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Scotland's largest
and most effective
education trade union

AGM

2016 | Dundee
9-11 June

**Policy Papers Relating
to Minutes of Council 2015-2016**

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Equality Papers

Salaries Committee

EIS RESPONSES TO TRADE UNION BILL CONSULTATIONS

Consultation on tackling intimidation of non-striking workers:

Question 1:

Most of this consultation focuses on specific proposals. Before turning to this detail, do you have any other evidence of intimidatory behaviour, directed either at non-striking or striking workers, that you believe should be considered as part of this consultation? If so, do you have any estimate of the economic impact of this?

We have no evidence of incidences of intimidation or unlawful behaviour occurring at any of our picket lines. We issue clear guidance on the rules of picketing and our members abide by these and are respectful and courteous at all times.

Question 2:

The Government is interested in whether there are any further gaps in the legal framework (see Box 1 on page 5) in relation to intimidation of non-striking workers and third parties. How could the framework be strengthened - for example, should there be a new criminal offence, such as for intimidation on the picket line?

We believe that existing provisions (ordinary Scottish Criminal Law and TULCRA) are sufficient to deal with all and any incidents that could occur on picket lines. We would again make clear that there is no evidence to suggest such issues arising in Scotland.

Question 3:

The Government is legislating to make a number of key aspects of the Code legally enforceable, such as the appointment of a picketing supervisor. Are there other practices that should be directly legally enforceable - for example, training or a requirement for all pickets to be properly identifiable in the same way as the supervisor? Please explain your views.

We believe that the proposals are unnecessary and unhelpful.

Question 4:

Do you have any figures that would enable us to estimate any costs to unions generated by making aspects of the Code legally enforceable?

We do not believe that this step is necessary and have not seen any evidence of the benefits it would bring.

The potential impact and pressure on those undertaking strike actions and we believe it will be detrimental to individual workers and to unions.

Question 5:

What are your views on the Government's proposal to require unions to publish their plans? What information should unions be required to provide? Please set out the reasons for your answer.

It is a further strap on the strait jacket the Government is attempting apply to trade unions.

Question 6:

Do you have any figures that would enable us to improve the estimates in the Impact Assessment of the cost to unions of publishing their plans?

It is not the financial costs of publishing that are the issue. The further constraint this places upon unions in terms of developing strategy and conducting effective industrial action is the issue.

Question 7:

What are your views on the Government's proposal to strengthen accountability?

Unions are democratic and accountable to their membership. This bill is in our view politically motivated and designed to attempt to undermine trade union autonomy and free collective bargaining.

Question 8:

Do you have any other suggestions how union accountability and/or transparency could be improved?

We do not accept the premise of this question. We are a democratic, representative organisation and our decisions, finances and actions are appropriately open and transparent.

Question 10:

How should the Code be updated to be more useful for parties affected by industrial disputes? Please explain your answer.

We work with in the existing Code and we do not believe that any of our suggestions for improvement would be accepted by the current Government.

Hiring agency staff during strike action: reforming regulation response form

Question 1

a) i) How do you think the removal of Regulation 7 would affect employment businesses?

We support the STUC view that this could lead to the establishment or agencies specialising in strike breaking. We do not believe that such agency provision would be able to be effectively used in to substitute for Scottish teachers given the legislative and regulatory requirements on the profession and the lack of supply staff currently in the system.

i) How do you think the removal of Regulation 7 would affect work-seekers?

Temporary teaching staff who are not union members may be placed in difficult positions and would not wish to be directed to cover for colleagues engaged in industrial action.

d) ii) Please explain briefly what you think the impact will be on employees taking part in industrial action?

We believe that his will have a negative impact on industrial relations within organisations and could escalate disputes.

e) ii) Please explain briefly what you think the impact will be on the wider economy and society?

It is a negative message that it is acceptable to undermine the effectiveness of workers' rights to take industrial action in this way. The practicalities of implementing this in the public sector have not been considered. It is our view that this would be an unworkable provision for the replacement of teachers or lecturers who are engaging in industrial action.

Consultation on ballot thresholds in important public services:

Question 1 (referring to paragraphs 1 through to 13)

Do you agree these are the key impacts industrial action would have in these sectors? Why / why not?

As the leading Education Trade Union in Scotland we are responding to this consultation in the context of Scottish Education.

c) Education services

Strike action by teachers does have an impact on schools but strike action is action not lightly considered and has not been taken in by EIS members since 2011. This was a one-day strike which was well supported by EIS members in defence of their pensions.

We believe teachers should have the same rights as other workers and that additional threshold requirements are not necessary or appropriate.

Question 3.

What factors do you think are important in defining 'important public services'? (Referring to paragraphs 14 through to 16)

We do not believe that there should be further legislation or regulation of trade union activities.

c) Do you agree these are occupations and functions in education services the Government should consider when defining those subject to the 40% important public services threshold? When answering please consider those key in avoiding the adverse impacts discussed above.

We do not believe that teachers or educational services should be included in this definition or subject to an additional threshold.

Education services:

No workers in this sector should be subject to the threshold.

Question 10. (Referring to paragraphs 22 through to 24)Do you agree with the Government's proposed approach to private sector workers? Why / Why not?

No, we do not believe that further regulation is helpful or would improve industrial relations.

Do you have any other comments that might aid the consultation process as a whole?

We fully support the TUC and STUC submissions on this Bill. We oppose further constraints on the right to strike and the introduction of additional barriers to the operation of trade unions.

THE EDUCATIONAL INSTITUTE OF SCOTLAND

SUBMISSION ON THE EDUCATION (SCOTLAND) BILL 2015

Introduction

The Educational Institute of Scotland (EIS) welcomes this opportunity to provide an initial written submission on the key elements which are included in the new Education (Scotland) Bill. The EIS is Scotland's largest education union representing around 55,000 members employed in Nursery, Primary, Special, Secondary, Further and Higher Education (around 80% of the teaching profession).

The aims of the bill are outlined in a policy memorandum and are defined as follows:

a) "Promote equity of attainment for disadvantaged children and take steps towards narrowing the attainment gap by imposing duties on education authorities and the Scottish Ministers in relation to reducing pupils' inequalities of educational outcome together with a duty to report on progress;

b) Place a duty on education authorities both to assess the need for Gaelic medium primary education following a parental request and to actively promote and support Gaelic medium education (GME) and Gaelic learner education; the Bill will also place a duty on Bòrd na Gàidhlig to prepare guidance on how GME should operate in Scotland;

c) Extend rights under the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) to children aged 12 and over with capacity;

d) Amend section 53 of the Education (Scotland) Act 1980, which sets out the provision for school food in Scotland. This section has been amended a number of times since enactment and it is considered that the section would benefit from restatement;

e) Modify the types of complaints made to Ministers under section 70 of the Education (Scotland) Act 1980, and introduce a power to make regulations about the procedure to be followed in relation to investigations and determination of such complaints;

f) Legislate for the role of Chief Education Officer in education authorities in Scotland;

g) Modify the powers of the Scottish Ministers to make regulations in relation to independent schools and grant-aided schools in Scotland so they are exercisable in such a way as to ensure all teaching staff are registered with the General Teaching Council for Scotland; and

h) Amend section 47(3) of the Children and Young People (Scotland) Act 2014 as it currently unintentionally excludes a small group of children from the early learning and childcare provisions."

In direct response to the Committee's questions the Institute provides the following responses.

<u>Attainment</u>

1. The EIS believes that the introduction of the Bill alone will not deliver significant change in reducing inequalities of educational outcome or impact greatly on the attainment gap created by socio-economic inequality, as it creates duties but fails to link those to discernible means to secure the desired outcome. The EIS is in favour of ring-fenced funding linked to specific objectives as a means of driving forward policy aims in a meaningful way.

   A desirable level of improvement would be a significant narrowing in the existing attainment gap, which saw a 50% reduction over the life of the next Parliament.

2. No. To be only required to "have regard to the desirability" of reducing inequalities of outcome" does not have the same impact as a duty requiring direct measures. There is ambiguity as to the extent of the measures that should be taken. No one in Scottish Education would dispute the desirability of reducing inequality but without providing the means government runs the risk of making pious statements.

3. It would be helpful to provide a definition of what is meant by "inequalities of outcome". Please also see our answer to question 6 (below) for further explanation.

4. The EIS is of the view that education authorities at present have the mechanisms and structures to support actions that are aimed at tackling inequalities of outcome but the resources available for this have been a limiting factor, e.g. smaller class sizes, as Scottish Government has acknowledged, can contribute significantly to reducing inequality of outcome but this requires expenditure. Without increased resources the actions necessary will not happen.

5. The addition of equity of attainment duty would fit with existing statutory National Priorities for Education and requirements to produce annual statements of improvement objectives and school development plans. However, the EIS would have concerns if this addition placed additional bureaucratic burdens on head teachers,

teachers and schools. The placing of this duty in primary legislation, rather than amendment of The Education (National Priorities)(Scotland) Order 2000, is welcomed if the greater accountability from the requirement for education authorities to report to the Scottish Ministers, and the Scottish Ministers to report to the Scottish Parliament is realised. The ongoing duty to consider steps to address inequalities of educational outcome is also welcomed.

6. The terms used within Policy Memorandum and the Bill itself would benefit from clear interpretation and definitions. Educational stakeholders will have an understanding of the terms in both but there needs to be clarity of what education authorities must do to meet the legal requirement. Such clarity would assist delivery of policy objectives.

7. The experience of potential sanctions in relation to previous agreements on maintaining teacher numbers had mixed success, with Scottish Government eventually moving more towards a more incentivised approach. There is always a concern that the imposition of financial sanctions on education authorities could have a negative impact on delivery of the service. A process by which education authorities and Scottish Ministers are held accountable publicly may provide further incentive to comply with the duty. The process by which the assessment of whether or not the duty has been met should also be given considerable thought and be subject to further consultation. Again, the use of ring fenced funding offers a potential mechanism in this area.

8. The EIS has no specific concerns in this regard.

9. The EIS believes that all inequality of outcome, of both achievement and attainment, should be addressed. It is also our view that raising attainment for all is important. However, the EIS is clear that it is essential to focus on the attainment and achievement inequalities caused by socio-economic disadvantage, which remains as the single biggest barrier, in terms of educational progress, facing young people in Scotland.

Gaelic

10. – 14. The EIS is well aware of the importance of Gaelic to the cultural identity of Scotland and also the beneficial educational outcomes which derive from successful language study. We support the provision of Gaelic medium education, particularly in response to parent and pupil led demand, but believe it is important, in a time of

budget pressure, to achieve an overall balance in relation to Educational priorities.

15. The EIS has concerns over the resources which would need to be available to meet new requirements given the cuts to education budgets. We would wish to recognise that there are many living languages in Scotland and appropriate support should be provided to these languages, also.

Additional Support for Learning

16. The EIS supports the Scottish Government's commitment to recognising, respecting and promoting children's rights in Scotland and the proposed extension of rights under the 2004 Act is a manifestation of this commitment. It is essential to recognise, however, that the extension of rights to children aged 12 and over with capacity is likely increase the current burdens on the system and require additional resources for support of those children who wish to assert their rights.

17. The rationale presented on the limitations on the child's rights, i.e. regarding mediation and placement requests, seems reasonable and balanced in terms of the child's best interest.

18. The establishment, funding and promotion of a children's support service will be important in supporting children to understand and assert their rights. The EIS has concerns over the resourcing and support for those in the role of named person. There would need to be consideration of the interface between named persons and the children's support service and appropriate consultation as establishment of this service is progressed.

Chief Education Officer

19. The EIS recognises the importance of Education Authorities having a knowledgeable and experienced educationalist to lead the education service within a council area, preferably as Director of Education. The need for a post such as Chief Education Officer appears to have arisen from the practice of Local Authorities increasingly moving towards combined departments where Education is often subsumed within a more generic service model, leading to prime responsibility for Education lying with someone who would not necessarily have the Education background which the EIS would regard as both desirable and essential.

Many of the statutory duties placed on a local authority, however, relate to the provision of education services and it makes sense for the lead role in education also to be underpinned on a statutory basis. The EIS is not opposed, therefore, to legislation which would ensure that every education authority in the country appointed a Chief Education Officer (CEO) but we are clear that this should not be seen as a mechanism for further reducing the leadership role which we believe should be provided by Education Directorates. We would also advocate that any individual considered for the position of CEO should be registered with the General Teaching Council (Scotland). Section 78 of the Education (Scotland) Act 1980 did contain provisions for the appointment of a "Director of Education" and the position of Principal Educational Psychologist has responsibility to the education authority for a number of statutory duties connected to the delivery of Psychological Services within the local authority area.

