teaching and learning e.g. the duplication between Local authority quality assurance mechanism and those of HMIE, plus, now, Scottish Government through the NIF.

Audit Scotland's 2014 Report, School Education set out that, in real terms, Council's spending on education reduced by 5% between 2010/12 and 2012/13. This itemised a 2% drop in teachers, 5% in Admin and Clerical Staff, 2% in Classroom Assistants, 22% in Business Managers, 12% in Laboratory Assistants and Technicians and 22% in Quality Improvement Officers. The Audit Scotland Report did not report cuts in Instrumental Music Teachers and Educational Psychologists. The Scottish Local Government Benchmarking Framework (January 2016) has reported a reduction in real costs per pupil since 2010/11 of 10.8% primary and 4.1% in secondary.

It is our view that the failure to reduce average class sizes has a significant detrimental impact on the achievement of equity and excellence for all.

3 Scope and Principles

Commentary on Operation of Organisations/Stakeholders

As the role and scope of the bodies identified below are within the parameters of this review, we have provided comment and our view on how the operation of each could be improved:

Education Scotland

The merging of HMIE and Learning Teaching Scotland in 2011 led to EIS concerns around the dual functions of the single organisation that became Education Scotland (ES) and its resultant capacity to provide effective support to schools in the interests of improvement. The EIS believes that a degree of tension remains around responsibility for inspections and curricular support being encompassed within the same body: essentially the support function which Education Scotland inherited from Learning Teaching Scotland has been marginalised in significant ways.

This, coupled with the disappearance of Local Authority Education Advisors and significant reduction in the numbers of Quality Improvement Officers has created a void in terms of the support that is available to schools and teachers in their delivery of the curriculum. There is a discussion to be held around the capacity of Education Scotland to support individual or regional clusters of schools in this key area. This is particularly pertinent considering the recent additional demands placed on Education Scotland since the introduction of the National Improvement Framework (NIF), at a time of shrinkage of staffing resources.

Also, regarding the operation of a support function, the EIS view is that Education Scotland should be, and should have been, stronger in its leadership in relation to their advice to schools on how internal assessments, within the new National Qualifications, could be managed. It initially fell short in providing the level of guidance and exemplification that teachers required to enable more streamlined approaches to internal assessment at the implementation stage, and continues to give mixed messages in relation to qualification delivery and senior phase curriculum architecture, as evident in the advice issued in May 2016 following discussions within the Assessment and National Qualifications Review Group.

Furthermore, despite being a signatory of the Tackling Bureaucracy Reports (2013 and 2015) and having a key role in promoting their recommendations, Education Scotland had to provide further advice aimed at reducing teacher workload at the beginning of the school session under the direction of the Cabinet Secretary for Education and Skills. Indeed, only months before, Education Scotland itself had issued direction to schools on moderation and assessment within the BGE, the timing and content of which did not take proper account of the cycle or reality of School Improvement Planning or Working Time Agreements. The EIS had to respond by issuing advice to members with the aim of ensuring that bureaucracy and workload were not increased as a consequence of the Education Scotland correspondence to schools.

In several respects, therefore, the EIS believes that the operation of Education Scotland requires to be more closely aligned to the needs of schools and colleges, and teachers and lecturers.

The EIS has concerns, also, over the increasingly politicised role of Education Scotland within Scottish education. With the role of the Inspectorate having been brought closer to Government, questions remain about the independence of the inspection process and its relationship to government policy, and concerns have emerged more recently regarding the capacity of Education Scotland to provide sound, evidence-based advice to inform government policy.

Education Scotland seems reticent to inject its expertise in education philosophy and in learning to policy debates being led by civil servants and ministers. Critical challenge to Government policy would seem to be an obvious role for the main pedagogic body within Scottish education but it is not one the EIS sees as a strength of Education Scotland.

Education Scotland appears, publicly at least, to be politically compliant. At times it is difficult to see where the remit of Education Scotland ends and that of the Learning Directorate begins. Even the simple fact that employees of Education Scotland were reclassified in the 2011 merger as civil servants is indicative of the alignment with Government which has emerged, with no discernible gain to Scottish education as a result.

The HMIE function of Education Scotland continues to pursue a system of validating self-evaluation, which is welcome, although the EIS would highlight, again, that world leading systems such as Finland operate without a formal inspection regime, focussing in favour of a model designed solely to provide support to teachers and educational establishments.

At the very least it is a matter of concern that schools or individual teachers aggrieved by Inspection reports have no obvious right of challenge or redress. While the Scottish system of school inspections is more collegiate than the regime which operated in England there are in England clearer mechanisms to challenge reports and to have reports withdrawn.

Regarding the extent to which Education Scotland promotes high quality professional learning and leadership among practitioners, the EIS recognises the positive contribution that Education Scotland makes to this agenda.

Learning Directorate

Although not listed directly in the consultation document, the role of the Learning Directorate is worthy of comment in relation to governance issues. The EIS is not aware of the scale and cost of the Learning Directorate but fully accepts that there is a need for Scottish Government to have a civil service cohort charged with the delivery and pursuit of Government policy. Civil servants bring an important skill set to policy implementation but it is equally important to recognise that other partners in Scottish Education bring both pedagogical and practical insights to bear in relation to service delivery.

A command and control approach to policy implementation from Scottish Government, or its agencies, might seem to sit at odds with a stated intention of empowering practitioners and parents at school level.

