

EIS Response to the Scottish Government Consultation on the Provisions of the Education Bill

The Educational Institute of Scotland ('EIS'), the country's largest teaching union, representing almost 65,000 members across all sectors of Education and at all career levels, welcomes the opportunity to respond to this consultation.

The Institute has the following comments to offer:

Question 1: What changes should we consider in terms of how qualifications are developed and delivered that you think would improve outcomes for Scotland's pupils and students?

The EIS would preface its response to this question by reiterating our support for the key recommendations of the Independent Review of Qualifications and Assessment led by Professor Louise Hayward.¹ Professor Hayward's report represents a broad consensus across the education system, based on thorough research, consideration of the Scottish and international context and detailed consultation across stakeholders. Whilst we recognise the necessity for the recommendations to be given careful consideration in the context of wider Education Reform, we are clear that any further delay to the establishment of a new qualifications body and to reform of the high-stakes exam treadmill in the Senior Phase is not acceptable. In this respect, we would echo the concerns of the recent report of the International Council of Education Advisers ('ICEA') that the "momentum for change" may be lost, and that any "pushback" against reform of the traditional exam system will have "negative consequences for student equity and wellbeing."²

The EIS agrees that a wide range of qualifications is required to meet the diverse needs of learners and in affecting the culture change envisaged in the Muir Review, wider stakeholders, such as employers and Further and Higher Educational Institutions must understand and have confidence in the reforms in this area. This is essential if the ambition of parity of esteem for all learning, as recommended by the Hayward Report³, is to become reality. Moreover, given an increasing recognition of the diverse needs of learners - with 34% of the school population⁴ having an identified additional support need compared to only 4.8% in 2009 - the future development and delivery of qualifications must place considerations of equity and diversity at its core, with a system-wide recognition that an approach which is genuinely inclusive must be underpinned by proper resourcing.

That said, the EIS believes the range of qualifications currently available to learners is less of an issue than the ability of learners and centres to access them. The current SQA portfolio is expansive, and schools - recognising the diversity of needs and the inadequacy of the "conventional" qualification offer for many

¹ [Independent Review of Qualifications and Assessment: review and key recommendations - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2021/06/Independent_Review_of_Qualifications_and_Assessment_review_and_key_recommendations.pdf)

² [International Council of Education Advisers: third report 2021-2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2021/06/International_Council_of_Education_Advisers_third_report_2021-2023.pdf)

³ [It's Our Future - Independent Review of Qualifications and Assessment: report - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2021/06/Its_Our_Future_-_Independent_Review_of_Qualifications_and_Assessment_report.pdf)

⁴ [Summary statistics for schools in Scotland : 14 December 2021 \(www.gov.scot\)](https://www.gov.scot/resources/documents/2021/12/Summary_statistics_for_schools_in_Scotland_14_December_2021.pdf)

individuals - increasingly utilise the Scottish Credit and Qualifications Framework to provide meaningful opportunities for progression and for the achievements of all learners to be formally recognised.⁵ However, teachers report – and research bears out⁶ - that schools’ capacity to deliver a wide range of qualifications to meet the needs of all learners is most often limited due to constraints around staffing and therefore, timetabling inflexibility. As has been well-established by the broader outputs of education reform, and most recently by the ICEA Report⁷, the current Senior Phase has been shaped by a focus on sequential year-end exams, and an unhealthy preoccupation with the associated attainment data as the sole metric of schools’ success; hence resources and efforts are directed towards this end⁸. The outcome has been a culture that values traditional academic learning above all others, and a narrowing of choice and therefore, of opportunities to achieve for many learners. The EIS asserts that a fresh approach to the development and delivery of qualifications, with “assessment aligned to better support progression of knowledge and skills through each level of education,”⁹ must be accompanied by a concerted effort led by government and national bodies to free the system from the stranglehold of attainment data and the associated performativity culture.

Whilst not disagreeing with the substance of the ambition that qualifications be “developed and delivered in a way that supports our teaching professions to deliver the highest quality learning and teaching,” the EIS would caution that such phrasing not only adopts a deficit approach but also risks misrepresenting the relationship between qualifications and teaching and learning, perpetuating a culture where exam-based qualifications have largely dictated learning and teaching in the Senior Phase and, increasingly, in the earlier years of Secondary school. We are clear that, in line with the Scottish Government’s own Empowerment agenda for education, high quality learning and teaching, led by an empowered and trusted teaching profession, must be at the core of a successful education system¹⁰. The highest quality teaching and learning will be achieved by proper resourcing of education in the broadest sense which will include smaller class sizes, and more time for teachers to prepare learning and to tailor individualised feedback to learners. Qualifications are a critical part of the educational eco-system, to which teaching and learning are, of course, responsive, and which must figure large in the planning for individual learner pathways¹¹. Teachers will be wary, however, of any refreshed approach which fails to recognise the primacy of learning and teaching.