20. The main role of a Chief Education Officer should mirror the previous provisions of the 1980 Act and should reflect the main statutory responsibilities of the local authority but should be free from political interference. The duties of the Principal Officer for Education should also reflect the key leadership role of the CEO with regard to the delivery of these statutory functions.

Registering Teaching Staff

21. The EIS supports the compulsory registration 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. The inclusion of questions regarding "new skills" and "improvement in attainment" are somewhat surprising given the support of all Governments since the 1960s for the statutory requirement for all teachers in the state sector to be registered with GTC(S) as a means of guaranteeing teaching standards as part of all pupils' education.

22. In terms of transitional arrangements, the two year period of grace suggested as part of the consultation would be beneficial with additional support provided for individual teachers to allow them to secure appropriate additional qualifications and undertake appropriate professional learning.

<u>Complaints</u>

23. The provision of a mechanism to allow parents (or others) to complain about the actions of an education authority should comply with the standards set out by the Scottish Public Service Ombudsman, particularly in relation to the structuring of local authority complaints procedure. The deadlines outlined in the Policy Memorandum should also be in line with SPSO models.

24. Separate provision should remain, however, for matters which come under the jurisdiction of the Additional Support Needs Tribunals for Scotland (ASNTS) and these should not be dealt with by Scottish Ministers.

25. As indicated in 23 (above) the Local Authority Complaints Procedure should be SPSO compliant and should allow for consideration by the Ombudsman in the event of any dissatisfaction with the outcome of a complaint to a local council regarding its education services. In addition the opportunity should be taken to streamline the complaints process in relation to the section 70 provisions of the 1980 Act and the statutory responsibilities of the SPSO. The EIS is strongly opposed to the proposal that Education Scotland should have an investigative role in any complaints procedure.

<u>Learning and Childcare</u>

26. We see no reason to distinguish between guardians and kinship carers for the purpose of entitlement to free early learning and childcare.

<u>Other Issues</u>

<u>School Meals</u>

27. EIS policy supports the provision of free school meals for all children and young people in state funded schools. We believe that there should be a review of existing policy rather than a re-stating of the extant positon. A change to increase the provision of free school meals would have both learning and health benefits for the young people of Scotland.

<u>Early Learning</u>

28. The Bill fails to take the opportunity to clarify, define and extend the requirement for access to a GTCS registered teacher for all 3 to 5

year olds in state funded education. It is the EIS view that raising attainment and tackling inequality of outcomes would be assisted by this measure, a view supported by extensive research evidence. Scotland has a 3-18 curriculum but no statutory or regulated framework to ensure that teachers are directly involved, as part of a team of professionals, in delivering nursery education.

Primary School Week

29. There is a growing threat, owing to financial pressures on local authorities, to the length of the pupil week in primary and legislation is needed to ensure that the current provision is at least maintained. A reduction of teaching and learning time is neither beneficial to raising attainment nor to closing the attainment gap. The EIS believes that Scottish Government should take the opportunity of the current Bill to regulate pupil entitlement in terms of the number of hours which constitute a school week.

Teacher Numbers

30. The Bill provides an opportunity to provide a definitive position on teacher numbers. An agreed mechanism on teacher numbers would resolve a contentious public debate. The EIS believes the issue is best resolved through a minimum national staffing standard.

Teachers subject to Frivolous or Vexatious Complaints

31. There are significant pressures on teachers arising from frivolous or malicious complaints. Scottish Government should consider whether parents and guardians should continue to enjoy, in law, the protection of qualified protection. In addition, statutory protection should be afforded to teachers from cyber bullying.

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EDUCATIONAL INSTITUTE OF SCOTLAND

RESPONSE TO THE CONSULTATION FROM THE SCOTTISH

PARLIAMENT'S EDUCATION AND CULTURE COMMITTEE ON

THE 2016/2017 DRAFT BUDGET

1. The Educational Institute of Scotland welcomes this opportunity to provide a written response to the consultation initiated by the Scottish Parliament's Education and Culture Committee.

2. The EIS has concerns regarding ongoing, real terms spending on education across all of Scotland's 32 Local Authorities.

3. In our response to last year's budget the EIS highlighted the following concerns with reference to Audit Scotland's 2014 report:

   - Real Terms Spending - Audit Scotland revealed that, in real terms, spending fell in every Scottish Council bar one in the period.

   - Variations across Scotland - There are significant and unacceptable variations on spend per pupil across Scotland.

   - Loss of Posts - The Audit Scotland report indicated the loss of posts across the whole of Scottish education. At a time of significant curricular change a 22% drop in Quality Improvement posts threatens the role of Councils in supporting development, schools and teachers. In addition the EIS is concerned about posts not included in the Report and, in particular, in the reduction in posts in Psychological Services and Instrumental Music teaching.

   - Teacher Numbers - The 2011 Pay and Conditions Agreement provided a protection on teacher numbers. However, it is important to note the following statistics. In 2007 there were 692,215 pupils and 55,100 teachers. In 2013 the figures were 673,530 pupils and 51,078 teachers. While the pupil numbers are standing at 97.3% of the 2007 figures, the number of teachers stands at 92.7% of the 2007 figure. Over the same period the Pupil-Teacher ratio has risen from 13.0 to 13.5.

   - Teachers' Pay - External research commissioned by the EIS in 2012 indicated that teachers' pay had lagged behind the final element of the 2001 settlement (in 2003) by 6.5% (CPI) or 12% (RPI).

   - Statutory Provision and Supply Cover - There is a very real risk of failure to meet statutory provisons. On a weekly basis, in parts of Scotland, pupils could be sent home through a lack of

availability of supply teachers. This does not happen due to teacher goodwill. Such goodwill cannot be presumed and increased workload and declining living standards will bring a risk of teachers not covering beyond contractual requirements.

- Secondary Subject Provision - In secondary schools shortages of specific subject teachers are covered by non-specialist school supply which impacts on the quality of pupils' learning experiences and can impact on examination preparation particularly.

4. All of these concerns remain pertinent. The proposed budget for 2016 – 2017 does not provide resources to redress the deficit in spending suffered by the Education sector in Scotland and it does not address areas of continued concern. It is our view that the cuts to local Education budgets have had an adverse impact on both learners and teachers.

5. In addition to the concerns already set out we wish to draw the Committee's attention to the following issues:

- **Nursery -** The EIS has been concerned for some time about the removal of nursery teachers from Early Years establishments by some local authorities as a means of making savings. While we welcome the Scottish Government's recent announcement that additional nursery teachers or degree qualified childcare practitioners will be appointed to nurseries in areas of deprivation, we remain committed to the principle of universal equal and minimum access to a nursery teacher as the most sound means of ensuring both quality and equity within Early Years. This would require significant additional funding and a realisation in practice of the Government's commitment to every nursery pupil having "access" to a teacher.

- **ASN** – Members have expressed concerns about the lack of resources available to support Additional Support Needs provision and with GIRFEC implementation costs and issues coming on-stream we have increased concerns about the level of funding available.

- **EAL** –We have researched the provision of English as an Additional Language support and believe additional funding and support is required, particularly for local authority areas which have higher density migrant populations and where, consequently, available provision is very stretched. In the context of Scotland welcoming refugees, a sentiment endorsed by the EIS, is important that provision is made in key budgets such as education, to ensure that the children of refugees are supported in their development.

- **Teacher Numbers** – The EIS does not believe that teacher numbers should be seen as flexible in allowing Councils to meet their spending/cutting targets. We welcome the Scottish Government's bilateral agreement with the EIS about maintaining the commitment on teacher numbers for the second year of the SNCT agreed 2-year pay deal but obviously this requires the necessary funding to be put in place to deliver this objective. Suggestions that the number of teachers in the system does not have a direct impact on educational attainment are not accepted. The development of a national staffing standard is a proposal that the EIS has advocated and would continue to support but clearly not in the context of such a development being based on a cost cutting objective. The EIS would oppose any attempt to cut the number of teachers, reduce the existing Pupil-Teacher ratios or to increase class sizes.

- **Attainment and Standardised Assessments** - The cost of the introduction of standardised assessments as part of the National Improvement Framework needs to be considered. At present nearly all Local Authorities use some form of standardised testing. In 2013 the EIS carried out an FIO request on the costs of standardised base-line assessments and found that councils spent large amounts of money, up to £120,000 in one case, each year on these. In our view Local Authorities should commit to discontinuation of their local testing regimes in the event of a national assessment system being established with the money saved being redeployed into other areas of educational spending.

- **Teachers' Pay –** The 2015/2016 pay award has not addressed the real terms decline in teachers' pay since 2003.

6.   From the summaries of the local authority "round-table discussions" it seems that some representatives of Local Authorities would wish "flexibility" to assist with making the cost savings needed to meet their budgets.

The EIS does not believe that reducing teacher numbers, removing preparation time for teachers or increasing class sizes are means to achieving a better education provision or raising attainment within Scotland's schools.

7.   Closing the attainment gap – equity. The EIS welcomes the funding associated with the Attainment Challenge which will make a significant difference in those areas where it is being spent. The scale of the challenge, however, means that if the shared objective of reducing inequity in our education system is to be achieved,

substantial additional investment will be required. Resource has to match rhetoric or we will be left with little more than pious statements.

THE EDUCATIONAL INSTITUTE OF SCOTLAND

STUDENT LOANS

1. Introduction

At the 2015 AGM the following resolution was approved:

"That this AGM instruct Council to campaign for:

(a)   the replacement of Student Loans with a Student Grant Scheme;

(b)   the cancellation of student loan debts."

2. Background

The EIS-ULA has developed policy on student loans and have campaigned on this issue over many years. ULA-EIS policy is that Student Loans should be replaced with a Student Grant Scheme and that tuition fees should not be introduced for Scottish students.

3. Further Action

The EIS manifesto: "Standing Up For Scottish Education" and the EIS campaigning around the Scottish election have focussed on this issue. The EIS has called for a continued commitment to free university places for all Scottish students and for an increase in financial support for students. Our campaign also includes a call for a Student Grant Scheme to replace Student Loans and a cancellation of student loan debts.

Recommendations

(1) The policy to oppose Student Loans and to cancel student loan debts will continue to be pursued and promoted as appropriate.

(2) Discussions on further campaigning on this issue will be included in future meetings with the NUS.

(3) ULA will be advised of national support for future campaigns on this issue.

IMPLICATIONS OF CHARITABLE STATUS FOR SCHOOLS

1. Introduction

1.1 The following resolution was approved by the EIS AGM in June 2015:

"That this AGM resolve that Council should investigate and report on the implications, both positive and negative, of all schools having charitable status."

2. Charitable Status in Scotland

2.1 The majority of independent schools in Scotland (approximately 80%) currently have charitable status which either date back to the original legacies which established the school or which result from more recent applications for charitable status to the Office of the Scottish Charity Regulator (OSCR).

2.2 The Office of the Scottish Charity Regulator requires all organisations applying for or seeking to retain charitable status to comply with two distinct charity tests as follows:

(a) The organisation in question must have charitable purposes set out as part of its aims, purposes or objectives within its Constitution etc.;

(b) In delivering these charitable purposes the organisation must provide public benefit, in other words, OSCR must be satisfied that the organisation will make a positive difference for the public in the manner outlined in its Constitution i.e. that it is actually carrying out its charitable objectives.

2.3 Charitable status is shared by 23,745 organisations across Scotland and, in addition to the Scottish independent school sector, is enjoyed by Universities, Further Education Colleges, Professional Colleges, Trades Unions (including the EIS), and Private Care Homes etc.

2.4 State sector schools in Scotland are funded and managed by Local Authorities and any decision to apply for charitable status would be an issue for local, political decision making.

3. Benefits of Charitable Status to Independent Sector

3.1 Charitable Status brings with it a number of financial benefits which include:

(a) Tax breaks (including income from investments, estates, land and property) usually through relief from corporation tax and capital gains tax.

(b)   Business rates relief in a mandatory form is provided to organisations using property for charitable purposes.

(c)   Income from fund raising through charitable donations can also be tax free (through schemes such as "gift aid") but any fees paid for services provided receive no such tax exemption.

3.2   For schools in the Scottish independent sector the removal of charitable status could result in a loss of around £5m, in tax breaks, to this sector's income in any given year.

3.3   Clearly the financial benefit gained by the private sector through charitable status gives rise to concerns around equitable treatment when public sector schools do not enjoy the same advantage.

4. Benefits of Charitable Status to Local Authorities

4.1   Whilst there may be an obvious attraction, and sense of justice, in advocating that state schools should benefit from charitable status also, there are certain practical considerations which might suggest that this is not a route to be pursued.