Care Inspectorate

The EIS would stress the distinction between the scrutiny functions of the Care Inspectorate and Education Scotland. Inspections of early years establishments by the Care Inspectorate should focus discretely on the health, wellbeing and safety of young learners; inspection of the provision of learning should solely be the function of Education Scotland whose core inspection staff are qualified teachers. Efforts made more recently by the two bodies to coordinate inspections has reduced what had been a previous blurring of the understanding of some Care Inspectorate staff of the organisation's functions.

The EIS welcomes this and the reduction in workload generated by what would otherwise have been two separate inspection processes.

Scottish Qualifications Authority (SQA)

The EIS believes that the SQA should have been accountable to the teaching profession and we are currently investigating the management and oversight of the SQA with a view to bringing recommendations for reform.

In relation to the governance of the SQA, it is the view of the EIS, that whilst a degree of independence is important to the operational standing of the organisation and its professional reputation, there is a case to be examined as to how it can be more responsive to the main voices within Scottish education, including the professional associations. The current arrangement of a Board appointed by Scottish Government offers no conduit for representative voices to be heard and the EIS regards this as a fundamental weakness in the governance arrangements. We believe that this impacts negatively on the operation of the organisation to the detriment of learners, teachers and lecturers.

The EIS notes the completion in May 2016 of the SQA's extensive review of new qualifications. Many of the SQA's own findings were consistent with those of EIS members' views in several respects: overwhelmingly, the teachers surveyed had found unit assessments to have worked badly in their subjects; more than half identified significant duplication across internal and external assessment; and around 40% believed SQA unit assessment materials to have been unfit for purpose. In this regard the EIS is of the view that approaches adopted by the SQA, for example the overly extensive unit verification regime, have contributed significantly to the excessive workload burden carried by schools and teachers, and have led to a significant deterioration in the relationship between the profession and the SQA.

The EIS would accept that other factors beyond the immediate locus of the SQA – for example senior school architecture and challenges around transition for the BGE to senior phase - were contributory factors to the excessive assessment regime of the past few years, but we also have a clear view that SQA has been insufficiently sensitive to the pressures its qualification regime has placed on schools, pupils and teachers.

GTCS

The EIS supports the continuation of an independent regulatory body for teachers and believes that GTCS provides a function that is not directly a part of the governance of education but which sets out professional expectations on teachers, as agreed by GTCS Council, the majority of whose membership critically- albeit by a slim margin- is teachers. In this sense, teachers themselves are key to the custodianship of the high standards as required for registration with the GTCS and the accompanying right to practice in Scottish schools. It remains crucial that GTCS retains a distinctly independent status as a means of ensuring that professional standards are not malleable to the political will of the Government of the day but remain steadfast benchmarks as agreed in large part by the profession itself.

The EIS supports the compulsory registration with the GTCS of all teachers employed in Scotland's schools regardless of whether these schools are Local Authority, Grant-Aided or Independent. In short, any school inspected by Education Scotland Inspectors should only employ GTC(S) registered teaching staff as a guarantee of the standards of teaching and as a means of ensuring the highest level of professional standards for the benefit of Scotland's learners.

The EIS also supports the work of the GTCS in supporting teachers' professional learning as an accreditor of practitioner enquiry, and acting as a catalyst for Masters level study.

The GTCS currently faces funding challenges in terms of its ability to deliver the full range of its services to registrants. While it is right that a regulatory body should remain independent of government and that funding arrangements should reflect such a relationship (currently 90% of GTCS funds are raised through registrant fees), the EIS is of the view that the services provided by GTCS in terms of ensuring the highest levels of teacher professionalism deserve and require additional funding from the Scottish Government in order that projects and services delivered on a national basis, such as My Professional Learning and the Teacher Induction and Student Placement Schemes, are fully maintained.

Regarding the GTCS locus in Initial Teacher Education, the EIS view is that its operations in managing student and probationer placements in partnership with universities and local authorities require to be tighter, in order that those undertaking teacher education qualifications can progress smoothly in their learning without the kind of disruption and uncertainty that arose for too many at the beginning of this academic session.

The student placement and probationer induction schemes are highly valuable in ensuring that the next generation of Scotland's teachers are fully prepared for the job of delivering high quality learning and teaching in the classroom as outlined in the Standard for Full Registration. However, a variety of factors – including capacity issues at both ITE and local authority level, and school workload pressures – have combined to create the recently highly publicised problems around student placements. These issues should be addressed in the context of discussion around education governance.

The EIS welcomes the current GTCS consultation on the Fitness to Teach Rules. It has been a concern that the time taken to complete the disciplinary route has extended over years in some cases under current rules. This is not in the interests of schools or individual teachers. The EIS also has a concern over the full findings of cases being published on the GTCS website. We accept that outcomes require to be published but we would argue that a summary statement would be sufficient to accompany an outcome decision.

Scottish College for Educational Leadership (SCEL)

The EIS views the work of SCEL to be highly valuable in supporting the development of teacher leadership within education, as one way of realising the vision of greater teacher autonomy as set out within CfE, and as a way of supporting greater collegiality, professional dialogue and collaboration in and across schools. The EIS believes that a commitment to collegiate working in our schools, where leadership is encouraged at all levels and the views of all teachers are valued, is critical to the future progress of our education system.

The Qualification for Headship offered by SCEL is one which the EIS considers to be important in preparation for undertaking such a role, particularly considering the extent of the challenges which Headteachers are required to manage at present.

SCEL also contributes an aspect of the framework which supports practitioner research and enquiry, with the aim of further enhancing levels of teacher professionalism in Scotland- a significant element in improving outcomes for children and young people.