⁵ [1. The Scottish education system in context | Scotland’s Curriculum for Excellence : Into the Future | OECD iLibrary \(oecd-ilibrary.org\)](#)

⁶ https://www.nuffieldfoundation.org/wp-content/uploads/2023/02/CAPD_Main_Public_Report_final_Feb2023.pdf

⁷ [International Council of Education Advisers Third Formal Report 2021-2023 \(www.gov.scot\)](#)

⁸ [All Learners in Scotland Matter: The National Discussion on Education Final Report \(www.gov.scot\)](#)

⁹ [International Council of Education Advisers Third Formal Report 2021-2023 \(www.gov.scot\)](#)

¹⁰ [Education Governance: Next Steps: Empowering Our Teachers, Parents and Communities to Deliver Excellence and Equity for Our Children \(www.gov.scot\)](#)

¹¹ [It’s Our Future - Independent Review of Qualifications and Assessment: report - gov.scot \(www.gov.scot\)](#)

In considering the previous experience of qualifications reform in Scotland, the Hayward Report highlights the tensions apparent in the introduction of NQs later in the CFE implementation process. It is suggested that the intention – to allow schools to focus on developing the curriculum – was laudable, but that the uncertainty resulted in Secondary schools reverting to what they knew best: an exam-centred senior phase. Whilst this specific point is moot, a clear theme emerging from the report, and one which the EIS would amplify, is that, in the implementation of reform, Secondary teachers felt unsupported, uninformed and disempowered by national bodies. Whilst attending to the quotidian business of teaching and learning, including supporting cohorts of learners through the extant qualifications, they also had to contend with adapting and developing teaching and learning, whilst anticipating a suite of new qualifications which would have a material bearing on their professional practice. Requests for practical support were met with over 20,000 pages of guidance. The Hayward Report also alights on the view – which the EIS shares – that the original ambition for teachers and schools to fully engage in collaborative development of the new curriculum and qualifications had to be curtailed due to fiscal austerity¹². A reprise of such circumstances – in today’s considerably straitened circumstances – would spell disaster for reform. The EIS is clear that, in an empowered system, teachers are trusted professionals, and must be participants from the outset in the development of qualifications, and must be kept involved, informed and updated on progress. A key element of teachers’ professional practice is planning, and it is vital that teachers have as much information as possible to ensure that programmes of teaching and learning, and the delivery of qualifications are coherent. To suggest that this will inevitably result in “teaching to the test” disregards teacher professionalism. On a similar note, the planned implementation of NQs over successive years clearly did not take account of the workload implications for schools or the need for time and space to reflect; teachers’ concerns in this regard, and over the crisis which emerged in relation to unit assessments, were ignored by government and national bodies – the development and delivery of qualifications in future must learn from those mistakes.

The EIS endorses the view that qualifications should be adaptable to fit the present and future needs of learners. The modular character of many Scottish qualifications is a strength that allows specific courses of study to be configured in such a way that meets a variety of needs and which lends itself to lifelong learning. With increased numbers of learners staying in school until S6, schools are committed to building in “headroom” and opportunities for lateral progression for learners who have attained all they can via the conventional subject offer. As stated above though, such opportunities can only be exploited where centres have the capacity to deliver such flexibility. In the development and delivery of qualifications, there needs to be a renewed emphasis on the importance of such flexibility, diversity and adaptability. But there also needs to be the material resources to ensure that such flexibility is accessible to all learners who need it.

In a rapidly changing educational landscape, shaped by transformations in technology and economy, it is clear that the qualifications system must evolve to

¹² Ibid

respond to the needs of all learners and wider society. The EIS would argue, therefore, that qualifications and their make-up should be underpinned by a process of review, in which key stakeholders, including teachers and lecturers can ensure that qualifications remain relevant and fit for purpose. The SQA's decision to modify NQ course assessments by removing, reducing or amending some assessed elements was an appropriate measure to support learners and teachers in the challenging circumstances of the Covid-19 pandemic. For many teachers and learners in some subjects, such modifications also granted a welcome relief from certain assignment and coursework tasks which were viewed as onerous and of dubious utility. EIS consultation with Secondary subject specialists revealed broad consensus in some subject areas that elements of courses are deeply problematic, and despite frequently having raised concerns through school, local authority and subject professional bodies, the SQA remained tone-deaf to such concerns. The EIS is clear that an ongoing process of review is required which must take genuine account of the voices of practitioners who are delivering these courses, and learners who are taking them.

The EIS would endorse the suggestion that the range of assessment methods for NQs be broadened, in line with the recommendations of the Hayward Report.¹³ In fairness, many extant qualifications provide for a variety of modes of assessment in addition to the standard "pen and paper" but the capacity pressures on centres, in terms of class sizes, material resources and time, are such that there is little scope for teachers to exploit such opportunities or indeed to successfully accommodate a diversity of assessment modes to match the needs and preferences of individual learners. On top of such significant practical limitations, there is a deep cultural bias, reflected in the system, which favours academic achievement and which associates assessment and qualifications with exam halls and written tests. This has resulted in a situation where some assessments discourage the learning of skills they are supposed to be assessing in favour of more "assessable" skills, such as memorising, speed-reading and writing. EIS members also report circumstances where practical assessments have had "academic" elements bolted on, creating an unnecessary barrier to achievement for some learners. In devising the specific range or mix of assessment methodologies to be available in any curricular area, specific, representative subject groups should be established, enabling classroom teachers, with experience of teaching the curriculum and delivering qualifications, to be heard. Qualifications development must recognise that in many subject areas, classroom-based assessment can capture evidence reliably, and can be designed in a way that is unobtrusive, arising organically in learning. It must also militate against any propensity towards over-assessment, which teachers identified early in the initial implementation of NQs. As is pointed out by the ICEA report, teachers require to be supported in "developing their capacity in continuous assessment, and in designing, implementing and moderating assessment tools that are fit for purpose, both for internal and external examinations." They argue that this must go hand-in-hand with a reduction in the amount of external assessment to allow

¹³ [It's Our Future - Independent Review of Qualifications and Assessment: report - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/consultations-petitions/html/2019/190001.htm)

teachers, “more space and time for innovative pedagogies, deeper learning, knowledge application and skills development.”¹⁴

Account must be taken also of the experience of the Covid-19 pandemic, which revealed that the qualifications system as it currently exists in the Senior Phase – based on a small number of high-stakes examinations - lacks resilience to disruption, whether that disruption affects an individual learner or the system as a whole. We would, therefore, argue that the development of future qualifications must account for, and mitigate, this risk.