4.2   A change in the law to facilitate such an approach is not as straightforward as might be imagined as essentially it would require the status of public sector schools to be changed – it would not be simply a nominal change in status as this would have implications for all public services.

In this sense the financial gain achieved by schools through charitable status may be considered to be outweighed by the disadvantages of becoming at least arm's length from local authority control

A number of Local Authorities have already moved to establishing charitable trusts to administer services, ALEOs, most commonly services related to Arts and Leisure. Such changes have been reported to bring financial benefits and have been argued for in terms of "best value".

4.3   Changes to charitable trust arrangements have also meant that employees have had contracts changed and have become employed by the new legal entity. The union which has most members affected by this change, Unison, has expressed concerns over the move to such arrangements and has questioned the impact this has had on provision of service.

In England we have seen the introduction of the academy programme used to destroy local authority control over secondary schools, in particular, as "public sector" schools are increasingly driven towards a "private sector" approach.

5. Issues and Concerns

5.1 There are issues around the statutory nature of Education Authority that would make the establishment of Local Authority Education Trusts more problematic than such arrangements for non-statutory services provided by Local Authorities.

5.2 Would charitable status increase funding available to state education?

5.3 Would the savings made by Local Authorities be invested into service provision or used for other services?

5.4 How would such changes impact on the block grant funding from Scottish Government?

5.5 Would the move to charitable status by local authorities be possible on a school by school basis? If such was proposed the employment of teachers could well be at school level. Such an arrangement would not be seen as a benefit to our members in such establishments.

5.6 The potential impact on national bargaining and conditions of service would need to be assessed.

5.7 Local moves to discuss this option have been met with opposition from EIS locally and there are many uncertainties for schools and teachers if such proposals were progressed.

6. Conclusion

6.1 The independent sector has embraced and values its charitable status as it delivers financial benefit to their organisations.

6.2 To consider fully the positive and negative impact of charitable status on state funded education, however, one would need to be clear of the model of governance and legislation that underpins and allows for such a change. As this is largely speculative in nature the full implications of such a change are beyond the immediate scope of this paper but it would appear that any financial gain may well be at the expense of the comprehensive system we currently enjoy.

6.3 An argument might be that if all schools had charitable status this would create a more level playing field but in reality a change in funding and tax arrangements may not bring a positive change in the level of funding of schools.

6.4 Any move away from Local Authority direct financial control should be carefully considered and the pros and cons of specific proposals would require close scrutiny by the EIS.

6.5 The issues for members regarding their employment would require specific legal advice if proposals for changes to charitable trusts are made.

6.6 The EIS extant policy positon in relation to the governance of Scottish state schools had been broadly in support of Local Education Authority control. Any suggested changes to the current arrangements would require detailed consideration.

The existence of charitable status clearly creates a financial advantage for the independent sector but given the potential complications around potential charitable status in the public sector, calls for increased investment in state schools may be a better approach to the question of ensuring equity.

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THE EDUCATIONAL INSTITUTE OF SCOTLAND

ZERO-HOURS CONTRACTS

The following motion was moved by the ULA and approved by the 2015 EIS AGM:

"That this AGM resolve:

(a) to campaign strongly within branches, Local Associations and across Scotland against casualisation and zero hours contracts in all publically funded education institutions;

(b) for Council to use Freedom of Information requests to prepare a report on the use of zero hours contracts by our employers;

(c) to lobby the Scottish Government and COSLA for a complete abolition of zero hours contracts in Scottish publicly funded education sectors."

BACKGROUND

In a previous paper to Executive, which was presented to the 2015 AGM the EIS position was set out. Below is the current policy position:

1. The EIS opposes the use of "zero-hours" contracts which are becoming increasingly prevalent particularly in the Higher and Further Education Sectors in Scotland. These contracts provide for a one sided employment relationship in favour of the employer and restrict the opportunities for the employee to find other additional work because of the existence, in some cases, of exclusivity clauses in the contracts. In short, the EIS believes that these contracts are, essentially, exploitative in nature and should be substituted for other types of employment contact which, *inter alia*, provide for greater levels of job security and income reliability for the employee. Evidence obtained by the EIS also suggests that, statistically, zero-hours contracts are more likely to be held by women than by men and that, therefore, there is a discriminatory aspect to the use of these contracts. This might open up the prospect of legal action being taken against employers which make use of these contracts in the future.

2. Zero-hours contracts classify staff as being "workers" rather than "employees" which provide for fewer contractual benefits and fewer legal protections. For example, many zero-hours contract holders are not entitled to contractual benefits including: sick pay, maternity or paternity benefits, full holiday entitlement, minimum notice periods, the application of disciplinary procedures between assignments and limited pension provision. In addition, zero-hours contract holders who are classified as "workers" do not have legal rights to: SMP and

SPP, no less favourable treatment (fixed term status), request flexible working, time to train, statutory notice periods, collective redundancy consultation, statutory redundancy pay, protection from unfair dismissal, Transfer of Undertakings – Protection of Employment Regulations.

3.   There is also increasing evidence that some employers are using zero-hours contracts to replace core staff to perform standard, routine and planned work for which there is often an ongoing demand and which could readily be fulfilled by staff employed on more secure, fairer forms of contract.   The argument often presented by employers to justify the use of these contracts is that zero-hours contracts provide flexibility to deal with unexpected, short-term cover situations.   The increasing use of zero-hours contract staff to fulfil functions previously carried out by permanent or fixed term staff completely negates the force of this argument and confirms the fact that many employers are exploiting the flexibility which these contracts offer.   In short, for "flexibility" read "licence".   In addition the consequences for zero-hours contract holders when seeking to apply for mortgages or loans etc. in the current economic climate can only be imagined and can only add further to the intense insecurity felt by individuals trapped in this type of contract.

4.   There is also anecdotal evidence that the use of zero-hours contracts and the limited job security and income reliability which they provide, are resulting in increased levels of staff turnover with staff constantly seeking opportunities for positions which offer greater security, better contractual benefits and improved legal protection.   In these circumstances both parties to the employment contract are the losers and, in many important services and industries, the overall and ongoing level of service to the student, client or customer can only suffer.   There is also some evidence which suggests that zero-hours contracts are beginning to replace the use of agency staff in some sectors.   Although agency staff themselves are at the lower end of the continuum when it comes to job security/income guarantee, nevertheless agency staff are statutorily entitled to parity with other employees with the host employer after 12 weeks of employment.

5.   There exists no "mutuality of obligation" within a standard zero-hours contract.   Many workers employed on these contracts feel that they cannot afford to reject <u>any</u> offer of work for fear of being discarded in future allocations of hours of work in favour of those who can accept all or nearly all of the hours offered.   This lack of "mutuality of obligation" combined with the use of draconian exclusivity clauses further adds to the insecurity of the contract holder and further shifts the balance of power and advantage further in favour of the employer.

In short, the EIS would want to see zero-hours contracts replaced with permanent or fixed term (part-time or annualised hours) appointments wherever possible.

6. As indicated above, the EIS opposes the use of zero-hours contracts and would wish to have introduced the following statutory protections which would prevent/reduce the extent of exploitation of staff currently employed on these unsatisfactory contracts.

    (a) develop a statutory definition of "zero-hours" contracts;

    (b) move towards the eventual abolition of "zero-hours" contracts as they currently exist across the UK;

    (c) move towards a statutory abolition of exclusivity clauses as part of zero-hours contracts;

    (d) move towards a statutory abolition of zero-hours contracts which do not incorporate full and proper "mutuality of obligation";

    (e) the development of immediate statutory guidance on situations where zero-hours contracts should not be used;

    (f) amend the provisions of section 1 (4) of the Employment Rights Act 1996 to require the inclusion of a minimum number of contracted hours in any statement of particulars on employment;

    (g) extending a number of statutory protections which other employees/workers enjoy including:

        (i)   Statutory Redundancy Pay;

        (ii)   Protection from Unfair Dismissal;

        (iii) TUPE;

        (iv)   Collective Redundancy Consultation;

        (v)   Minimum Notice Periods;

        (vi)   Right to request 'Time to Train';

        (vii) Right to request Flexible Working;

        (viii) Right to claim no Less Favourable Treatment (fixed term status)

        (ix)   Right to claim no Less favourable treatment (part-time status);

(x) Right to receive Maternity, Paternity, Adoption Leave and Pay.

7. The EIS will continue to campaign against the use of "zero-hours" contracts and will utilise any legal avenue which might be open and which might ameliorate the worst excesses of these contracts. In addition the Institute will work closely with the STUC, TUC, and all affiliates in order to attempt to secure our objectives.

FURTHER WORK

In May 2015, post submission of motions to the AGM, FOI requests were conducted by the F&HE Department and the results (Appendix 1) have been shared with both FELA and ULA. The findings from the FOIs will be used to develop policy and monitor the situation in both FE and HE. Appendix 2 provides the current policy reports from both FELA and ULA.

The EIS has continued to campaign against "zero-hours" contracts and has raised such contractual issues with employers and supported TUC and STUC campaigning on this issue. During meetings with both COSLA and the Scottish Government the EIS has made clear its opposition to zero hours contracts. The EIS has also featured zero hours contracts in the "Standing Up for Scottish Education" election manifesto. In addition, Executive Committee recently made a financial donation to Serving Up Change: The Fight for Workers' Rights documentary which is a documentary aimed at exposing the reality of exploitative zero-hours contracts and the impact of this on young workers.

RECOMMENDATIONS

(1) Executive Committee endorses our current policy and EIS commitment to opposing zero hours contracts.

(2) Executive Committee confirms its continued support for campaigns opposed to zero hours contracts.

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The Educational Institute of Scotland

Children and Young People (Scotland) Act 2014

Notes and Guidance to the "Named Person" Legislation

Background

1.1   The Children and Young People (Scotland) Act 2014 was approved by the Scottish Parliament and received royal assent on 27 March 2014.

1.2   This Act was developed from "Getting it Right for Every Child" and puts the GIRFEC approach onto a statutory footing.

1.3   The Act introduces legislation to give statutory effect to the concept of the named person and the child's plan which will have statutory effect from August 2016 as well as developing a definition of a child's wellbeing.

1.4   The legislative framework is designed to take regard of the UN Charter on the Rights of the Child (UNCRC).

1.5   The Act is likely to have significant implications for local authorities, schools and promoted staff in those schools.

Getting it Right for Every Child

2.1   Scottish Government describes GIRFEC as a national approach to improving outcomes through public services that supports the wellbeing of children and young people. Based on children's and young people's rights, it supports children, young people and their parents to work in partnership with the services that can help them.

2.2   Scottish Government believes that the wellbeing of children and young people is at the heart of GIRFEC.

2.3   Wellbeing is described by 8 indicators (usually referred to by the acronym SHANARRI):

- Safe
- Healthy
- Achieving
- Nurtured
- Active
- Respected
- Responsible
- Included

2.4 By adopting a holistic approach to the wellbeing of a child GIRFEC promulgates preventative work and early interventions with the intention of reducing the need for statutory interventions.

2.5 In developing a child-focused approach a pathfinder project was set up in Highland in 2006 to develop common procedures and processes for sharing concerns about a child and constructing a plan for any support required for a child or young person.

The Named Person Service

3.1 The Act develops the Named Person service as a means of ensuring that a child-focused approach persists through a child or young person's life.

3.2 The named person is a point of contact that children and families can go to for advice and support from 0-18 or beyond, if still in school, based on "primary" prevention and early intervention. The Named Person Service is an "entitlement."

3.3 From birth to statutory school age the named person will be provided by the health service (midwife and health visitor) with the service responsibility passing normally to the local authority at school life. Independent schools also have a statutory duty to provide a named person. The responsible authority has a statutory duty to publish and communicate information about the role of the named person in general and to children/young people and their parents. When a child is enrolled in a school the child and parents/guardians must be advised who the named person is.

3.4 The named person will carry out statutory functions on behalf of the named person service provider. The Act is clear that responsibility for the exercise of the functions of the named person lie with the service provider and not with the individual.

3.5 Where the service provider is a local authority the named person for children attending school is expected to be a promoted member of staff, a Head Teacher, Depute Head or Principal Teacher with pastoral responsibility. While the guidance also refers to Faculty Heads (sic) as potential named persons it is unlikely that Councils will direct Principal Teachers Faculty to be a named person. Similarly, in independent schools a promoted teacher is expected to be the named person.