It remains the EIS view that the deployment of sufficient numbers of highly trained, highly qualified teachers across Scotland is essential to support initiatives aimed at raising attainment and tackling the difficulties pupils can face resulting from poverty and inequality.

The EIS has welcomed the Scottish Government's commitment to investment in Masters level learning for Headteachers provided through SCEL, and continues to advocate for such a level of support for all

teachers, this being key to the further enhancement of the high standards of teaching in our schools and to minimising the impact of poverty on the outcomes of children and young people at school and beyond. In discussion on Masters level qualifications we believe that consideration would need to be given to enhancement of salary levels commensurate with a Masters level profession.

Universities Providing Initial Teacher Education

The EIS recognises the role of Universities in preparing the next generation of Scotland's teachers for the classroom to the required standard.

That said, however, the EIS has concerns around the effectiveness of local partnerships and the impact of weaknesses in some areas on both students and teachers in schools.

Communication within the partnerships requires to be more collegiate. All parties need to be clear on the respective roles of the school and the university with regards to the assessment of students and communication around and mechanisms for the placement of student teachers require improvement as previously indicated. Other issues which impact on placements are a shared understanding of standards, time to communicate, provision of joint training, a lack of capacity within schools to support students and mentors and teacher workload.

The EIS is concerned, also, about reduction in the numbers of university lecturing staff within their Faculties/Schools of Education. The result of this has been increased workload for remaining university teaching staff and a reduction in the number of visits by such staff to students on school placement.

In addition, the EIS feels strongly that teacher education should be inclusive of all teachers of pupils across the 3 to 18 age range. We have concerns within Initial Teacher Education of the lack of provision for teachers who will be working with early learners in nursery schools. At present, many student teachers are placed in pre-5 settings where there are no full-time qualified nursery teacher present; there is frequently no visit from university staff during their placement; and reports required from student teachers placed in nursery schools, departments or other pre-5 environments are often not followed up by the University.

Question 3

Should the above key principles underpin our approach to reform? Are there other principles which should be applied?

The principles outlined are those which should and do underpin the Education system, in general terms. However, there should be a discussion and debate around what is meant by excellence, equity and empowerment before determining how such "principles" may be achieved. For the EIS these principles should be delivered within the context of democratic accountability.

On finance the principle of a simple and transparent funding system to ensure maximum public benefit and best value for money has to be caveated by the need to ensure an adequate level of funding is made available to deliver the ambition of excellence and equity.

Further, the EIS supports the principle of public sector provision of education services.

This includes the need for a statutory right to nursery education. We would contend that the role of the private sector in pre-5 provision should be challenged rather than encouraged.

An additional principle which should be applied is “value the workforce which works with our children and young people.”

4 Empowering teachers, practitioners, parents, schools and communities

Question 4

What changes to governance arrangements are required to support decisions about children's learning and school life being taken at school level?

In the absence of a clear delineation of the duties and powers that currently reside with Scottish Councils this question is difficult to answer. The language of empowerment appears to refer to schools, parents, clusters and communities. There is reference to establishing regional bodies but there is no specific detail as to what this might mean. It is therefore impossible to establish on what we are being consulted.

There is nothing in the current governance arrangements which prevent local authorities delegating the management of resources to a school level – indeed most do to some degree. The challenge is in the balance of delegated management against the need to ensure effective spending of public money through efficiency of scale.

It is essential that schools are not burdened with administrative functions which simply add to workload rather than enable pedagogical development around the core service.

In the current system there is the potential for schools to take their own decisions about children's learning and the curriculum offered. However, there may be limitations placed on schools by their Local Authority.

In many areas school already operate on a cluster basis -some research into the limits and benefits of such arrangements would assist evidence policy making in this area. The EIS is aware that cluster arrangements are being developed in some Council areas. However, it is not clear if discussion of cluster arrangements relate to administrative functions (e.g. clustering of peripatetic support) or to alignment of curricular initiatives and development, which may be beneficial but which might also restrict options for individual schools.

The EIS is not convinced about the benefit of the proposed extension to schools of responsibilities that currently sit with local authorities. This appears to be either potentially tokenistic or an unnecessary imposition of additional bureaucratic layers to school operations. Schools are already part of a local authority's corporate responsibilities. The shift also runs the risk of breaking the accountability of locally elected administrations to the communities which form their electorate.

To paraphrase Alma Harris, one of Scottish Government's international advisers, the key to improvement lies not in structural but cultural change.

Question 5

What services and support should be delivered by schools? What responsibilities should be devolved to teachers and head teachers to enable this? You may wish to provide examples of decisions currently taken by teachers or head teachers and decisions which cannot currently be made at school level.

Schools should be concerned with delivering effective teaching and learning. Whilst collaborative working with other services around the GIRFEC agenda is both necessary and desirable, it would be a mistake to seek to expand the current function of schools. Scottish Government is seeking to address

the current excessive workload of the profession - requiring schools to deliver additional services and support would add additional burdens on teachers and support staff. This would be unacceptable to the EIS.

Whilst the location of some support services within school premises enabling easier access by schools and school communities could be beneficial, the funding and control of such support or services should not be a new burden on schools or Headteachers.

Schools clearly could benefit from a range of support services, such as counselling/mental health provision for young people, but the issue is one of resource and capacity rather than governance.

Some schools already enjoy freedom around supplementing staffing levels through DMR (Delegated Management of Resources) arrangements, funding being the singular restriction here rather than governance arrangements. Any expansion of staffing on a temporary basis has been set in the context of employment through the local authority.