The EIS recognises that the role of digital technology in the development and delivery of qualifications, now and going forward, must be embraced. We believe the teaching profession and its representatives must be at the heart of planning and decision-making in this regard. The initial challenges posed to the education system by AI have been manifested in the requirement to protect the integrity of assessments and qualifications; the medium and longer term challenges and opportunities are, however, immeasurably more profound. The speed at which AI is developing and the scope of its application will, in all likelihood, change the nature and content of assessment and qualifications. It is likely that the future landscape will be one of constant transformation. It is essential therefore that teachers – who each day observe closely the interaction of learners with the learning and wider environment and are monitoring progress through their professional judgement – have a key voice in what needs to be an ongoing collegiate process of shaping present and future qualifications. Too often in the past, technological change has created efficiencies for others in the system but has generated additional workload for teachers at classroom level. This alone illustrates the importance of representative teacher participation at the decision-making table. Nonetheless, whilst pivoting towards the future, it is essential that present technological challenges are accounted for: currently, many schools do not have the connectivity, infrastructure or sufficient devices to allow learners – including those with additional support needs – to access existing digital assessment. In considering a near-future where digital assessment will inevitably feature strongly, the issue of digital resources and infrastructure must be addressed by government. The Hayward report, referencing a 2020 Ofqual Report on the role of IT in assessment, identifies three barriers to successful incorporation: variation in provision; implementation challenges (such as national or local implementation and mandatory or voluntary adoption) and equitable treatment of all learners.¹⁵ The EIS therefore echoes Hayward’s call for a co-ordinated and properly resourced national approach, in which teachers must be full participants.

The EIS has a view on the commercial activities of a new qualifications body - either within Scotland or beyond - only insofar that these do not impinge in any way on the operation of the qualifications system in the Scottish public education system. We are clear that Scotland’s global reputation in education is linked primarily to successful outcomes for learners, which will be maximised by a fully-resourced and empowered schools system which places teacher professionalism

¹⁴ [International Council of Education Advisers Third Formal Report 2021-2023 \(www.gov.scot\)](https://www.gov.scot/publications/education-reports/pages/14.aspx)

¹⁵ [It’s Our Future: Report of the Independent Review of Qualifications and Assessment \(www.gov.scot\)](https://www.gov.scot/publications/education-reports/pages/15.aspx)

and the voices of learners at its heart. Scottish Education's national bodies must be fully focussed on delivering the best outcomes for learners, and must be fully accountable.

Question 2: How best can we ensure that the views of our teaching professionals are taken into account appropriately within the new qualifications body, and do these proposals enable this?

The EIS welcomes the acknowledgement in this section of the consultation paper that teachers must have a greater role in the decision-making as regards a new qualifications body. This concurs with ICEA's recommendation that, "the teaching profession... should be given a more central place in the internal governance arrangements of national organisations and local structures."¹⁶ We are clear, however, that the acid test is how this commitment translates into reality and how this is framed within the Education Reform Bill. Since the 2017¹⁷ governance review, "teacher agency" and "empowerment" have been watchwords in education, yet teachers continue to be frustrated by top-down decision-making, external data demands, unresponsive national education bodies and pressure to continuously improve in an environment of rising additional support needs in our schools and unprecedented financial cuts. Secondary teachers will identify the current qualifications body as the key driver of workload in the Senior Phase and as an organisation which has been completely unresponsive to their concerns, and indeed has, in its public pronouncements, cast aspersions on teacher professionalism.

The EIS recognises the value of clear roles and responsibilities in the qualifications system, and in particular the role of a national qualifications body in summative assessment and in certificating learners. In exemplifying teachers' knowledge and expertise which is integral to the delivery of qualifications, a glaring omission in the consultation paper is the role teachers play in assessment. Formative and summative assessment are cornerstones of teachers' professional practice at all levels of the curriculum, including coursework and assignments for National Qualifications, a fact attested to by the SQA's reliance on teachers to deliver its core functions, and by Hayward's vision of a qualifications system in which classroom-based assessment will feature strongly. It is remiss of the consultation paper to fail to acknowledge this, as it contributes to an emerging narrative that specialism in assessment is the preserve of a national qualifications body which should not be questioned.

We would note also that approximately 8,000 teachers currently support the development and delivery of qualifications in their work for the SQA. This is a benefit to the whole system which creates invaluable channels of professional learning and networking. That said, a new approach to the development and delivery of qualifications must ensure that there is consistency, equity and geographical balance in teachers' opportunities to benefit directly or indirectly

¹⁶ [Supporting documents - International Council of Education Advisers: third report 2021-2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents-international-council-of-education-advisers-third-report-2021-2023)

¹⁷ [Education Governance: Next Steps: Empowering Our Teachers, Parents and Communities to Deliver Excellence and Equity for Our Children \(www.gov.scot\)](https://www.gov.scot/education-governance-next-steps-empowering-our-teachers-parents-and-communities-to-deliver-excellence-and-equity-for-our-children)

from partnership working with the qualifications body. For example, some EIS members have reported during the 2021 Alternative Certification Model that the quality and quantity of moderation activities corresponded to the number of SQA markers in their locale. A fresh approach would also need to ensure that proper resourcing is in place so that schools could accommodate the release of such staff without backfill issues generating additional workload.