3.6 A named person has to have an understanding of

- the principles and values underpinning GIRFEC
- wellbeing and the use of the National Practice Model for the assessment of wellbeing

- what may affect the wellbeing of children and young people and the potential effect on wellbeing
- how to recognise and evaluate a wellbeing need
- how to respond proportionately to a wellbeing need to carry out their functions
- how to work in partnership with children, young people and parents
- how to identify when speech, language or communication barriers exist
- how to access appropriate support
- how to seek assistance from within and outwith their service, including third sector organisations
- how to undertake their duties in relation to information sharing under the Act
- how to record and process sensitive information lawfully
- how to develop, use and manage a chronology
- when and how to use a child's plan
- working with a lead professional

3.7 A named person function falls into three main categories:

(a) advising, informing or supporting the child or young person, or a parent of the child or young person.

(b) helping the child or young person, or a parent of a child or young person, to access a service or support.

(c) discussing or raising a matter about a child or young person with a service provider or relevant authority.

3.8 Young people and parents will continue to access advice and support from a range of services as they currently do without reference to the named person.

3.9 On receiving information about a child or young person the named person can

- offer additional advice to the child or young person or their parents
- offer additional support or change support
- offer advice or support from another service
- raise a wellbeing need and share information with an external agency to seek assistance to assess further the child or young person or their parent
- consider that a Child's Plan should be initiated
- if a plan is in place, consider contacting the lead professional
- consider contacting the Children's Reporter if a compulsory supervision order may be needed.

3.10 The named person service provider has to have clear arrangements in place for times when the named person is not

available i.e. out of hours, during holiday periods, days of school closure, or should the named person be on sick leave.

3.11 The named person service provider has a duty to support a named person. This may include collaborative discussion with other service providers how a service is provided, provide information or a resource or changing how a resource is provided.

3.12 A local authority has to decide how young persons who are 15, 16 or 17 years old and who have left school are supported by the named person service and who shall provide the named person role.

3.13 Local authorities and health authorities have to consider how to provide the named person service to the children of gypsy/traveller families. This will mean arrangements for the children in areas they normally reside with additional, proportionate arrangements being in place when they are in that area.

3.14 A local authority has a responsibility to provide a named person service for children who are home educated.

3.15 Where there is a change in arrangement of the named person service this should be communicated within 10 working days.

3.16 In exceptional circumstances children, young persons and parents can seek the identification of an alternative named person.

3.17 Services users will be able to express views on the service and will be able to complain about the service.

Duty to help the named person

4.1 A service provider or relevant provider as set out in the Act is under a duty to comply with a request from a named person service to carry out their functions. It is not intended that one organisation will direct another organisation but will facilitate a collaborative discussion on how to address wellbeing needs. A service provider or relevant authority should assist on a request for help to undertake an assessment, provide a service, change how a service is provided, provide information, make a resource available or changing a way a resource is provided.

4.2 A service provider has to comply with a request for help unless doing so would be incompatible with other duties or prejudice the exercise of any function of the service.

Information Sharing

5.1 Information recorded by the named person service providers and relevant authorities must be stored, processed and shared services. Proper records must be retained when decisions are made and when information is to be shared.

5.2 The Guide to Data Protection and Data Sharing Code of Practice (published to the Information Commissioner's Office) should inform data sharing.

5.3 Article 8 of European Convention on Human Rights establishes a right to privacy which is a qualified rather than an absolute right. Public authorities can share information if it is lawful and proportionate to do so but each case must be considered carefully to assess what is lawful and proportionate.

5.4 The United Nations Convention on the Rights of the Child (UNCRC) sets out 3 rights which must be considered when decision are made to transfer information.

- The best interest of the child must be the primary consideration in all actions concerning children. (Article 5)
- Every child who is capable of forming their own views has the right to say what they think in all matters affecting them, and to have their views given due weight in accordance with their age and maturity. (Article 12)
- Every child has the right to privacy. This law should protect the child's private, family and home life. (Article 16)

5.5 When deciding to provide information there are 2 parts of the test to be considered.

(a) The views of the child must be considered and should occur in all but exceptional circumstances. The outcome of considering the views of the child should be recorded and their views and privacy should be respected. Where the information holder makes a decision to share specific information against the wishes of the child they should record what that information is, what the child's views are and why the named person decided to share the information.

(b) The named person must consider if the likely benefit to the wellbeing of the child or young person outweighs any likely adverse that could result from sharing the information.

5.6   Information should not be shared if the information holder considers that would prejudice the conduct of a criminal investigation or the prosecution of any offence. This will involve close liaison with the police and the procurator fiscal service.

5.7   A named person service may receive information from elsewhere in the same organisation or in a service delivered on their behalf.

5.8   In deciding to share information with another service provider or a relevant authority the named person service must consider whether the information is likely to be relevant and ought to be provided.

5.9   A named person can make enquiries with a relevant authority and share limited information about a child or young person to allow the relevant authority to consider whether support can be provided.

The Child's Plan

6.1   The Child's Plan requires to contain the following information:

- The date of the Plan
- The child's full name
- Date of birth
- Reference number unique to the child (CHI no.; SW no.; education no.)
- Home address
- Name(s) and address(es) or parents/carers
- Child's named person and contact details
- Leader professional and contact details
- Summary of child's wellbeing needs and actions required
- Summary of wellbeing assessment(s)
- Child's views in relation to wellbeing assessment(s)
- Parents'/Carers' views in relation to wellbeing assessment(s)
- Views of other persons who contributed to the wellbeing Plan
- Conclusions and recommendations about the assessment(s), conclusions or recommendations
- Note of any disagreements about the assessment(s) conclusions or recommendations
- The Plan should set out in relation to each wellbeing need the nature of the need, action to overtake it, including targeting interventions and desired outcomes, identifying person(s) to take actions and interventions and timescale
- The date of next scheduled review or the date of the closure of the Plan

6.2   The decision to initiate a Plan depends on an assessment of a wellbeing need judged by the name person and to consider what support may be necessary by a targeted intervention. This is different from a "generally available service" which is normally

provided through the schools such as specialist teaching services and psychological services.

6.3   When a third party which is involved in providing a targeted intervention that third party (a public body or third sector organisation) becomes part of the Plan.

6.4   In deciding whether to initiate a Plan, the named person service must, as far as reasonably practicable, seek and have regard to the views of the child, the views of the child's parents and the views of any other people the responsible authority considers appropriate.

6.5   If the responsible authority does not agree that a particular targeted intervention should be in the child's Plan it must give a statement of its reasons for not agreeing to the authority preparing the Plan. It must also record the decision and make alternative arrangements to achieve the desired outcome for the child. If it is agreed there should be a Plan, the Plan must be prepared as soon as reasonably practicable. The named person will initiate the preparation of the Plan in consultation with the child or young person and parents/carers.

6.6   The managing authority is the responsible authority for identifying a lead professional for taking forward the child's Plan. The lead professional will normally be an employee of the managing authority, or an employee of the organisation which exercises a function on behalf of the managing authority. The lead professional should be suitably trained and experienced and should work professionally and collaboratively.

6.7   The lead professional is responsible for compliance with the statutory management of the Plan. In some circumstances the named person may also be the lead professional.

6.8   Once a Plan has been established the managing authority has to ensure the following:

(a) That the wellbeing need(s) is/are still accurate

(b) That any targeted intervention and the way it is delivered is still appropriate

(c) That the outcome has been achieved

(d) Whether the management of the Plan should pass to another relevant authority

6.9 The Plan should initially be received within 12 weeks and should take place at least once every 12 months. The guidance makes it clear that the partners to the Plan may agree not to convene a meeting to conduct a review although the presumption would be to hold a review meeting.

6.10 The Act permits sharing of information even where this may be a breach of confidentiality.

Implications for Members

7.1 **Legislation** - The legislation has significant workload implications for promoted members of staff who may be named persons and for others who may act as lead professionals. The Scottish Government states the named person duties are integrated into current roles and strengthen the support currently provided, formalising roles. Whilst the EIS has not been opposed in principle to a named person approach to child welfare, it does not accept that the legislation simply builds on current good practice around pastoral care responsibilities. The indication is that the statutory requirements for liaison with other authorities and third parties and the bureaucracy in relation to Children's Plans - liaising with and meeting children, young people and their parents/carers, preparing and reviewing the Plans - will create significant additional workload which is not sustainable with current staffing levels. The statutory responsibility lies with the Council and not the individual named person.

7.2 **Resources** - Scottish Government has promised additional resources to support the administration of the named persons. Local Association Secretaries should clarify the level of additional resources for administrative support which has been provided to the Council and how the resource will be delivered to each school. There is no additional resource to appoint additional promoted staff.

7.3 **Variations to Contracts** – Scottish Councils, have a statutory responsibility to deliver the service. This means that the named person duty falls within the right of a Council to direct the duties of promoted staff under the provisions of Part 2, Section 2 of the SNCT Handbook. A named person is likely to have that duty added to a job description but there is no requirement for the SNCT to agree variation to contracts or to the duties set out in the Handbook.

7.4 **Hours of Work** – named persons cannot be required to undertake any duties beyond the normal 35 hour working week. Councils will have to have alternative arrangements for any periods of sickness absence of the named person and for out of hours and holiday periods including days of school closure when the named person is not available. LA Secretaries should ensure there are clear alternative arrangements in place. While the named person still has a 35 hour contractual working week, there is an issue which will have to be fully considered. While planning meetings are likely to be included in the time beyond class contact time and personal time there is an issue which will have to be resolved at local level. The time to meet children/young people has to come from the 35 hours and may come from collegiate time or from class contract time since the time for meetings may be timetabled. This matter of required time should be raised at the LNCT. The additional workload which arises from the demands associated with the named person service should be addressed through discussion in a school's Working Time Agreement following guidance from LNCT. This workload must be addressed in the context of the 35 hour working week.

7.5 **Job Sizing** – Job sizing was never intended to capture workload demand. Therefore, it is unlikely that workload demand can be captured by any review of job sizing. The named person provision may provide an opportunity to review sector 5 scoring for DHTs/PTs but any change would be a "C" level change and unlikely to lead to a review. In any case HTs are precluded from claiming beyond section 1 other than in relation to 2.4 of the toolkit. The EIS is of a view that the named person service requires additional promoted staff. The case load of guidance/pastoral care staff should be considered, as should the teaching time but LNCTs should consider these matters in the context of no detriment to the individuals. LNCTs should deal with this mindful that a reduction in teaching time can influence job sizing but a reduction of less than 5 hours is a "C" change. LNCTs can also discuss a no detriment arrangement with employers.

Conclusion

8.1 The EIS rejects the view that the Named Person Service only requires promoted teachers to take action in keeping with current good practice. That is an over simplification and disregards the potential workload demands for promoted staff in the requirement to deliver the service.

8.2   The EIS should monitor the demands and implementation of the statutory requirement on promoted staff and members to inform our position in relation to the named services provision.

8.3   This current EIS document should be issued to local association secretaries and members in all schools.

The Educational Institute of Scotland

EIS Briefing Paper

An interim response to discussions concerning the establishment of a

National Improvement Framework for Scottish Education

1.   Scottish Government has set out its intention to develop a National Improvement Framework with a declared "overarching objective … **to improve outcomes for every learner**.   The framework is intended to "provide consistent evidence on progress for individual children's learning, supporting evidence-based policy and ensuring that there is appropriate information and data to enable appropriate interventions for improvement in the classroom, at school, local authority and national level."

2.   Within the debate surrounding this proposal a particular focus has developed around the issue of standardised testing, and the role that such a focus might play with an improvement framework.

3.   Although Scottish Government claims that the NIF is in response to the *ADES 2020 Vision for Education in Scotland* which called for a "National Performance Framework which breaks through the current barriers in the system, integrates local and national improvement agencies and focuses on agreed outcome measures", part of the drive from Scottish Government for additional hard data, particularly in the primary sector, would appear to be driven by a frustration on its part that local authorities, either individually or through the umbrella group of COSLA, seem unable or unwilling to furnish such information to national government.   An obvious tension exists between the competing functions of Scottish Government, with responsibility for national policy in education, and local government, with its statutory responsibility for delivery.

4.   It would be unforgivable if, in seeking to resolve a political problem, Scotland's education system had imposed upon it a "solution" which actually had a detrimental impact on young people's learning or which undermined the progressive assessment philosophy associated with CfE.

5.   Scottish Government, for example, cites the need for data to support "appropriate interventions" and yet there has been no difficulty in identifying schools in need of additional support through the Attainment Challenge funding.   In truth, Scottish education is rich with data but most of it is rightly concentrated at classroom and individual pupil level and is there to support

teaching and learning. Any improvement framework must guard against shifting the focus away from individual pupils and towards a macro approach which usually feeds into a sterile political point-scoring narrative that only serves to undermine quality education – a common feature of education systems which predicate themselves on high stakes testing.