It is worth noting that there is an assumption within the question that schools themselves are democratic places. Many school leaders operate in a collegiate manner and embrace distributed leadership approaches but this is not necessarily uniform practice across the sectors. In any governance review, there needs to be active consideration about ensuring transparency, accountability and inclusiveness in how schools are run.

Question 6

How can children, parents, communities, employers, colleges, universities and others play a stronger role in school life? What actions should be taken to support this?

In the late 1980s and early 1990s the EIS opposed the “opting out” agenda of the, then, Conservative Government which also established School Boards as embryonic Boards of Management for these “opted out” schools. It was not until 2006 and the enactment of the Scottish Schools (Parental Involvement) Act that the 1988 School Boards legislation was finally removed from the Statute Book.

It is the view of the EIS that the parental involvement arrangements currently in place form a genuine attempt to improve parental engagement in school life. The key challenge is not how to involve parents in the governance arrangements of school but how to facilitate the active involvement of parents and guardians in supporting the educational attainment of their children / wards. Creating a statutory role for parents in education governance runs the risk of inevitably politicising the role of parents.

Additionally, most parents will generally have an interest in the school attended by their child and their involvement will be transient to the period of attendance. This does not fit with the need to plan across school (e.g. school rationalisation) or to provide longer term planning.

The level of participation by parents is an issue that is faced by many schools and not one that we believe will be changed by the introduction of new governance arrangements. The current arrangements create no barriers for parental involvement in schools and school life, although we recognise that the impact of poverty in society can impact also on the ability of some parents to engage with schools. This requires creative thinking on the part of schools but not necessarily changes to governance.

Question 7

How can the governance arrangements support more community-led early learning and childcare provision particularly in remote and rural areas?

What is needed is appropriate funding levels to ensure that the commitment to childcare provision and early learning is met. Local Authorities, if properly funded, are best placed to provide early learning and childcare in all communities. The expansion of nursery education in rural schools should be seen as a priority and would reduce the demand for private provision and community-led ELC. The inclusion of nursery provision within Primary Schools is a particularly effective strategy in remote and rural areas as it not only provides a much needed service but may also support the viability of some remote and rural schools.

Again, the EIS would stress the important difference between early learning and childcare, whilst being supportive of both. In terms of governance it seems odd to us that the first two years of the CfE 3-18 framework sit outside the remit of the learning directorate, risking the marginalisation of the nursery education sector.

5 Strengthening the middle – how teachers, practitioners, schools and other local and regional partners work together to deliver education

Question 8

How can effective collaboration amongst teachers and practitioners be further encouraged and incentivised?

If schools are encouraged to believe they are discrete establishments, then there is a clear risk of a breakdown of collaborative practice. Schools should be collaborative subject to clear overarching structures to facilitate and support such practice.

The role of Education Scotland in enabling such networking could be crucial in supporting the leading from the middle agenda, which isn't about functional governance but primarily is concerned with pedagogical leadership.

One of the areas where local authorities have lost capacity is around the Quality Improvement Services which have been stripped out in many councils and reduced to an accountability and compliance approach in others.

The EIS strongly supports greater enabling of collaborative working across school networks and indeed local authority boundaries. One of the key elements of the success of the London Challenge was precisely the ability of schools to network around professional and pedagogical development, supported strongly by academic advisers. In a sense this is a practical issue – the key area of expenditure with the London Challenge schools was the buying in of classroom cover to facilitate professional networking. The single biggest barrier to collaborative working is the lack of time, closely followed by budget constraints, lack of supply staff, and workload. The operation of Working Time Agreements and School Improvement Plans is also a significant factor.

Factors that would have a significant impact on time for collaboration would be a reduction in work load burdens, increasing the number of teachers in the system, restoring the level of support staff and allowing time for professional learning. Reducing class contact time would support a number of these objectives. The OECD's *Education at a Glance 2016* highlights again that Scottish teachers have one of the highest class contact commitments across the globe, with only 5 countries having higher.

Question 9

What services and support functions could be provided more effectively through clusters of schools working together with partners?

This question needs to define what constitutes a cluster. In some Councils, a Secondary school and its associated primaries are regarded as a cluster with some level of support service and collaboration operating across the group e.g. specialist music teaching. These can be very effective in supporting a collaborative approach but equally in some instances they can be little more than an accounting mechanism. There is a danger, also, that the secondary school dominates the work of the cluster.

Larger cluster models also operate but some Councils are so small that they could equate to a single cluster.

It is unclear whether clusters of schools would be required to “buy” services and from where. Until the issue of statutory powers is addressed it is not clear how this proposal could operate.

Again, some evidential research would be useful in this area.

Question 10

What services or functions are best delivered at a regional level? This may include functions or services currently delivered at local or national level.

Services such as Quality Improvement, Instrumental Music and Education Psychology are currently delivered at Local Authority level. A definition of what is meant by “regional level” would be needed, particularly in relation to statutory roles and power, before any judgement on what could be delivered at or by such a level can be made.

The key for the EIS on service delivery at a level beyond current local authority will depend on clarity on democratic accountability at regional level and on clarity on the employment status of those who work at that level.