The EIS welcomed wholeheartedly Professor Muir's recommendation that a new qualifications body had to have greater representation from, and accountability to, the teaching profession in its governance.¹⁸ This was, in the EIS's view, a recognition that the SQA has become distant from, and unresponsive to, the professional viewpoints of teachers, and that this failure had contributed significantly to the difficulties experienced in the Senior Phase. These reached their nadir in the 2020 Alternative Certification Model, which required decisive political intervention.¹⁹ The EIS is clear that in an empowered system, as Scotland's claims to be, the genuine participation of teaching professionals in governance at all levels is essential. With regard to the new qualifications body specifically, the EIS believes there should be teacher trade union representation as a permanent feature in its governance structures to ensure that the teacher voice is central to the decision-making function. This is essential if the "greater sense of ownership of educational policy and greater sensitivity to the realities of implementation," envisaged by ICEA is to be achieved, with a view to "embedding responsibility for the quality of educational experience in schools and classrooms."²⁰

The EIS's support for these outline proposals for an oversight Board, featuring teacher representation and a dedicated advisory Committee will depend upon the extent to which they can achieve this aim. Teachers will require more detailed information on the specific remit and constitution of each body, and of the relationship between the two. To be clear, the EIS will not accept a situation where, once again, the professional voice is merely "advisory" with this voice ignored when decisions affecting teachers, learners and the wider system are made. To that end, the decision-making structures must provide for channels of accountability where such a Committee has recourse to challenge Board decisions. Further information about the statutory role which the Committee will play in governance arrangements, and how this will differ from the current SQA Advisory Committee, would be welcome.

The EIS welcomes the proposal for the Board to include teachers and lecturers, but whether the current proposal, "at least one teacher and one college lecturer" is sufficient depends upon the wider composition of the Board and the roles and voting powers attributed to each member. If teachers and lecturers are in the minority of a larger Board, then they will not play the central role in governance as envisaged in the Muir Report or as purported in the consultation document. If the current performativity culture is to change, we would recommend the adoption

¹⁸ [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/putting-learners-at-the-centre-towards-a-future-vision-for-scottish-education/pages/10-to-12.aspx)

¹⁹ [Coronavirus \(COVID-19\) - replacement of National Qualifications exams in 2021 session: child rights and wellbeing impact assessment - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19-replacement-of-national-qualifications-exams-in-2021-session-child-rights-and-wellbeing-impact-assessment/pages/10-to-12.aspx)

²⁰ [Supporting documents - International Council of Education Advisers: third report 2021-2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/supporting-documents-international-council-of-education-advisers-third-report-2021-2023/pages/10-to-12.aspx)

of a robust structure of governance, such as that of GTCS Council, where teacher and lecturer voice is truly represented.

Furthermore, governance processes should ensure that teacher and lecturer membership on both the Board and the Committee are genuinely and democratically representative of the voices of the profession. Professional Associations (in the EIS's case, representing over 65,000 teachers and lecturers, in all sectors and at all career levels) have carefully considered positions based on democratically agreed policy, proper research and structured member consultation. Within the consultation document, the reference to "individuals.. with current practical experience of providing learning and teaching for a qualification" is alarming in its neglect of this context. To be clear, teachers require a representative, collective voice, not an atomisation of their experiences.

The EIS strongly endorses the aim for the new qualifications body to communicate effectively and transparently with teachers and to be accountable to them. A Charter, as proposed, may be a mechanism of formalising this and embedding a more collegiate culture within what has been a tested relationship. Notwithstanding the proposal's recognition of "collaboration," as currently phrased, the Charter appears to originate in the new qualifications body; we would argue that a much more co-created approach would be appropriate. This could identify the specific problems that teachers believe currently exist- such as circulation of information, navigation of websites, timelines and bureaucracy, provision for learners with for ASN etc. - and afford an opportunity for genuine collegiate discussion in moving forward in a responsive and solution-focused manner. However, much would depend on the status of the Charter, its ability to influence and deliver change and the willingness of the new qualifications body to commit to meaningful engagement and communication.

We note that although the consultation document refers to a previous acceptance by the Scottish Government of Professor Muir's recommendation that the new qualifications body be established as a Non-Department Public Body, it does not provide further detail about its operation or accountability arrangements. We would welcome greater clarity in this regard and would argue that it should be truly independent of government.

Question 3: How best can we ensure that the views of pupils, students and other learners are appropriately represented within the new qualifications body, and do these proposals enable this?

Listening to and taking into account the voices of learners is embedded in the professional standards of all teachers in Scotland.²¹ The EIS agrees with the sentiments of the consultation paper that learners should have greater involvement in decisions affecting their education and specifically, in how qualifications are developed and delivered. We would recall that the political intervention to over-rule the SQA's approach to certification in 2020 was occasioned, in large part, by learners, outraged at the perception that their

²¹ [Professional Values - The General Teaching Council for Scotland \(gtcs.org.uk\)](https://www.gtcs.org.uk/professional-values)

individual achievements were being nullified by a faceless algorithm.²² We would further highlight the pressure and stress placed upon learners (and teachers) the following year, when the 2021 Alternative Certification Model generated a tsunami of “exams in all but name,” which brought to the fore the wider issues of the health and well-being impacts and the counter-educational effects of a high-stakes approach to qualifications.