6. The EIS refutes the disingenuous argument that crude standardised testing is the key to improving education, including that of Scotland's poorest children. Time and again, high stakes standardised testing has been shown to cement the disadvantage experienced by children and young people disadvantaged by poverty. It crushes creativity both for learners and for teachers, does not take full account of pupil progress and causes unnecessary stress for the children and young people who are subjected to it.

7. The EIS is resolutely opposed to a return to high stakes national testing, therefore, as we believe, and the international evidence supports this, that such a regime tends to narrow learning and to reinforce the attainment gap rather than bridging it, often reinforcing inequality. The EIS would oppose vigorously any such approach.

8. In fairness, however, early engagement on the issue of an improvement framework does not suggest that this is the intention or desire of Scottish Government, despite ill-informed media speculation along these lines.

9. Indeed the OECD report which SG cites as a basis for moving towards a NIF (*OECD Synergies for Bettering Learning Report* http://www.oecd.org/edu/school/synergies-for-better-learning.htm.) itself identifies the pitfalls of such testing regimes and counsels against allowing such negative unintended consequences to arise from assessment approaches which lead to target setting and league-table-producing approaches of the very kind that CfE was designed to counter.

10. The First Minister has made reference to being concerned with "what works". In that respect it is instructive to consider the views of Pasi Sahlberg in relation to the much lauded Finnish education system:

At the national level sample-based student assessments … that have no stakes for students, teachers, or schools are the main means to inform policy-makers and the public on how Finland's school system is performing. Teachers and principals in Finland

have a strong sense of professional responsibility to teach their children well but also to judge how well children have learned what they are supposed to learn according to curriculum designed by teachers. ([Washington Post,](#) 25 March 2014)

11. This is precisely the approach taken by the current *Survey of Literacy and Numeracy* which was lauded by a former SNP Cabinet Secretary for Education and Lifelong Learning as providing appropriate system wide information to inform policy making whilst avoiding the league table approach, which the SNP Government rightly abandoned. The SSLN is a useful sampling tool which should not be abandoned simply because it produced what some commentators perceive as "bad news".

12. The recent misinformed discourse about falling standards in Scottish Education is a perfect example of how statistics can be interpreted wrongly. Whilst the impact of poverty, and welfare cuts in particular, was evidenced by the slight fall in certain achievement rates and should rightly provoke a cause for concern, the true story of the recent figures was that Scottish schools are continuing to perform at a high level.

13. The EIS view is that any National Improvement Framework should be developed in the context of CfE i.e. should be concerned with a pupil's learner journey through the various level of CfE, mindful of the fact that progress is a continuum and that levels are not hoops to be jumped through, and that assessment primarily should be about supporting learning. CfE promotes the design of bespoke curricula and accompanying assessment packages, which may include summative tests as a component part of a varied toolkit of assessment, firmly focussed on the child and her/his progress as a learner. Such a model generates a wealth of data that is crucial to the success of the learning process and, importantly, is accessible and useful to learners themselves.

14. Such an approach would echo that of Finland:

Steady improvement in student learning has been attained through Finnish education policies based on equity, flexibility, creativity, teacher professionalism and trust. Unlike many other education systems, consequential accountability accompanied by high stakes testing and externally determined learning standards has not been part of Finnish education policies

(Sahlberg P. 2007 Education policies for raising student learning: The Finnish Approach. Journal of Education Policy 22(2))

15. As a professional association the EIS is clear that assessment is absolutely central to teaching and learning. Teachers are assessing all the time in a whole range of ways and what is observed is fed back to the learner to aid her or his progress. Within the CfE framework considerable effort has been made to support the concept of teacher professional judgement in relation to student assessment and this should not be undermined. Those professional judgements are based on observation, marking of pupil work, collation of data from reading programmes (including reading ages), possibly information from standardised tests, the use of various assessment tools from the National Assessment Resource (including test items) and a hundred and one other sources deriving from the teacher pupil relationship which is at the heart of good classroom practice. Crucially, such judgements are informed by an intimate knowledge of the young person as an individual not a statistic.

16. It is assessment for learning which has to be central, not assessment to feed the statistics machine which politicians seem to love so much, primarily because it's easier to understand what appears as a shorthand summary than to trust the professional judgement and practice of teachers and schools.

17. The proposed National Improvement Framework, therefore, must build upon the CfE approach rather than setting it aside. Indeed, considerable time and energy was spent developing the National Assessment Resource to support a new approach to assessment whilst also ensuring a degree of rigour through "kite-marked" assessment instruments. It will be instructive to hear what role NAR has to play in a National Improvement Framework.

18. Media coverage, largely ill-informed, has focussed on the potential use of standardised testing. Such tests, particularly where they are diagnostic in nature, can be a useful addition to the assessment toolbox. The fact that 30 out of 32 local authorities already make use of such tests, however, points clearly to the fact that standardised tests do not offer an instant solution to any of the challenges facing Scottish education. A more systematic approach to diagnostic testing may bring some national rigour to a process already in place but the lessons of National Assessments within the 5-14 programme – where the test became more critical than the learning – should not be forgotten. No single assessment instrument should be allowed to trump teacher judgement or over a short period of time we will see the re-emergence of teaching to the test and the narrowing of experience with broad general education.

19. Care must be exercised also in focussing on literacy and numeracy alone. Whilst the importance of these areas is already evening in

their centrality to the CfE approach, research evidence from the USA conducted as part of the review of the "No Child Left Behind" policy, highlights the danger of other subjects being marginalised by the use of narrow and defined "testing" focus. *(Nelson, Howard; 2013; Testing More Teaching Less; AFT)*

20. Some confusion around language appears to exist when standardised tests are being discussed. All test items have their limitations and are only capable, for reasons of manageability, of measuring a fairly narrow range of either skills or knowledge. Whilst IT developments have added a significant degree of sophistication to some standardised testing approaches, they are not all of equal value or quality. Additionally, the high cost of commercially purchased standardised tests has been highlighted in the past by the EIS, particularly in a time of austerity.

21. Some tests measure student cohorts against a defined norm, usually through an across the board diet of testing, and effectively produce a pass/fail (achieved/not achieved) scenario. Such standardised tests act as a blunt instrument with which to administer an unsophisticated political accountability process akin to that which characterises the regime of target-setting and league tables within education south of the border. They are largely used for system wide benchmarking and add little, if anything, to classroom practice. They are often welcomed by politicians and civil servants as they seem to offer "evidence" even if it is in a fairly crude form. Such tests lean towards the high stakes agenda alluded to earlier, however, and are best avoided.

22. Diagnostic testing, on the other hand, offers a more useful set of data for practitioners and can feed into a pupil profile very effectively. Clearly such tests can link skills broadly to CfE levels and this allows them to help inform teacher judgement but again, the range of skills or knowledge assessed is relatively limited and should only serve as a contribution to a more holistic assessment.

23. The existence of nationally collected data does rather beg the question as to what response the data might trigger from both national and local government, particularly in relation to closing the attainment gap. Crunching the numbers is unlikely to tell us anything new about the impact of poverty on educational attainment, for example.

24. It is the view of the EIS, developed over many years of deep engagement with this agenda, that genuine commitment to tackling educational inequality and ensuring improved outcomes in literacy, numeracy, and every other curricular area, requires solid support for schools in their endeavour, as well as the necessary resources. That means, at the very least, enough teachers who have ongoing access to high quality CPD; smaller class sizes; adequate specialist support for learners with additional support needs wherever needed; adequate time for pupil support staff to

attend to pupils' pastoral care needs; the provision of classroom resources and equipment that facilitate learning that has creativity at the core of it.

25.   Any National Improvement Framework needs to concern itself with a range of factors beyond simply assessment data.   Scottish Government's recent commitments on teacher numbers recognises the link between maintaining teacher numbers, in order to lower pupil teacher ratios, and addressing the issue of raising attainment.   It also has a policy position on providing access to a teacher in the pre-5 sector and a general commitment to reducing class sizes.   A NIF needs to encompass the relationship which exists between these resource inputs to desired educational outcomes.   The EIS notes that the recently convened Outcomes Working Group, involving COSLA, SG and the professional associations, has now been disbanded and that much of the agenda of the group has migrated to discussions around the NIF. Within this context the EIS would be keen to discuss a range of issues such as a national minimum staffing standard and regulation of the pupil day.

26.   Mention must be made, also, of the existing workload burden which is being experienced by teachers. Scottish Government is a leading partner in the Tackling Bureaucracy initiative, along with most partner agencies involved in Scottish Education. The development of a National Improvement Framework cannot be allowed to result in an increase in either workload or, significantly, increased bureaucracy in our schools or Education Departments.

27.   The First Minister has indicated that further details of how SG sees a National Improvement Framework developing will become available during September when the programme for government is outlined in the Scottish Parliament.   The EIS would be keen to engage in constructive dialogue thereafter.

28.   In summary, the EIS:

- Affirms the need to address the attainment gap and agrees that such an aim should be a national priority;

- Rejects the use of damaging high stakes standardised tests;

- Advocates continued development of the CfE approach to assessment, based on AiFL principles (Assessment is for Learning) and teacher professional judgement;

- Cautions about the need to acknowledge workload pressures within schools and to avoid any increase in bureaucracy;

- Agrees to continued dialogue with Scottish Government, and other partners, around the development of a National Improvement Framework.

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The Educational Institute of Scotland

Submission to Education and Culture Committee's

Review of Public Bodies' Spending and Outcomes - Scottish Qualifications Authority

1. The Educational Institute of Scotland (EIS), Scotland's largest education union, welcomes the opportunity to provide an initial written submission as part of the Committee's review of the spending decisions made and the outcomes delivered by the Scottish Qualifications Authority (SQA).

2. The EIS recognises that the SQA has been a significant partner in the development of Curriculum for Excellence, and in particular the new qualifications for the Senior Phase. SQA has developed, also, courses and certification, such as Skills for Work, which offer opportunities for a wider range of learners to gain qualifications. In addition, it has designed qualifications from National 1 upwards, ensuring that those with additional support needs have recognition within the qualification system and that they have the possibility of coherent pathways for progression. The SQA has made progress, also, in developing qualifications which match the needs of modern society- for example, adaptations to STEM qualifications which are more sharply tailored to meet the skills demand within this context.

3. The EIS also acknowledges the efforts made by the SQA to engage with stakeholders, the EIS included, and formally and informally with teachers. It regularly asks participants in its training events for feedback and meets representatives of the EIS in a number of contexts. Such dialogue has been useful in seeking to address teacher concerns, for example, in streamlining the verification of internal assessment within the new qualifications. The EIS and SQA have collaborated, also, on a number of professional learning initiatives.

4. However, the EIS has been disappointed at the SQA's apparent inability to respond appropriately to other significant elements of feedback from EIS members that has been given in the interests of learning and teaching. Indeed, this has been a matter of deep and ongoing frustration for the EIS and its members.

5. The EIS has endeavoured to convey to the SQA a number of the issues which have hindered the development and implementation of the new qualifications: unmanageable teacher/ lecturer workload

and stress resulting from the burden of internal assessment, the late arrival of combined assessment approaches, changes to units and assessments at short notice, the absence of sufficient exemplification and practice papers, less than the promised fully fleshed out course material, poor communication and an inadequacy of professional support. Regrettably, the EIS has found the SQA to have been limited in its response to these issues. This would seem to raise some questions about the capacity and efficacy of the SQA throughout the implementation phase and of its self-evaluation processes overall.

6.   In terms of the effect of this upon teachers and lecturers tasked with delivering the new qualifications, there can be no doubting the detrimental impact of SQA related pressures on their health and wellbeing. A survey of EIS members towards the end of the first year of new qualifications drew worrying conclusions: wellbeing and satisfaction with the teaching profession were at an all-time low caused by excessive workload, linked to which was the very large amount of paperwork as well as the number and speed of changes, in particular to the curriculum and assessment. Whilst there were concerns across the whole of the education system, the heightened levels of dissatisfaction in the secondary sector can be attributed to shortcomings in the level of support provided by the SQA for teachers and lecturers, and to the cumbersome nature of assessment design and early verification procedures.

7.   Furthermore, the EIS has received considerable anecdotal evidence from its members that the weight of the internal assessment burden has been onerous for both pupils and staff. Too much time in the classroom is spent completing assessments, causing heightened stress for learners as well as a serious diminution of the amount of time available for teaching and learning.

8.   Representations to this effect have been made by the EIS on numerous occasions and by parents' groups. Indeed, the EIS is advocating a suspension of verification procedures for the current session, except where there is demonstrated need for support from last year, in order that some of the assessment pressure of staff and pupils might abate, and a space created for looking at the original intention of unit assessment at National 5 and Higher levels.