One area which may well operate successfully at some type of regional level would be the facilitation of professional networking and pedagogical leadership. Reference has been above to the loss of capacity around QIO / pedagogical support. Some of this relates to resource issues at a Council level, a large part relates to the Corporate agenda within Local Authorities which has seen replacement of Education Directors with more generic management posts leading inevitably to a lack of educational vision and understanding in Local Government. Scottish Government is clearly aware of this trend as the last Education Act made provision for the appointment of a suitably qualified practitioner as lead Education Officer within each Local Authority, but the very fact that this legislation was required is indicative of the demise of the Education Director.

We make the point elsewhere in this reply that the EIS does not view the merger of LTS with HMIE as having been a runaway success and one of the areas where Education Scotland might work more effectively at a regional level lies in this field. This would not necessitate, in our view, structural changes to local government but could offer an opportunity to consider how better pedagogical support could be provided to schools and have much greater impact than changes to governance arrangements in other areas.

Question 11

What factors should be considered when establishing new educational regions?

Whilst the EIS is not opposed in principle to some collaborative practice at a regional level, e.g. advisory support, it is essential that regional structures are predicated on supporting operational efficacy rather than creating yet another layer of governance in an already heavy top-down management framework. Several factors need to be considered:

Which statutory powers, if any, should reside at regional body level?

Could these be established without increasing bureaucracy?

What geographical/local-political considerations come into play?

What would be the basis of establishment, appointees or democratically elected members?

How could we avoid issues of duplication, cross-over and any possible tension in the power relationship between the new bodies and the old bodies already in the system?

What added value would such bodies hope to deliver?

From where would the resources be made available for their establishment?

A key consideration for the EIS relates to potential implications of any new regional operation around employment rights and protections. We make clear elsewhere the importance of the SNCT to the current governance arrangements and this concern would be echoed in terms of the operation of LNCTs. The experience of Local Government created ALEOs is instructive in that they have not increased accountability or generally demonstrated better governance than direct council services.

Attempts at shared services have foundered, also, usually on the basis of political fall-out between Councils. Aside from administrative difficulties, challenges also emerged in terms of prevailing culture and ethos – both of which are key to service delivery.

6 A clear national framework and building professional capacity in education

Question 12

What services or support functions should be delivered at a national level?

Given that the thrust of the consultation is about empowering local communities, it is difficult to see a case for creating additional national services. Each proposal for change would have to be considered on its own merits.

For example, if Scottish Government decided to establish a national Instrumental Music Service for all schools, fully funded and guaranteeing each child/young person access to learning a musical instrument that would be a proposal we would consider worthy of consideration. However, it is the detail of specific proposals that have to be considered and a careful consideration of risks and benefits of seeking change. In giving this example we would also draw attention to our view (detailed in our response to Question 17) that national terms and conditions of teachers and associated professionals should remain with the SNCT and that the SNCT should continue in its current form.

What is open to national direction / governance is the ring-fencing of dedicated education budgets. The EIS supports nationally directed protection of education expenditure, "ring-fencing". At the point when Scottish Government introduced Concordat arrangements the EIS argued that the move away from "ring-fenced" budget streams would leave aspects of Education, a statutory service, subject to local authority corporate decision making. For example, at that point a funding stream had been created to support the previous Executive's decision to maintain average class sizes in S1 and S2 Maths and English classes at 20. This highly successful initiative quickly disappeared once the funding protection ended.

Notwithstanding our comments on SQA, it is our view that a single, national qualifications board is a strength of the Scottish Education system. The Scottish Credit and Qualifications Framework provides a suitable national framework which allows for the integration of different types of qualifications.

Some functions clearly need to have a national remit e.g. HMIE and GTCS.

As a lever for the delivery of national education policy, directed funding is an essential tool.

7 Fair funding – learner centred funding

Question 13

How should governance support teacher education and professional learning in order to build the professional capacity we need?

Comments offered on the operation ES, SCEL, GTCS and TEIs, above, cover the key issue in relation to this question.

As a professional association, deeply interested in creating and advancing continuous professional development, the EIS notes the key role referenced in the recent OECD report on Scotland for teacher organisations to be deeply involved with Government in promoting this agenda. This involves not only teacher trade unions being involved in an overview with regard to governance of this field but also being afforded opportunities and support to directly deliver CPD programmes. This was an agreed objective between Scottish Government and the teaching unions at the last International Summit on the Teaching Profession (Berlin) but it has yet to be acted on.

The EIS supports equity of access to professional learning opportunities and endorses the concept of leadership at all levels. It remains a significant regret that Scottish Government abandoned the Chartered Teacher scheme at the very point where it was beginning to gain purchase as an enabler of Masters' level study and practice.

To achieve professional capacity there needs to be adequate and equitable resource provided by every Local Authority for professional learning.

Question 14

Should the funding formula for schools be guided by the principles that it should support excellence and equity, be fair, and simple, transparent, predictable and deliver value for money? Should other principles be used to inform the design of the formula?

The EIS would challenge the use of the “deliver value for money” concept in the context of Education and believes there should be a consideration of value beyond that of monetary spend. In addition, we would challenge the appropriateness of the term “predictable” in this context.

We believe that to ensure equity in provision a national minimum staffing standard should be developed. Within that standard issues of additionality should be considered, e.g. deprivation, additional support needs, rurality, guaranteed time for promoted members of staff.

It should be recognised that any funding formula must also be supplemented by a mechanism which provides for needs that arise which have not been foreseen.

It is important, nevertheless, that the funding streams are planned in a coordinated manner. For example, the Attainment Challenge Funding, whilst very welcome, wasn't factored in to workforce planning forecasts and as a result some projects had to be amended as additional teachers simply weren't available.