Undeniably, qualifications are important to young people and to society, as stated in the consultation paper, but if we want to change the high-stakes culture around qualifications, we must change the language to reflect the fact that qualifications are but one part of learners’ education and that not all learners’ life choices are determined by qualifications. Further, in capturing the voices of learners, it is critical that they are representative of the whole gamut of experiences and that the necessary steps are taken to enable a genuine diversity, as opposed to reinforcing participation by those for whom the current system works. The examples given in this section of the consultation, for instance, do not mention learners with Additional Support Needs who now constitute 34% of all learners in our schools. Some of these learners have very specific requirements which must be heard. The Institute would echo, therefore, the ICEA report’s recommendation to “develop additional mechanisms” to ensure the voices of children, young people and communities, with particular attention to those “experiencing the greatest challenges,” can be heard and effect change.²³ We would also reinforce the ICEA’s call for parents, carers and families – as well as learners themselves – to have a strong understanding of the opportunities and learning pathways available for them.²⁴ The recent “Choice, Attainment and Positive Destinations” report highlighted a counter-educational culture whereby schools, geared to boosting attainment data and restricted by a narrowing curriculum and depleted resources, placed learners in courses to which they were poorly suited. Whilst this is concerning in itself, more worrying is that some learners and their families were unaware of the impact on their future progression.²⁵

The EIS strongly endorses the aim for the new qualifications body to communicate effectively and transparently with learners and to be accountable to them. Should a Charter, as proposed, be developed, the EIS would support a collaborative approach with users. We would also expect teachers’ participation in this process, as teachers are also “advocates” for learners, whose professional practice encompasses children’s rights. Moreover, teachers would require to understand the precise status of such a Charter and the extent to which it would impinge upon their practice in delivering qualifications. For example, where such a Charter establishes a mutuality of expectations between learners and the system, teachers would require a clear understanding of their role in that relationship and the material requirements for such expectations to be met within a school and college context.

²² [SQA results - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/04/SQA_results_-_gov.scot_(www.gov.scot).pdf)

²³ [International Council of Education Advisers Third Formal Report 2021-2023 \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/04/International_Council_of_Education_Advisers_Third_Formal_Report_2021-2023_(www.gov.scot).pdf)

²⁴ Ibid.

²⁵ Choice, Attainment and Positive Destinations: Exploring the impact of curriculum policy change on young people (nuffieldfoundation.org)

In a broader sense, we would echo the calls in the Third ICEA report for “a commonly agreed clear definition for what ‘equity in education’ actually means”²⁶, especially in relation to inclusion and well-being across the system, including in qualifications. Without such an understanding, there is a risk that the system continues to focus on a narrow band of attainment data in relation to the “attainment gap” and neglects to consider the multi-faceted aspects of equity in learners’ educational experiences, including the individual and social aspects of equity.

Question 4: How can we ensure qualifications being offered in Scotland are reliable, of a high standard and fit for purpose?

The EIS recognises the importance of the Scottish qualifications system being ‘trusted and respected by all’ and the central role which accreditation and regulation play in maintaining high standards of qualifications in Scotland.

Indeed, the current processes of accreditation and regulation have been the subject of debate throughout the Education Reform reviews conducted over the last three years, with recommendations being made to disarticulate these functions from the qualifications body.

The OECD acknowledged the concerns which many stakeholders had expressed, stating that it was not appropriate for both functions to be carried out by a single body. Ultimately, it suggested that:

‘consideration should be given to a separate body that might be responsible for the regulation and quality of qualifications which is currently part of the remit of the Scottish Qualifications Authority (SQA)’²⁷.

In endorsing the OECD’s recommendation, Professor Muir went further, citing the need to restore trust and confidence of the public, practitioners and learners in a revitalised single qualifications body, saying:

‘When taken together with what many saw as the organisation’s poor record of communication and ineffective engagement with the teaching profession, it was suggested that allowing SQA to ‘mark its own homework’ in this way further called into question its credibility ... Separating the SQA’s functions will help ensure that the proposed qualifications, examination and awarding body is able to give increased attention to those functions.’²⁸

Despite the recommendations emerging from these two independent review reports, the Scottish Government has not only rejected the need for separation but is proposing, in the consultation paper, to extend the remit of the new body to include the accreditation and regulation of ‘those awarding bodies, offering qualifications in Scotland (apart from university degrees)’.²⁹ There is evident tension in this proposal which is reflected in the consultation paper’s determination

²⁶ [International Council of Education Advisers Third Formal Report 2021-2023 \(www.gov.scot\)](http://www.gov.scot)

²⁷ [Scotland’s Curriculum for Excellence: Into the Future | en | OECD](http://www.gov.scot) (page 123)

²⁸ [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](http://www.gov.scot)

²⁹ [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](http://www.gov.scot)

that separation and independence will be “emphasised and strengthened through specific governance measures.”³⁰ However, there is insufficient detail outlined in the consultation to assess the robustness of governance arrangements proposed and whether they can ensure transparency, equity and fairness in the discharge of these functions.

In framing governance arrangements, which will build trust and be seen as credible, it is not only important that they ensure independence but that they are perceived as doing so. In considering the measures which have been outlined, we would question how they will achieve this aim. Reference is made to a ministerially appointed Convener having the remit to lead the Accreditation and Regulation Committee (‘ARC’) whilst advising Ministers and having the requirement to be accountable and to report. How can this be perceived as independent of government? To whom will the Convener be accountable? Furthermore, the consultation does not explain the interface between the ARC and the Board of the new qualifications agency. If the Board will oversee the qualifications agency, then will the ARC report to the Board? If so, how can the ARC be said to be truly independent and how will the accreditation and regulation function be discharged in relation to the awarding section of the new body? What would happen if the ARC had concerns about the standards being applied by the awarding section in relation to qualifications? What powers would it have to intervene and how can there be complete confidence in the parity of all providers and the independence of the decisions taken in accrediting all qualifications? Given the close relationship potentially between the Board and the ARC, there is the clear potential for conflict of interest. If the ARC does not report to the Board, then what body will provide oversight? The consultation document is silent on these important issues, which makes a meaningful assessment of the proposed governance structures impossible to conclude.

It is unclear to the EIS why alternatives to this proposal, such as the creation of an independent, standalone body, which may inspire more confidence, do not appear to have been considered. We would urge the Scottish Government to reconsider its decision in this regard, particularly if it intends to extend the remit of the accreditation and regulatory function as proposed.