9.   Regarding specific groups of learners, the EIS has given feedback to the SQA on a number of occasions on the revised additional assessment arrangements for candidates with additional support needs. These new arrangements have resulted in the withdrawal of

human readers and scribes for candidates whose additional support needs impact on their literacy skills and who are seeking to gain Literacy qualifications at National 4 or below. Instead of human support, as was an option at Standard Grade and continues to be an option for more able candidates within the new qualifications, support by technological means is the substitute provision. The SQA maintains that such a measure has been introduced to the new qualifications to safeguard the integrity of Literacy qualifications and to encourage learner independence. The EIS, however, has highlighted the lack of consistency of approach to assessment arrangements across the suite of English qualifications- candidates who require additional support in literacy at N5 level and above are entitled to the support of human reader/ scribes; those sitting National 4 English and below are not. Effectively, the candidates who are most disadvantaged are the least well supported.

10. Part of the difficulty lies in the fact that although SQA contributes to the partnership approach of Scottish education, its own governance procedures are removed from any meaningful scrutiny on the part of the Education community. Its publicly appointed Board would seem to be largely concerned with governance issues and certainly lacks any input from representative bodies such as teacher professional associations. The same has been true of its advisory body, although steps are now in train to address this deficit. How the SQA assesses whether it is providing value for money would seem to be a largely internal process, therefore.

11. The EIS would accept that the SQA has sought to be responsive to the needs of learners, educators and employers in relation to the relevance of qualifications. Given its virtual monopoly within the Scotland as an awarding body, it clearly has a market imperative to respond to what is effectively its customer base. The area where the EIS would raise some concern relates to the ability of the SQA to take into account the capacity of schools to assimilate and apply the complex process of changes to qualifications. The SQA has been overly concerned with its own timetable for the implementation of the new qualifications, recognising, perhaps, a certain political imperative around the process, and insufficiently tuned in to the needs of schools and centres.

12. The EIS is unaware of detailed plans on the part of SQA to become self-financing but would be concerned about the possible detrimental impact on publicly funded education providers. As a significant income stream for SQA relates to the fees it charges for presentations, there is a danger that costs to centres, schools and

colleges, will increase which will mean education budgets being further squeezed at either local authority or school level. An increase in exam fees could lead to schools and colleges being forced to review presentation policies, for example only putting forward candidates who were likely to get a qualification, rather than risking presentation for those whose chances of success were slim as such candidates' failure could be seen as a poor use of money within the context of reducing school and college budgets. In addition, the SQA currently pays, albeit modestly, a number of teachers and lecturers to undertake tasks such as preparing exam questions and ensuring standards are consistent for internal assessments. Any increase in exam fees arising from the SQA's status as a self-financing body could have an impact on education providers' willingness to release staff to support the work of the SQA as budgets would require to be redressed. A further issue is in relation to presentations for exams. Following the removal of the appeals process, which, it may be argued, was partly motivated by a desire to reduce costs, the recently established post-results service might cost more. Schools and colleges would then have to limit requests even further than at present, causing yet more disadvantage to pupils and students. Yet another concern is around the affordability of important events organised by the SQA such as those focused on understanding standards. In the event of the SQA becoming self-financing, these events may no longer be affordable for all providers as costs would be likely to increase in order to satisfy the demand for income.

13. On the other hand, if fees and charges remained static, an option which would allow the SQA to be self-financing would be for it to reduce its permanent staffing. This would be a matter of concern for the EIS both as a trade union and as a professional association. A number of our members are currently employed by the SQA on both permanent and part-time basis. Therefore, the EIS would be opposed to any development within the SQA which would pose a threat to members' jobs. Additionally, any reduction in staffing would be viewed as being detrimental to schools and colleges which need more rather than less support in the delivery of new courses and qualifications, particularly looking to Developing Scotland's Young Workforce, for example.

14. The EIS is aware that SQA has developed a number of operations furth of Scotland; indeed when you log on to the SQA website there is an option to choose your country, and it may be that these activities are seen by the SQA as potential income streams for the future. Whilst not opposed to some broadening of activity on the

part of the SQA, the EIS would express some caution about over expansion or any future dependence on income form this area, as we believe that Scotland's schools and colleges require the SQA to remain focused on meeting the needs of the qualifications system in Scotland rather than shifting the emphasis of its activities and courting further business internationally. In the event of such, there is a danger that the need to support Scottish education would become a mere afterthought within the SQA's overall business model to the detriment of Scotland's learners and teachers.

15. Overall with regards to a potential move to self-funding status, the EIS view is that the SQA has been slow at times to react to the needs of schools and colleges in terms of supporting the development and delivery of new qualifications. If finance dictates policy within the SQA in the future, the situation in terms of this is likely to deteriorate. To make matters worse any withdrawal of Scottish Government funding could create even less public accountability and the EIS is strongly of the view that the SQA needs to be made more accountable both to the profession and, also, to Scottish education more broadly.

16. Given that the Scottish education is still undergoing significant change and transition, however, a level of stability is required at this crucial point in time in order that existing concerns such as those outlined above can be adequately addressed. Whilst progress can be made on improving accountability, any future restructuring of such a key organisation as the SQA would need to be well-founded.

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The Educational Institute of Scotland

EIS Response to Education and Culture Committee Consultation on Proposed

Stage 2 Amendment to the Education Bill: National Improvement Framework

1. The Educational Institute of Scotland (EIS), Scotland's largest teacher trade union, shares the ambition of the Scottish Government to reduce the achievement and attainment gap that exists between Scotland's most and least deprived children and young people.

2. In addition, the EIS supports the development of policy based on evidence derived from the proportionate collection and analysis of reliable data. The Scottish education system, in our view, is rich with such data, particularly at classroom and school level where it is most usefully deployed in supporting learning and teaching; the EIS would support the use of such data for the purposes of improving equity within the system through the sharing of good practice in 'what works' and through evidence-based targeting of additional resources.

3. It would appear, however, that a challenge facing the Scottish Government, and perhaps a frustration felt by it, is its lack of access to the data which is already in abundance within the system at local level. Local authorities, either individually or through the umbrella group of COSLA, seek to utilise the data open to them to inform local service development. A discernible tension appears to exist between the competing functions of Scottish Government, with responsibility for national policy in education, and local government, with its statutory responsibility for delivery. It would appear that Scottish Government wishes to have a more direct leverage in relation to service delivery and certainly the current proposals would mark a significant shift in the direction of Scottish Government around responsibility for both policy and service delivery of education. This may lie behind the drive to place the Framework and its accompanying reporting mechanisms on a statutory footing, although the immediate merits of such an approach are not apparent. The EIS has no developed view on the appropriate balance between the two arms of government, although we recognise the importance of a local dimension in this regard. It is our contention that Scottish education has benefitted from a partnership approach to education and we would wish to see that approach being continued where possible.

4. The most contentious element of the proposed National Improvement Framework has been standardised testing / assessment in literacy and numeracy. Early iterations of the NIF,

and discussion around standardised tests, seemed to suggest that Scottish Government believed that annual testing of children in P1, P4, P7 and S3, and within a given period of time in the school calendar (effectively mirroring the SQA exam diet), was the best means by which to gather the requisite data from which to induce attainment improvements – though no evidence was provided to show how this approach would address the attainment gap. The EIS view is that this would be an ill-judged and disproportionate approach to statistical data-gathering- unnecessary and undesirable in terms of methodology, scheduling and scale; at variance with international research evidence on best practice; and counter to the interests of Scottish education as it continues its progressive journey with Curriculum for Excellence.

5. The EIS notes that both the First Minister and the Cabinet Secretary for Education and Lifelong Learning have taken time to clarify that any approach to standardised assessments would reject the high stakes testing, benchmarking approach of other systems, such as England, which invariably lead to the type of league table, target setting agenda which previously overtook the 5-14 programme and which Curriculum for Excellence, with its focus on assessment being for learning, was developed to counter. Such an approach also results in increased stress for pupils who quickly become aware of the perceived importance of results within such systems.

6. Scottish Government has indicated that any new assessments would be diagnostic and predictive in nature and would be used to support, rather than supplant, teacher professional judgement.

7. These caveats have been helpful but they make even more critical, judgements to be made within the NIF around the visibility and purpose of data. Protections need to be put in place to ensure that unintended consequences, such as league tables, are avoided, that perverse incentives which would subvert effective teaching and learning are not created and that the "test" does not become prominent in assessing a child's progress. A laissez-faire approach to the danger of unintended consequences or the creation of perverse incentives would be a dereliction of responsibility.

8. In essence the EIS refutes the argument that crude standardised testing regimes of the kind outlined in the initial draft National Improvement Framework are the key to improving education, including that of Scotland's poorest children. Time and again, high stakes standardised testing has been shown to cement the disadvantage experienced by children and young people disadvantaged by poverty. It crushes creativity both for learners and for teachers, does not take full account of pupil progress and causes unnecessary stress for the children and young people who are subjected to it. Indeed, around the globe, countries that have adopted such systems are rolling back from them as the negative consequences become increasingly apparent.

9. To be clear, the EIS, as a professional association, believes that assessment is absolutely central to teaching and learning. Teachers assess pupils daily, in a wide range of ways; what is observed is fed back to the learner to aid her or his progress, and is shared appropriately with parents. Within the CfE framework considerable effort has been made to support the concept of teacher professional judgement in relation to student assessment and this should not be undermined. These professional judgements are based on observation, marking of pupil work, collation of data from reading programmes (including reading ages), information from appropriately chosen standardised tests where they are used, the use of various assessment tools from the National Assessment Resource (including test items) and many other sources deriving from the teacher pupil relationship which is at the heart of good classroom practice. Crucially, such judgements are informed by an in-depth knowledge of the young person as an individual, not a statistic.

10. Whilst the EIS also acknowledges that within this more holistic approach, diagnostic and predictive assessments, as opposed to system benchmarking tests, can feed effectively into a pupil profile and contribute to teacher professional judgement, we are clear that they must never be allowed to supplant it. Whilst diagnostic assessment, particularly those which link skills broadly to CfE levels, could offer useful data for use by practitioners, it needs to be recognised that the range of skills or knowledge assessed in any single test is relatively limited. To contribute most effectively to teacher professional judgement, several diagnostic assessments, utilising a range of assessment techniques, would need to be available across a broad range of skills and competencies for use by teachers as was appropriate to a child's development needs. In the version proposed within the National Improvement Framework, the range of skills assessed is confined to literacy and numeracy, and even within those broad areas of learning, the focus is restricted to what in the past was referred to as the three 'rs'- a somewhat outmoded, reductionist approach . As such, assessments like these should and could only serve as a small contribution to a wider, more holistic assessment by the teacher. And while literacy and numeracy are central to the CfE approach, research evidence from the USA conducted as part of the review of the "No Child Left Behind" policy, highlights the danger of other subjects being marginalised by the use of narrow and defined "testing" focus. *(Nelson, Howard; 2013; Testing More Teaching Less; AFT)*

11. The fact that 30 out of 32 local authorities already make use of standardised tests and yet the attainment gap persists, points clearly to the fact that standardised tests do not offer an easy solution to any of the challenges facing Scottish education. A more systematic approach to diagnostic testing may bring some national rigour to a process already in place but the lessons of National Assessments within the 5-14 programme – where the test became more critical than the learning – should not be forgotten. If a single

assessment instrument is allowed to supplant teacher judgement, over a short period of time we will see the re-emergence of teaching to the test and the narrowing of experience within the broad general education, as well as a return to an unhelpful, unhealthy league-tables culture which merely serves to reinforce disadvantage and damage the morale of all within those school communities which are judged to be 'failing'. Whatever the final version of the National Improvement Framework, it is imperative that individual schools do not become the casualties of such a pernicious culture and they must be protected from such. It should be recognised, also, that whilst Scottish Government presents the argument that a Scottish standardised assessment would replace the current varied pattern of use by local authorities of other standard test packages, there is nothing within the framework to ensure that such an approach is adopted and children could find themselves being subject to increased testing, with its associated stress and pressure, and teachers workload demands being intensified further.

12. The EIS view is that any National Improvement Framework should be developed in the context of CfE i.e. should be concerned with a pupil's learner journey through the various levels of CfE, mindful of the fact that progress is a continuum and that levels are not hoops to be jumped through, and that assessment primarily should be about supporting learning. CfE promotes the design of bespoke curricula and accompanying assessment packages, which may include summative tests as a component part of a varied toolkit of assessment, firmly focussed on the child and her/his progress as a learner. Such a model generates a wealth of data that is crucial to the success of the learning process and, importantly, is accessible and useful to learners themselves. In terms of the visibility of data, it is essential that the dashboard focusses on progression through the CfE framework, based on teacher professional judgment, or we are otherwise in danger of undoing almost a decade's worth of commitment to CfE and the primacy of assessment for learning.