The EIS also believes that certain services, such as EAL and ASN, need to be calculated on the basis of need and budget lines protected to ensure service delivery. A disproportionate level of austerity driven cut backs have occurred in these areas subsequent to the removal of previous ring fencing.

It is essential that the additional funding promised through Council tax changes does not result in subsequent cuts to other areas of current educational expenditure.

Question 15

What further controls over funding should be devolved to school level?

The EIS has welcomed and supported previously direct funding to schools and so is not opposed in principle to additional money being allocated on this basis. It is essential, however, that this does not lead to additional administrative or workload burdens for school staff, especially Headteachers. Nor should it lead to a transfer of administrative function to schools.

In the past additional funds have been channelled simply as a budget line within existing local authority accounting arrangements.

It should be noted, also, that whilst new funds might be deployed around additional staffing, this would need to be predicated on the role of the local authority as the employer.

The EIS would not support the school as the employer; such an approach is fraught with challenges and would cut across the role of LNCTs in agreeing job remits.

In terms of accountability, the EIS supports the establishment (where they do not exist already) of school level committees to oversee disbursement of additional school funding streams.

It is a strong contention of the EIS that schools themselves need to be more democratic places than they currently are. Collegiate decision making and distributive leadership strategies are not embedded in our system, despite the ambition of the Teachers' Agreement for the 21st Century. The governance review should be used to stimulate progress on this agenda.

Question 16

How could the accountability arrangements for education be improved?

The term "accountability" is undefined and could operate at several levels. Within the current governance arrangements, schools and teachers are held to account by a number of bodies – local authorities as the employers; parents and pupils as consumers; HMIe inspections; Quality Assurance regimes; line management; NIF; the GTCS and Professional Update; self-evaluation, politicians and the media.

Perhaps one of way of "improving" the arrangements already in place would be to streamline them and place more trust in the professionalism of teachers and schools.

Any measures introduced to increase accountability approaches would need to be risk assessed as such measures could increase bureaucracy, complexity and potential for litigation.

Question 17

Is there anything else you would like to add regarding the governance of education in Scotland?

Yes – see below:

Commentary on Key Issues

The role and functions of all publicly funded schools, early learning and childcare provision and provision for children and young people, including those with additional support needs are covered in this review and the EIS wishes to comment on key policy areas and provide a view on how each could be affected by a change in governance arrangements:

Teacher Numbers

In 2011 the SNCT reached agreement on a pay and condition package which was predicated upon maintaining teacher numbers. Until then the number of teachers employed by Scottish Local Authorities was not a matter for the SNCT. The EIS believes that certainty over teacher numbers is a prerequisite for educational improvement and calls for a national minimum staffing standard to be implemented. It is unacceptable that staffing in schools should be a post code lottery across Scotland.

Class Size

Related to the issue of a national staffing standard is class sizes. The EIS believes that class size reduction provides a key to education improvement. Smaller classes offer teachers the opportunity to provide greater individual support to pupils, including those with additional needs; to be more innovative and creative in methodology; to locate sound formative assessment practice at the heart of learning and teaching; to boost, as evidenced by various research, pupils progress in literacy; to lay the foundations of the achievement of future positive destinations; to foster positive relationships among pupils, and between pupils and teachers, all of which are shown to have a positive effect, particularly on the outcomes of learners who experience barriers to achievement arising from socio-economic factors.

Furthermore, Curriculum for Excellence and GIRFEC require teachers to adopt greater flexibility of approach and intensity of support for children and young people in the interests of improving their outcomes. Class size reduction would support the realisation of the aims of both CfE and GIRFEC.

A further consideration must be teacher workload which is at an all-time high. Large class sizes are a contributory factor.

Workforce Planning

The current system of workforce planning has attracted some criticisms but the EIS accepts that considerable work has gone into modelling. We agree that the annual process should commence before the annual census is published and adding information on vacancies in the system is, although clearly a snapshot, helpful when setting numbers of teachers to be trained.

There is, however, a clear dislocation between national workforce planning which looks at providing training places over a 4-year period whereas Scottish Councils plan annually. In that regard, the EIS is clear that a minimum national staffing standard would bring greater certainty to workforce planning.

It is also our view that devolving staffing responsibilities to individual schools would make the current workforce planning approach unworkable.

The EIS has welcomed improved scrutiny of workforce planning for Educational Psychologists through the National Scottish Steering Group for Educational Psychologists (NSSGEP). We are clear, however, that there is a growing workforce crisis in psychological services, in part due to the failure to support post graduate students who enter courses in Strathclyde and Dundee but also in part due to budget pressures at Council level. It is our view that, to ensure that Educational Psychologists can fulfil the full range of functions envisaged in the HMIe Aspect report, there should be a national minimum staffing formula for psychological services.

Nursery Education

The EIS believes early years education to be central to the realisation of the twin aims of excellence and equity. It is our view that ELC should be delivered by a workforce which is valued for the diversity of skills that it deploys in addressing the education and care needs of Scotland's pre-school children, in the context of early years being crucial to their future educational and life chances.

To this end, all members of the ELC workforce should be highly trained and qualified, and fairly paid, as appropriate to their role within the team. Research consistently demonstrates that such an approach, and proper investment in the workforce, is the means by which to deliver the highest quality of provision overall, in addition to that which has the greatest positive impact on improving outcomes for children who face socio-economic disadvantage.