Question 5: How do you think the qualifications body can best work with others across the education and skills system to deliver better outcomes for all?

The EIS supports Professor Muir’s recommendation that a revised vision for Scottish education requires collaboration and alignment across the system by government and other national bodies, and that meaningful engagement with all stakeholders is a foundational principle of education reform.³¹ A source of frustration for EIS members since the inception of CfE has been the perception that the two national organisations with key influence over the work of schools, Education Scotland and the SQA, did not appear to “speak” to each other, as is evidenced by the perceived disconnect between Secondary BGE and the Senior Phase. Further, teachers will be hopeful that a new qualifications body and a new

³⁰ [A Consultation on the provisions of the Education Bill \(www.gov.scot\)](http://www.gov.scot)

³¹ [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](http://www.gov.scot)

national education body will be more receptive to the views of teachers than their predecessors.

The EIS recognises too the importance of a joined-up approach to education, skills and work, which is important in building a prosperous and economically-just society. The EIS believes, however, that such an approach is not about organisational structures alone but must be underpinned by a broad and inclusive consensus as to the purposes and value of learning, centred on the needs of learners within a cohesive, just society. A new qualifications body therefore must be engaged with all relevant stakeholders, whilst retaining a clear and distinct role. The EIS notes, however, that the consultation paper's consideration of a holistic system, tends to subsume – as did the Withers Review to which it refers - education within a wider context of skills (as if there is a division) and economy. We are clear that the education system should be driven by decisions centred on learners in the context of the four capacities, and that qualifications should be developed and delivered in that context. We would reiterate that, notwithstanding the desire for a holistic system, national bodies should have clearly defined roles and responsibilities and, whilst being accountable within the context of a democracy, should be free from undue political interference and external ideological imperatives. Teachers will require reassurance that all national bodies, including the qualifications body, desist from the type of "mission creep" where such organisations unduly interfere in professional matters relating to teaching and learning.

In terms of the specific proposals in this section, a revised model of the Advisory Council, alongside the structures mentioned earlier, will provide scope for wider views to be captured. The commitments detailed in this section in relation to equity of access, efficient communications and joint working are welcomed by the EIS, but teachers will require to see how these commitments translate into practice, as these areas have been sources of frustration for teachers for some time. The EIS welcomes the commitment to Fair Work for staff and believes that the values underpinning Fair Work should permeate the work of the new organisation in all its aspects.

Question 6: Do you agree or disagree with the purposes set out? Is there in addition anything you would like to see included?

The EIS would strongly qualify its agreement to the three purposes set out by stating that the current practice of Inspection takes a narrowly reductive approach to public accountability and assurance in terms of the quality of education. We dispute strongly the notion that public accountability and assurance must translate to the grading of school inspections and the current practice of publishing inspection reports (available online for five years) which actually undermines and hinders the second stated purpose of inspection. Moreover, given the conflicting, inconsistent and often confusing feedback received by schools and teachers from inspection – often based on decontextualised and misleading attainment data – we would question the extent to which the current inspection regime achieves the third purpose effectively.

It is telling that “accountability” is prioritised in the purposes referenced in the consultation: this chimes with teachers’ experiences of inspection as solely an external accountability check which is alienating, disempowering and distressing. Indeed, it is seen as the apex of a high-stakes culture of accountability which is less about sharing good practice and more about being told what to do to “improve.” This is emblematic of a system which, despite the claims to be empowering, distrusts teacher professionalism and elevates business models of accountability and quality assurance which are ill-suited to the varied and complex milieux of teaching and learning. We would suggest that the current purposes are re-framed in a context which is based on teacher-professionalism and empowerment and system-wide collaboration with a foregrounded purpose of evaluating teaching and learning to support any change processes that are required.

A change of language away from the deficit model adopted in the purposes referenced which focuses on improvement, rather than development, would also be helpful in driving the culture change needed to support these efforts. We need to *improve* resources, to *improve* support, to *improve* working conditions, to *improve* opportunities and time for teachers to engage effectively in professional learning. Those improvements will support the *development* of teaching and learning.

Question 7: Do you agree or disagree with the range of establishments to be inspected by HM Inspectors of Education? Is there anything you would change?

Subject to the Institute’s comments in relation to the future of inspections and the approach which we advocate, the Institute would agree with the range of establishments to be covered by the process.

Question 8: Do you have any specific comments on the role of the inspectorate of education in the inspection of publicly funded colleges, initial teacher education, early learning and childcare and / or modern apprenticeships?

The EIS would extend the comments and general themes made in relation to the imperative for culture change in relation to the current inspection model in this response to the contexts mentioned in this section.

In relation to the inspection of Early Learning and Childcare (‘ELC’) settings, the Muir Review was clear that this sector is ‘disproportionately subject to external accountability’ as a result of being inspected both by Education Scotland and the Care Inspectorate. The concerns highlighted by Muir in this regard resonate strongly with the feedback we have received from members working in Early Years settings, who cite increased levels of workload, bureaucracy and stress arising from the dual inspection process. The EIS has advocated for urgent action to streamline scrutiny in Early Years to ensure that where possible, consideration is given to joint visits, avoiding the duplication of inspection and the consequential additional stress for teachers, Early Years practitioners and staff.

We note that a draft joint inspection framework is currently being consulted upon and we are preparing a response in this regard. We are clear that the joint frameworks must change current practice, reducing bureaucracy and workload. Crucially, the framework must be ambitious in its endeavours to lead culture change. From an initial consideration of the draft framework, we are concerned that we do not see evidence of the much-needed departure from top-down accountability approaches based on scores and ratings, to one which recognises teacher/practitioner voice and is built on professional trust, collegiality, respect and Empowerment. A full response to this separate consultation will be submitted, however, with more detailed commentary.