13. Such an approach would echo that of Finland ("what works"):
Steady improvement in student learning has been attained through Finnish education policies based on equity, flexibility, creativity, teacher professionalism and trust. Unlike many other education systems, consequential accountability accompanied by high stakes testing and externally determined learning standards has not been part of Finnish education policies
(Sahlberg P. 2007 Education policies for raising student learning: The Finnish Approach. Journal of Education Policy 22(2))

14. It is assessment for learning which has to be central, not assessment for the purpose of generating statistics to satisfy the demands of the policy-making or accountability agendas, primarily because it is easier to understand what appears as a shorthand summary than to trust the professional judgement and practice of teachers and schools. Teachers must retain the professional autonomy, as supported by Curriculum for Excellence rationale, to

identify what is to be assessed, the appropriate assessment methodology and the timing of assessment, in the best interests of learners.

15. This would mean that the use of predictive and diagnostic assessments was simply a part of a range of assessments and that the data and insights derived from such should be primarily focussed on the teaching and learning process – available at classroom and school level but subsumed within teacher professional judgment in relation to any culling of performance levels at a public level.

16. The use of such assessments should be when a teacher deems it appropriate to support learning and should most certainly not be dictated to by a system wide accountability imperative, i.e. an "assessment diet", which would simply have the effect of making assessments as high stake as they could be.

17. Towards this end, in the EIS view, consideration should be given to an alternative and much more educationally sound approach which can be found within the Finnish education system within which:

    At the national level sample-based student assessments … that have no stakes for students, teachers, or schools are the main means to inform policy-makers and the public on how Finland's school system is performing. Teachers and principals in Finland have a strong sense of professional responsibility to teach their children well but also to judge how well children have learned what they are supposed to learn according to curriculum designed by teachers. (Washington Post, 25 March 2014)

18. Elements of this is approach are among the aspirations of CfE and reflected in the current use of the *Survey of Literacy and Numeracy,* involving the proportionate gathering of data and providing appropriate system-wide information to inform policy making, whilst avoiding the league table approach. The SSLN is a useful sampling tool which should not be abandoned simply because it produced what some commentators perceive as "bad news" as a consequence of the recent modest dip in literacy results. On the contrary, it may provide a useful design solution for a new national standardised assessment model.

19. In light of the instincts of some to seize upon data for ill-purpose, the EIS would urge serious consideration of retaining this kind of approach to data-gathering for the purposes of informing education policy. The recent misinformed discourse about falling standards in Scottish education is a perfect example of how statistics can be interpreted wrongly. Whilst the impact of poverty, and welfare cuts in particular, was evidenced by the slight fall in certain achievement rates and should rightly provoke concern, the fuller narrative of the recent figures was that Scottish schools are continuing to perform at a high level.

20. The version of standardised assessments as outlined within the current draft of the National Improvement Framework will act as a blunt instrument with which to administer an unsophisticated political accountability process akin to that which characterises the regime of target-setting and league tables within education south of the border.

21. Such tests are largely used for system-wide benchmarking and add little, if anything, to classroom practice. They are often welcomed by politicians and civil servants as they seem to offer "evidence" even if it is in a fairly crude form. Such tests lean towards the high stakes agenda alluded to earlier, however, and are best avoided.

22. The existence of nationally collected data does rather beg the question as to what response the data might trigger from both national and local government, particularly in relation to closing the attainment gap. Analysis of data generated by a new version of standardised test is unlikely to tell us anything new about the impact of poverty on educational attainment, for example. The EIS is therefore deeply concerned that the introduction of legislation around the National Improvement Framework in its current form will result in heavy investment of valuable teaching and learning time, and of money, in a nation-wide standardised testing model which will not improve outcomes for Scotland's poorest children and young people. Rather, there should be careful thought given to how the wealth of existing knowledge within education of 'what works' can be adequately resourced and put into practice. Indeed policy makers should surely identify precisely what extra information they want new tests to elicit, and explain how that will enable teachers to address the attainment gap, before imposing them – the EIS is of the view that designing a "one-size-fits- all" standardised assessment for use across Scotland that would provide policy makers with a framework to positively impact on teaching and learning in the classroom is a challenge that has proved to be beyond the capability of any education system which has attempted such an approach.

23. It is the view of the EIS, developed over many years of deep engagement with the issue, that genuine commitment to tackling educational inequality and ensuring improved outcomes in literacy, numeracy, and every other curricular area, requires solid support for schools in their endeavour, as well as the necessary resources. That means, at the very least, facilitating time for teachers at school level to have ongoing professional dialogue around assessment and learning (a key element of the success of the London Challenge), an increased, significant commitment to professional learning for teachers; smaller class sizes; adequate specialist support for learners with additional support needs wherever needed; adequate time for pupil support staff to attend to pupils' pastoral care needs; and the provision of classroom resources and equipment that facilitate learning that has creativity at the core of it.

Notwithstanding broader concerns around the previous 5-14 testing regime, it is worth noting the sharp increase in attainment, measured by test results, during the period when S1 and S2 English and Maths classes were reduced to an average size of 20 pupils.

24. Any National Improvement Framework needs to concern itself with these elements and a range of factors beyond simply assessment data. Scottish Government's recent commitment on teacher numbers recognises the link between maintaining teacher numbers, in order to lower pupil teacher ratios, and addressing the issue of raising attainment. It also has a policy position on providing access to a teacher in the pre-5 sector (though this commitment requires to be extended to ensure minimum and equitable access to a teacher for children in early years) and a general commitment to reducing class sizes. The Framework needs to encompass the relationship between these resource inputs to desired educational outcomes. Put simply, there is no cheap way of delivering an education system that is both excellent and equitable.

25. A further concern of the EIS is the lack of detail provided and discussion with stakeholders about, other components of the National Improvement Framework besides assessment. For the most part, understandably given the threat that it poses to Scottish education, discussions have focused on the inclusion of standardised testing / assessment. The period of consultation allocated to discussion of the NIF as a whole is too short (September to November) and has not allowed all stakeholders to explore or to reach a full enough understanding of the content of the Framework in its entirety, making it difficult to provide comment on detail which remains vague.

26. For example, the relationship between nationally set "drivers" and how these would articulate with local authority plans and then school improvement plans appears to be blissfully unaware of the current 3 year development cycle adopted by schools and Councils in order to ensure that developments are well planned, sustainable and focussed on school imperatives rather than schools becoming a battleground for competing political platforms. Whilst there would appear to have been an acceptance by Scottish Government, in recent times, about the challenge of excessive teacher workload, it is of concern that within the NIF proposals little account appears to have been taken of how School Improvement Planning and Working Time Agreements, both identified within the Tackling Bureaucracy report as key mechanisms for controlling workload pressure, operate in practice. The mechanistic proposals around Education Authority implementation plans and how they link with Scottish Government's annual setting of priorities, reveals a worrying lack of awareness around how schools actually operate, a reflection perhaps of how little input from an educational perspective there has been around the proposals.

27. With regard to the statutory nature of the Framework, the EIS continues to be of the view that the introduction of the amended Bill alone will not deliver significant change in reducing inequalities of educational outcome or impact greatly on the attainment gap created by socio-economic inequality; whilst it creates duties it fails to link those to discernible means to secure the desired outcome. The EIS is in favour of ring-fenced funding linked to specific objectives as a means of driving forward policy aims in a meaningful way.

28. The EIS is of the view that education authorities at present have the mechanisms and structures to support actions that are aimed at tackling inequalities of outcome but the resources available for this have been a limiting factor, e.g. smaller class sizes, as Scottish Government has acknowledged, can contribute significantly to reducing inequality of outcome but this requires expenditure. Without increased resources the actions necessary will not happen.

29. Finally, with regards to the proposed new reporting arrangements, the EIS would have significant concerns if these placed additional bureaucratic workload burdens on head teachers, teachers and schools -an irony which would not be lost on the profession given the recommendations of the Government led "Tackling Bureaucracy Report".

In summary therefore, the EIS:

- Rejects the use of national testing as a bench marking tool;

- Affirms the importance of assessment for learning as the approach most beneficial to pupil learning;

- Supports the continued use of professional judgement within the CfE framework as the basis for system evaluation;

- Recognises that diagnostic predictive assessment can support professional judgement, alongside a range of other evidence, but asserts that it should never be allowed to supplant it;

- Recognises the accountability imperative of both Scottish and Local Government but underlines the fact that a National Improvement Framework in and of itself simply measures outcomes – improvements within the service require significant inputs also;

- Expresses a continued willingness to work with Scottish Government and other partners to build upon the CfE programme and to address the impact of poverty on educational attainment.

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The Educational Institute of Scotland

EIS Response to GTCS Consultation on the review of Registration and Standard Rules

1. **Do you have any comments on our proposal to require applicants who have qualified outside Scotland to have completed teacher education that is broadly comparable to what is required of a teacher qualified in Scotland?**

    The EIS would have serious concerns about any change to the registration criteria which constituted a lowering of the bar in relation to entry to the GTCS register. Scotland has one of the best-qualified teacher workforces in the world and retaining an all-graduate profession is important to maintaining and enhancing our high standards. Only if the term 'broadly comparable' means adherence to the essential requirement that applicants hold a degree-level qualification and a relevant and credible teaching certificate would the EIS support this change.

    The EIS recognises that this proposal will assist recruitment. However, recruitment issues cannot drive any dilution of standards.

2. **Do you have any comments on our proposal to re-introduce a provisional (conditional) category of registration?**

    In light of the terms of the Education Bill which is currently progressing through the Scottish Parliament, and which will extend the requirement for GTCS registration to teachers within the Independent sector, a provisional (conditional) registration category is likely to be necessary if those teachers are to continue to practice.

    The provisional (conditional) registration has implications for SNCT Handbook provisions, particularly in relation to using the category for "top up" purposes.

    Careful monitoring would be essential in the event of such a category being introduced to avoid any erosion of quality within the profession overall.

    Should the provisional (conditional) category of registration be re-introduced, the EIS would wish to see this open to teachers qualified in the Further Education sector who are seeking to transfer registration to another category.

    Finally, in compliance with Equality legislation, careful equality monitoring would have to be in place in relation to race/ethnicity/nationality; age; disability and gender, of applicants

who were awarded provisional (conditional) registration in comparison to those awarded full registration.

3. **Do you have any comments on our proposal to introduce a professional interview mechanism that may be used in some qualified outside Scotland applications that are more complex to assess and where we think having a face to face dialogue may be helpful in order to determine whether the applicant's qualifications meet our requirements?**

The EIS is of the view that, in the interests of equality and diversity, an interview which is designed to give the opportunity to provide further detail to applicants who have qualified outside of Scotland, and whose applications may therefore be more difficult to assess, could be helpful.

The criteria for judging the necessity of such an interview should be the degree of complexity of the application, not simply the fact that the qualification of the applicant has been obtained outside of Scotland.

In the interests of fairness to applicants qualified in Scotland but in a different registration category, for example an applicant qualified in the FE sector seeking registration in the school sector, the same criteria should apply.

Again, careful equality monitoring would have to be in place in relation to the race ethnicity/nationality of the applicants who were invited to interview and, indeed, in relation to the outcomes of the process.

In the best spirit of Equality legislation, those who would be involved in conducting such face to face interviews should have received equality training, which includes specific focus on unconscious bias, prior to the interview process beginning, and this should be refreshed at regular intervals thereafter.

4. **Do you have any comments on the other changes that we have proposed?**

The EIS welcomes the Amendment Order to the Rehabilitation of Offenders Act and Amendment to the PVG Act. We recognise that this will have implications for members where a Chief Constable discloses spent or protected convictions under Other Relevant Information. It is unclear the extent to which GTCS is required to accept, as read, ORI, whether this will be a matter to be considered by GTCS at its discretion or a matter for employers to found upon when recruiting.

The Educational Institute of Scotland

EIS Response to Education and Culture Committee Consultation on Proposed Stage 2 Amendment to the Education Bill: Standard for Headship

The EIS does not oppose in principle the proposed amendment to the Education Bill to introduce a requirement for mandatory qualifications for headship in Scotland's schools, although we do have some reservations about the proposal and timescale, and would urge consideration by the Scottish Government of certain key issues.

Promoting leadership at all levels, the EIS believes, is vitally important for Scottish education. The encouragement of leadership in all within the teaching profession, underpinned by a commitment to collegiate working, is an essential means of enhancing quality throughout the education system generally, and in order to close the achievement gap specifically. For this reason, the EIS recognises the importance and value of additional professional qualifications for all teachers, including headteachers, who wish to pursue them.