The EIS is of the view that central to the delivery of early years education must be GTCS qualified teachers who remain the most highly qualified members of the early years workforce tasked with this key responsibility. GTCS registered teachers play a unique role as pedagogical leaders; as 'bridging professionals' across the Early Level of Curriculum for Excellence; in identifying and providing for children with additional support needs, including those who have English as an additional language; and in working with families and the wider community.

In spite of the essential nature of the role of qualified nursery teachers, within the current model of ELC provision, children are guaranteed in statute only 'access to a teacher', with interpretations of this widely variable and ill-defined across the country.

Research commissioned recently by the EIS provided evidence from the Teacher Census that the numbers of qualified teachers employed in local authority settings has reduced dramatically in the past 10 years, since the rescinding of the Schools Scotland Code, amounting to a 39% drop in numbers, while the reduction in pupil numbers has been only 4%.

At the point at which research data was gathered in 2014, the teacher to child ratio stood at 1:84; that ratio has now reduced further to 1:94. Government statistics show that 25.7% of pre-school children currently have no access to a teacher; 50% of local authorities state that pre-school children in their authority do not have access to a teacher; and 50% of local authorities state that there is no minimum time stipulation for pupil contact with a teacher.

The EIS is of the clear view that in considering governance structures that are intended to deliver the dual aims of equity and excellence in education, the Scottish Government and delivery partners must seek to remedy the current deficit in the number of qualified nursery teachers and the inequality of early years provision across and within local authorities.

The EIS urgently calls upon the Scottish Government to legislate to ensure that the contribution of GTCS registered nursery teachers to early years education and childcare is safeguarded in statute and that Scotland's pre-school children, in receiving high quality early years education, are guaranteed minimum and meaningful access to a teacher.

Furthermore, the EIS is of the view that education, including early years, should be a universal public service, free to all at the point of access. It is our belief that local authorities are best placed to deliver the education service, including that for pre-school children, both in terms of ensuring quality and equity of experience for learners, and in terms, from the perspective of teachers, of adherence to national conditions of service agreements. This view is substantiated by evidence from Education Scotland inspections to suggest that best practice occurs within local authority run nursery establishments in which children have regular and meaningful interactions with qualified teachers who are expert in early years education.

ASL Act

Currently there is misalignment of the intentions of the Additional Support Needs legislation and the delivery of additional support needs provision in practice. Pupil census data provides evidence of significant variance in the numbers of children identified as having additional support needs across local authority areas. This is in large part down to the means by which additional support needs are categorised by individual local authorities. The level of intervention applied is a consequence of categorisation of needs, therefore the nature and extent of support for children with similar needs can differ from one postcode area to another. To compound matters, EIS research has identified that local authorities, in complying with their statutory duties under the Act, apply a variety of funding formula, with some local authorities having reported that they do not even have such a formula.

Of urgent concern to the EIS is the reduction in the numbers of additional support for learning teachers and support assistants and the consequential reduction in the levels of support within schools for children whose behavioural, emotional and learning needs are such that the learning experience for them and others is compromised by lack of specialist additional support. This is a significant contributory factor, also, to the workload of class teachers. EIS members have raised concerns over the pressures created in schools by the presumption of mainstreaming when the resources are not available to support this adequately.

Implementation of GIRFEC

The EIS has supported the underlying principles of GIRFEC, and views this approach, now framed within the Children and Young People Act, to have the potential to address the effects of poverty and other adversity on educational outcomes.

The overarching vision of the GIRFEC framework is that all children and young people should thrive as confident individuals, successful learners, effective contributors and responsible citizens by having key needs met- the need to be safe, healthy, achieving, nurtured, active, respected, responsible and included. The latter indicator, defined as children and young people 'having help to overcome social, educational, physical and economic inequalities', points explicitly to the need for Education to address the impact of poverty. In compliance, education authorities will be bound to consider the effect of socio-economic disadvantage on wellbeing.

However, concerns around how the full implementation of GIRFEC will be resourced are significant. Key features of CYP legislation- Named Person, Child's Plan and inter-agency information sharing- place significant additional resource demands on Education. If the pastoral care needs of all children and

young people in Scotland are to be met in accordance with the legislation, adequate and sustained investment must be forthcoming. Essential to the success of GIRFEC will be increased investment in schools- additional administrative support staff to support work around planning and the sharing of data; additional teachers to support the level of pastoral care work that will be required of Named Persons; and relevant professional learning for all who are involved in delivering.

The EIS was broadly supportive of the intention in the legislation but crucially there was an absence of clarity on funding required to deliver the service and measures to prevent added bureaucracy and workload pressures in schools. These issues remain to be addressed.

To be successful the named person service requires a strategic overview and a degree of integration with other Council Services, such as social work, and Psychological Services. This should be considered in any review of governances.

It is important to state that whilst the EIS supports in principle the presumption of mainstreaming inherent within the GIRFEC approach, members have repeatedly raised concerns that in practice this has not been funded at the levels required to make it as successful as would have been hoped.

Funding and Resources

It is also our view that any proposed change should be evaluated in terms of the direct and indirect changes required to structures, procedures and policies. A thorough and detailed estimation of the resources needed to bring about change must also be made. There needs to be a realistic evaluation of the potential gains and these should be weighed against the costs and disadvantages of proposed changes. Such evaluation would require careful, specific and collegiate consultation with education stakeholders and with the teaching workforce on whom the burdens and challenges of change will fall.

Conclusion

Impact of changes to Governance

The EIS is wary of a rationale that suggests a change to Governance arrangements will necessarily have significant impact on equity of attainment. We have suggested, however, a number of changes that would improve the Scottish Education system and help to empower teachers by making time for teaching.