Question 9: Do you agree or disagree with the priorities set out? Is there anything in addition that you would like to see inspection cover?

Whilst the priority issues set out in the proposal are valid, there is a complete lack of detail - in the sense of specific improvements to the operation of inspections - on how these priority issues will be addressed in order to improve the operation and impact of inspection in the education system. The EIS is clear that teachers do not deem inspections to be generally helpful in supporting schools or colleges in relation to curriculum or assessment – or any other aspect of education delivery. This is reflected in chapter 10 of Professor Muir’s report where he acknowledges the widely shared practitioner view that “the approach to inspections (and general inspection ethos) is in need of fundamental review and change to make it more supportive, creative and formative.”³² The EIS would propose that improvement to the current system must begin by recognising the profession’s lack of confidence in these arrangements and must then explore concrete actions that will improve ethos and culture.

Despite efforts to the contrary, the purposes of inspection are disproportionately focussed on a top-down accountability agenda, which, disappointingly, is reflected in the present consultation document. For teachers, school inspection, as currently configured, is not an opportunity for empowered professionals to undergo collaborative self-evaluation and reflection with a view to developing, and sharing good practice; rather it is a period of massive disruption to the normal business of teaching and learning; a prolonged period of physical and psychological stress triggered by inspection-related workload and top-down external scrutiny; and a fear of the consequences of failure, in the knowledge that schools who “fail” or are deemed “satisfactory” are publicly pilloried and suffer long-term reputational damage. Teachers will view the aspiration to “ensure the involvement of teachers and others...in inspections”³³ as vacuous tokenism unless there are specific actions put in place to address, in both practice and culture, this disempowering and demoralising process. ICEA has argued previously for “shifting the ownership of change,” and states that, given the need for cultural change in a climate of austerity, this focus is more important than ever.”³⁴ It is difficult to see how that

³² [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/putting-learners-at-the-centre-towards-a-future-vision-for-scottish-education/pages/100-109.aspx)

³³ [A Consultation on the provisions of the Education Bill \(www.gov.scot\)](https://www.gov.scot/publications/a-consultation-on-the-provisions-of-the-education-bill/pages/100-109.aspx)

³⁴ [Supporting documents - International Council of Education Advisers: third report 2021-2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/supporting-documents-international-council-of-education-advisers-third-report-2021-2023/pages/100-109.aspx)

shift can be achieved in a system that remains fundamentally and disproportionately focussed on top-down accountability and external scrutiny.

It is telling that for many schools, collaborative development activity revolves around preparation for inspection with staff meetings and collaborative time taken up with management-led focus on the HGIOS 4 improvement framework, rather than a direct focus on improving teaching, learning and well-being. Such hyper-vigilance – the need to be constantly “inspection-ready” – is the hallmark of a dysfunctional education system driven by external data-demands and top-down accountability measures derived from business, and runs counter to the vision and aims of CfE. EIS members report that school improvement priorities are increasingly crowded out by localised “mini-inspections,” “departmental spotlights” and “HGIOS QI deep-dives.” Rarely are these aligned with or embedded in schools’ collegiately-devised strategic improvement planning; usually, they are obtrusive and reactive, and speak of a crisis of confidence in the system where practitioners and leaders feel scrutiny is inflicted upon them by management who, in turn, have enormous pressure of “accountability” placed upon them from without. EIS members state that the language of HGIOS is completely removed from their experience as practitioners with the result that the documentation lacks relevance, meaning and impact in supporting practice, so that the above activities are largely pointless from a teaching and learning perspective. The underpinning framework of Inspection is regarded as a disempowering, top-down scrutiny tool which encourages performativity and cynical compliance, and which sits uneasily with a curriculum that is purportedly built from the bottom-up.

EIS members attest that inspection itself is invariably preceded by a school-level frenzy of activity which creates significant disruption to teaching and learning, and which generates significant additional workload for teachers and school leaders who often have to work over school holidays in order to prepare. Notwithstanding Education Scotland’s attempts to promote inspections as collaborative and geared towards improvement-capacity building, the lived experience of teachers and school leaders, evidenced in innumerable EIS member consultations and surveys, is that inspection is a high-stakes activity, where the “fear of failure” creates a considerable degree of stress on individuals and on teams. Many local authorities put considerable effort into supporting schools through inspection, but often, and inadvertently, this contributes to the workload and stress involved, with the aim being to drill schools in the inspection process through “dry-runs” with a view to ensuring that, for the school, there is no further engagement with the inspection process.

The Institute continues to challenge - in the strongest possible terms - Education Scotland’s scoring and labelling of schools in the course of inspection. Rather than allowing schools to approach improvement priorities in an ethos of confidence and collaboration, this practice fosters an ethos of competition, a fear of failure and encourages misinformation to be spread abroad about how schools are going about their work. Inspection processes encompass data such as attainment figures whose reliability and validity in terms of gauging accurately how well a school performs in its varied and complex functions, are variable to say the least.

Publicly reporting school performance in such reductive terms is demoralising and dispiriting for school staff, for learners and for school communities. Politicians and Education Scotland officials are well aware of the devastating impact on schools – often schools working in the most challenging of circumstances – which are castigated in the media following Inspection outcomes. Yet the same politicians and officials take no action to protect school communities, staff and learners from such impacts. It is a distorted notion of “public accountability and assurance” that takes such a “punitive”³⁵ approach to entire learning communities, and it is hard to see how genuine and sustainable improvement can be driven in an environment of demoralisation and stigma. The EIS notes how, in some of the best performing educational jurisdictions internationally, inspection evidence is used as an internal professional tool to build improvement within the system.

EIS members, including Headteachers, report that a key factor in the outcome of Inspection is the extent to which school leaders, and their supporters in local authority centres, have experience of the process and know how to meet its requirements. Whilst this is indicative of the scope for performativity and compliance inherent in the present system – that is, the ability for the demands of the inspection to be met, rather than to actually demonstrated capacity to improve teaching and learning – it also highlights the capacity for inconsistency and inequity on a local, regional and national basis and further calls into question the extent to which the current arrangements can provide information that will usefully inform practice and policy.

Question 10: Do you have a view on these options for establishing the new approach to inspection?

The EIS would favour the introduction of legislation to establish the role of ‘HM Chief Inspector of Education for Scotland’ in law as an independent officeholder. This reflects the recommendation in the Muir Review and is necessary to ensure that the new Inspectorate will be truly independent of government.

The other option proposed in the consultation document would retain existing legislative provisions, with the power to ‘cause’³⁶ inspections and plan the cycle of inspections lying with the Scottish Government. The inspectorate under this model would remain directly accountable to and funded by the Scottish Government. The EIS is clear that this would dilute the independence of the new body, further the perception that the Scottish Government is seeking to maintain arms-length control over the inspection function and would do little to affect the culture change which is so urgently needed to the inspection and scrutiny process and is outlined above.

Question 11: Do you have a view on how governance arrangements for the inspectorate could be developed to better involve providers, including teachers and other practitioners, pupils and students and parents / carers in inspection?

³⁵ [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](http://www.gov.scot/putting-learners-at-the-centre-towards-a-future-vision-for-scottish-education)

³⁶ Section 66 of the Education (Scotland) Act 1980

In addition to having its independence enshrined in legislation, the Muir Review was clear that the governance arrangements for the new inspection body should reflect this independence. To that end, funding arrangements, reporting functions and staffing must all be distinct from government. The inspectorate must be free to plan how and when it will discharge its functions, reporting directly to the Scottish Parliament.

As part of the recommendations for reform, Muir referred to the 'possibility of relevant stakeholders being involved in the governance of the new body'. He indicated that this would support the drive towards Empowerment with a strong focus on self-evaluation and teacher voice.

In accepting Prof Muir's recommendations on the need for an independent Inspectorate, the Scottish Government said that the new body will operate 'a supportive inspection system to foster improvement across education settings, facilitating a trusting environment between our national agencies and our learning institutions'.

This aligns to a large extent with the principles underpinning the EIS's vision of inspection. The EIS would wish to see the emergence from co-creation, of a model of practitioner-led evaluation that features professional collaboration and learning across settings, with time invested to facilitate a more collegiate approach, for peer review, and for reflection on the outcomes of such collaboration, and to support any change processes that are required. Such a model would be founded on the premise that trust in teacher professional judgement extends to the improvement agenda, also and that teachers as inhabitants of school communities are best-placed to work with learners, parents and other stakeholders within their communities, and colleagues outwith, to determine the priorities and the best means of achieving associated objectives. Where they judge it necessary, schools should be able to seek assistance in going about their work from national agencies.

In line with this vision, we believe that teacher voice should be represented by the inclusion of the professional associations in the composition of the Board which will govern the new Inspectorate. Although the consultation asserts that it is critical to public confidence that 'decision-making within the inspectorate is not unduly influenced by those it inspects', the Institute would challenge this statement which reinforces top-down accountability driven inspection processes associated with the current system. We would instead advocate a more collegiate approach to quality assurance, adopting the approach, outlined by Professors Carol Campbell and Alma Harris, of 'human-centred educational improvement'³⁷ with 'the education profession leading the way forward with professional expertise and judgement informing decisions and actions'.

It is disappointing that the consultation proposes a very limited model of stakeholder engagement through the creation of an Advisory Council. We do not believe that this provides meaningful engagement in the governance of the new body. Although a legislative duty could be placed on the Chief Inspector requiring them 'to have regard to' any advice provided by the Council, it is clear that the

³⁷ [All Learners in Scotland Matter: The National Discussion on Education Final Report \(www.gov.scot\)](http://www.gov.scot)

Chief Inspector would not be obliged to follow the advice given. If the Scottish Government is committed to delivering meaningful change to the inspection process, more radical reform is necessary. We would suggest a governance model, similar to that of GTCS Council, which is truly independent of government and includes representation from teachers and other stakeholders in the governance arrangements.

Question 12: Do you have a view on how we make sure evidence from inspections is being used as fully as possible to drive improvement and inform policy and on who the inspectorate should report to

The EIS asserts that inspection, in the context of an Empowered system, is an outdated model for educational improvement. It is costly, in terms of resource and in terms of the time lost to teaching and learning, and it is of very limited value in supporting accurate self-evaluation and informing professional practice. It frequently fails to get to the heart of a school's endeavour to serve the needs of its community. Teachers will be frustrated at the lack of ambition shown in these proposals. They are told they work in an empowered system which is poised for radical change for the future; yet they will continue to be subjected to an antiquated and disempowering process of top-down accountability which is culturally specific and for which there is scarce evidence of positive impact.³⁸ The ICEA has recommended "leadership approaches that emphasise distributed responsibility and engagement, professional judgment and agency, robust collaborative professionalism, local energy and ownership leading school improvement and continued learning by school leadership and the teaching profession."³⁹ The EIS believes that school inspection, as currently operated, does not achieve this, but moreover, contributes to a culture which militates against this.

³⁸https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/905496/School_improvement_systems_in_high_performing_countries.pdf

³⁹ [Supporting documents - International Council of Education Advisers: third report 2021-2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents-international-council-of-education-advisers-third-report-2021-2023)