The EIS has also identified key areas for improvement which would help to reduce the attainment gap caused by poverty and inequality; for example, improvements that could be made to Early Years education.

An important CfE design principle was avoidance of the testing, targets and league-tables culture that characterised the previous 5-14 curriculum and, which international evidence shows, has the effect of compounding educational inequality.

At present, a component of the National Improvement Framework is national standardised assessment, included partly for the purposes of system performance measurement and accountability. The EIS has repeatedly cautioned against such a regressive policy measure, viewing it as counter-productive to Scottish Education as it continues its progressive journey with CfE.

Genuine commitment to tackling inequality of outcome caused by socio-economic disadvantage, requires solid support for schools, and the necessary resources, as outlined previously in this submission. That means, in summary, at the very least:

- enough teachers who have ongoing access to high quality CPD, including inputs on the nature, causes and consequences of poverty;
- teacher numbers increased to deliver smaller class sizes arranged on the basis of mixed ability for the particular benefit of children from disadvantaged backgrounds;
- adequate specialist support for learners with additional support needs, including regular and sustained support for learners at all stages whose first language is not English;
- adequate time for pupil support staff to attend to pupils' pastoral care needs;
- enough time for schools to plan and deliver approaches to enhance links between school and home, crucially supporting vulnerable parents to be involved in their children's learning;
- maximum time for teachers to engage in meaningful professional reflection and collaboration around what works in improving outcomes for children living in poverty;
- the provision of classroom resources and equipment that facilitate learning that has creativity and learner collaboration at the core of it.

In essence, the alignment of policies within the National Improvement Framework- the roadmap for the next phase of Scottish Education's journey towards excellence and equity- needs to encompass the relationship between the requisite resource inputs to desired educational outcomes.

If a proposal or proposals are developed from this consultation exercise the EIS believes there must be a full and thorough consultation process. We believe that structural changes to Governance arrangements should not be rushed and the experiences of our members in both Further and Higher Education (see Appendix 1) support this belief.

The Government seems to be using the OECD paper "Improving Schools in Scotland" for driving the school's governance agenda. However, the OECD paper is an "independent review of the direction of the Curriculum for Excellence" and the report's recommendations only address governance in terms of delivering CfE. The OECD expressly states that there are many models of governance and almost any can work: *"There is no one right system of governance. In principle, nearly all governance structures can be successful in education under the right conditions."* In places, the OECD seems to support strengthening the role of Local Authorities. Within any proposal the EIS will be looking for democratic accountability and mechanisms which allow teachers, including head teachers, to focus on teaching and learning and not to be overburdened or constrained by unnecessary bureaucracy.

Appendix 1

Higher & Further Educational Governance

FE Colleges were, until 1992, governed and led by Regional Councils, in which they were effectively run as council departments. After 1992 most colleges became autonomous institutions, responsible for their own governance in a similar way to universities. This model of governance led to a wide divergence in the quality of leadership, management and education provision. The EIS agitated for change and this led to the Scottish Government commissioning the Griggs Review of College Governance that reported in January 2012. The Review confirmed the many failings of the extant governing structure, including the fact that Principals had too much power. The Review made several recommendations, which the Government accepted and followed up with a consultation paper. This subsequently led to the Post-16 Education Act (2013) which fundamentally changed the nature of college governance. It is also worth noting that poor governance with the potential misuse of public funds led to the formation of a Task Group chaired by the Cabinet Secretary into college governance.

However, the reform of the college sector in recent years went beyond governance: Scotland was divided into 13 FE regions, resulting in several college mergers (regionalisation). The governance model chosen was complex and added an additional layer in three 3 FE regions – only one of which has been implemented (Lanarkshire). The regionalisation of colleges was carried out differently in each FE region. A new college funding arrangement (i.e. by Outcome Agreements) was introduced. Simultaneously, the statutory underpinning for college governance was amended which had a significant effect on college governing bodies, with each Regional Chair being directly appointed by the Government. Audit Scotland's Reports have repeatedly criticised the Government and Scottish Funding Council for not benchmarking the college sector before the mergers, therefore making success/failure difficult to judge. Regionalisation has also reduced teaching activity by focussing more advanced courses in fewer locations. It is too early to identify the full impact of the college reforms, and to disaggregate the effects of significant funding cuts in recent years.

As regards the HE sector, universities have always been autonomous institutions, and the new ones established after 1992 followed suit. There is a strong argument that Universities have similar governance problems to the colleges had when they were autonomous – such as excessively powerful Principals and governing bodies and unable to provide effective scrutiny or strategic direction to senior management teams.

The Government commissioned von Prondzynski Review into Higher Education Governance reported in early 2012. The Government and University sector subsequently effected a number of minor changes into university governance. Despite loud and increasingly bitter lobbying, the HE sector failed to stop the Government carrying out its promise of a HE Governance Act (2015) which effected statutory change on a largely unwilling sector. These changes (such as elected chairs and additional trade union members on governing bodies) will be phased in over the next four or so years.

In summary, the Government undertook separate governance reviews for both college and university sectors. Despite this, both sets of reforms were rushed, leading to late fixes/changes being made to legislation. The Government carried out reform of the FE sector largely with the sector's support, but carried out HE reform despite strong opposition. However, it should be noted that in both FE and HE there are still, in our view, issues and problems related to governance. The HE sector understood the reforms as an incremental step towards greater state control of a sector that considered itself autonomous.