The EIS is of the view that all professional learning for teachers should be regarded as essential investment in the profession and, therefore, where there is an associated cost, this should be fully funded by government-national and/or local. Continued and extended commitment to investment in Masters level learning, for all teachers, including headteachers, is key to the further enhancement of the high standards of teaching in our schools and is crucial if we are to reduce inequality of outcomes between Scotland's most and least disadvantaged children and young people.

Removing the cost to teachers of such vital professional learning would remove one of the existing disincentives to career progression, including that towards towards headship.

However, thorough consideration of the full range of current disincentives to teachers becoming headteachers is required in order to alleviate the difficulties around headteacher recruitment, especially in the primary sector, and where they are particularly acute in certain geographical areas.

To this end, workload at all levels affecting the capacity of teachers to take on additional leadership roles and affecting their decision-making around future career progression, must be addressed as a matter of priority.

The workload demands and growing complexity of the headteacher role itself, the associated poor work-life balance and high levels of stress are currently barriers to headteacher recruitment specifically. The creation of

a mandatory qualification for headship does not address any of these issues and will not deliver the desired degree of enhancement of teacher professionalism within the system if there are inadequate numbers of teachers willing to embark upon this career progression route because of the barriers outlined above.

The EIS also has concerns about the short timescale for implementation of the proposed legislation, which has forced, perhaps, a somewhat rushed development of the Into Headship course. It is essential that any professional qualification for teachers, if it is to deliver the intended outcomes, is of high quality and guaranteed, both at its inception and for the duration of its existence, to meet the needs of participants and of Scottish education.

Furthermore, there is a need to analyse and monitor interest in the qualification against expected vacancies to ensure that the mandatory nature of the proposal does not create an unintended consequence of a shortage in headteacher appointments.

Should the legislation come into force, as is likely, the EIS believes that there should be careful equalities monitoring of access to and completion of the headship qualification, particularly in terms of race/ ethnicity/ nationality and gender, with a view to any issues of under-representation being addressed.

Consideration must also be given to equity of access to the qualification for teachers across local authority areas, and, in the event of inequalities emerging as a consequence of funding arrangements or other factors, these must be addressed.

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The Educational Institute of Scotland

Submission to Education and Culture Committee's

Review of Public Bodies' Spending and Outcomes – Education Scotland

1. The Educational Institute of Scotland (EIS) welcomes the opportunity to provide an initial written submission in contribution to the Committee's review of the spending decisions made and the outcomes delivered by Education Scotland.

2. The decision to merge HMIe and Learning Teaching Scotland in 2010 prompted EIS concerns around the dual functions of the single organisation and its resultant capacity to provide effective support to schools. Five years on, the EIS believes that a degree of tension remains around responsibility for inspections and curricular support being encompassed within the same body. Whilst the primary function of the inspectorate remains reasonably well defined, and its activities understood, the EIS would express the view that the support function which Education Scotland inherited from LTS has been marginalised in significant ways.

3. The EIS continues to have concerns 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. Even the simple fact that employees of ES were reclassified as civil servants is indicative of the centralisation which has occurred, with no discernible gain to Scottish education as a result.

4. Furthermore, the EIS would wish to highlight tensions between the different purposes of inspection: as an accountability tool and as a support mechanism for driving improvement. The EIS would suggest that inspection statistics might suggest the need for a more strongly supportive approach and possibly the abandonment of formal inspection altogether in favour of a model designed solely to provide support to teachers and educational establishments.

5. Feedback from EIS members in establishments which have been inspected provides a variable picture. While some EIS Representatives in schools report that members find the inspection process supportive, significant numbers express negative views on behalf of members. These centre on the damage done to staff

morale by the process, the excessive workload and stress that inspection generates.. The EIS has been supportive of the moves towards self-evaluation as the basic approach to inspection but believes that the continued process of individual school inspection needs to be reviewed. Perhaps a more effective and efficacious model would be a return to the inspection of local councils around their responsibilities as education authorities.

6. The EIS recognises that the Education Scotland has been a significant partner in the development of Curriculum for Excellence. However, another source of frustration in recent years has been the inadequacy of the support provided at times from Education Scotland for CfE curriculum development and the introduction of new qualifications: learning and teaching resources and assessment materials with exemplars have frequently been made available too late and have often been of questionable quality. Related to this has been the issue of the accessibility of the Education Scotland website, although this has undergone improvement in recent months. All of this has added to the significant workload of teachers delivering all stages of the 3-18 curriculum.

7. Finally, the EIS view is that Education Scotland should have been stronger in its leadership in relation to the management of internal assessment within the new National Qualifications. It, along with other key agencies, has fallen short to date, in providing the level of guidance and exemplification that teachers required to enable more streamlined approaches to internal assessment.

8. That said, however, Education Scotland does endeavour, to some degree, to evaluate its effectiveness in terms of uptake of advice and support by stakeholders. It analyses website traffic on its site and social media communication in relation to CfE resources and advice. It also seeks the views of stakeholders via formal structures like the recent Project Board, which the EIS participated in, and makes use of surveys and evaluation forms following events which it organises.

9. Regarding the extent to which Education Scotland promotes high quality professional learning and leadership among practitioners, the EIS recognises the contribution that ES has made to this agenda. Education Scotland, for example, has worked collaboratively with the EIS on Tackling Bureaucracy within education and on promoting leadership within the Primary sector. Such partnership working is highly commendable, although the EIS was disappointed to have been excluded from similar CPD events organised by Education

Scotland for Secondary teachers. The EIS is of the view that such activity is more beneficial, in terms of outcome, where there is involvement of the EIS, which is finely attuned to the professional learning needs of its members.

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The Educational Institute of Scotland

**Submission to Education and Culture Committee's
Review of Public Bodies' Spending and Outcomes – Skills
Development Scotland**

1. The Educational Institute of Scotland (EIS), Scotland's largest education union, welcomes the opportunity to provide an initial written submission as part of the Committee's review of the spending decisions made and the outcomes delivered by Skills Development Scotland (SDS).

2. The Scottish Government allocates a significant amount of funds to SDS to deliver its National Training Programmes, including Modern Apprenticeships, Get Ready for Work, Training for Work3 and Individual Learning Accounts, some of which will be allocated to colleges for delivery of learning programmes. Funding to SDS is also used to provide the Scottish Government's national redundancy service and careers information services. The EIS supports the aims of the SDS in promoting employability at a national level.

3. According to the SPICe Report 14/18, SDS funding was £181.3 million in 2011/12, £176.4 million in 2012/13, £187.4 million in 2013/14, a planned funding allocation of £184.0m for 2014/15 and a planned allocation of £183.5 million in 2015/16. These are significant sums of money and equivalent to around a third of the college sector revenue budget for 2015- 16.

4. However the EIS also has concerns that resources directed towards this national body have potentially been at the expense of college funding through the Scottish Funding Council. SDS also funds a significant number of college places, supplementing SFC funding. This gives the SDS some influence but without the SFC's transparency. Some college funding- for example, Employability Fund and Opportunities for All has oscillated between the SFC and SDS, which reflects the overlap between these bodies. The EIS prefers college sector funding to be channelled via the SFC since this body is more transparent and engages with stakeholders such as the EIS, and potentially allows better financial planning by colleges.

5. Colleges previously managed the delivery of careers education for students. Arguably, college staff have greater knowledge of the employability needs of their students and of how best to match these to local employment potential. Questions remain in relation to the comparative effectiveness of SDS, as a large national body, in fulfilling this role.

6. In relation to the school sector, the EIS has raised the issue of reduced access for young people to careers advisors since the inception of SDS. Whereas in the past young people had more regular face to face contact with a careers advisor, a significant

portion of this support has been replaced by students accessing the 'My World of Work' ICT programme. The EIS view is that, in terms of quality, such interface with technology is not an appropriate substitute for young people's direct and regular contact with qualified careers advisors. Such skilled personnel not only support young people in making choices about career pathways through a wealth of knowledge about the possibilities, but through building positive relationships with those young people over time.

7. This is particularly important for young people with additional support needs or who are vulnerable as a consequence of sharing other protected characteristics. The recommendations of the Developing Scotland's Young Workforce Review (DYW) highlight significant under-representation of learners who share protected characteristics as identified by the Equality Act 2010. Young people with disabilities or who are from minority ethnic communities are, to a large extent, excluded from Modern Apprenticeship pathways, signalling that there is much work for SDS to undertake in this regard.   Similarly, the need to address early occupational segregation according to gender within Modern Apprenticeships is obvious. The EIS would suggest that reductions in the amount of time that young people spend engaged in meaningful discussion with trained careers advisor will not sufficiently reduce these equality deficits.

8. Furthermore, the outcomes of DYW require schools to work much more closely with SDS to deliver the recommendations as they impact on all young people. The EIS is keen to see how schools will be supported by bodies such as SDS in working towards this. Closer partnership working of this kind will inevitably demand greater investment of time and staffing in schools and within SDS if it is to be successful in enhancing the employability of Scotland's young people.

The Educational Institute of Scotland

Analysis of Local Association Survey Responses on Standardised Tests

Following discussion of the draft National Improvement Framework (NIF) at the September meeting of Council, a survey of Local Associations on the use of standardised tests in Primary and Secondary schools within each local authority area was carried out.

This was done in response to the rationale provided by the Scottish Government within the draft NIF for the introduction of standardised testing for all pupils in P1, P4, P7 and S3 on the basis that almost all local authorities were using standardised tests to assess pupil progress.

The survey was intended to find out the extent to which this was the case, as well as to ascertain the nature of the standardised testing being conducted and the degree to which class teachers were involved in administering such tests.

24 Local Associations responded with information relating to standardised testing in Primary, 21 for Secondary.

(Since conducting the survey, the Scottish Government published the final draft of the NIF which refers to standardised assessment rather than standardised tests.)

PRIMARY

Responses confirmed that nearly all- 23 of the 24 local authorities for which data was supplied (96%)- are using a form of standardised test/assessment in either all or some of their Primary schools.

Types of standardised test/ assessment

The kinds of standardised test/assessment that are typically being administered include the following combination of summative and diagnostic:

- ASPECTS
- PIPS
- INCAS
- Baseline Assessments
- GL Suffolk Reading Test
- Quest
- GL PIM Assessment
- Single Word Spelling Test
- NFER tests and assessments
- NGA
- SEAL Assessment
- PIE
- YARC
- NGRT Baseline
- CEC
- AFE
- SWST

Which groups of pupils sit standardised tests/ assessments?

In 7 (approx. 30%) of the local authority areas which use standardised tests/assessments all pupils from P1 to P7 sit them annually.

In 1 (approx. 4%) all pupils from Nursery to P7 are tested.

5 local authorities (approx. 22%) follow a pattern of using standardised tests with all P1, P3, P5 and P7.

In 3 local authorities (approx. 13%), the pattern is all of P3, P5 and P7.

1 local authority (approx. 4%) tests all pre-5s, P1, P2, P4 and P7.

2 local authority areas (approx.9%) test all of P1 and pupils in other year groups according to need as identified by individual schools.

1 local authority (approx.4%) uses standardised tests with all of P3 only.

Information supplied for 3 local authorities (approx. 13%) indicated that standardised testing occurs but that the groups of pupils tested vary from school to school.

1 Local Association did not supply information in this area.

Frequency and timing of standardised testing/ assessment

Responses indicated that in 13 of the 23 local authorities (approx. 57%) which use standardised tests, pupils are tested once per year. The information supplied by local associations suggests that this is on whole cohort basis.

In 8 local authorities (approx. 5%) for which information was supplied, P1, and Nursery pupils where applicable, are tested twice, the pattern suggesting that this occurs at the beginning and the end of the session. The other year groups identified as being involved in standardised assessment are tested once in the session.

In 1 local authority (approx. 4%), the number of times that pupils sit standardised tests within the session varies from school to school.

1 Local Association did not supply information on this area.

In 17 local authorities (approx. 74%), the tests are administered at a set time each year. The pattern varies though the beginning and the end of the session is common for P1.

In 4 local authorities (approx. 17%) the pattern varies from school to school.

2 Local Associations did not supply information for this question.

Who administers standardised tests/ assessment?

The majority of standardised tests/ assessments are administered by class teachers and in some instances assistance is provided by support staff and SMTs.

In 4 local authorities (approx. 17%) class teachers and SMTs administer tests.

In another 7 local authorities (approx. 30%) class teachers and SMTs are assisted by support staff in the delivery of tests.

In 5 local authorities (approx. 22%) class teachers deliver the tests without the involvement of SMTs; in 3 local authorities (approx. 13%) teachers are assisted by support staff only.

In 3 local authorities (approx. 13%) standardised tests are administered by SMTs only.

One Local Association did not respond to this part of the survey.

How is standardised test/assessment data used?

Within 18 local authorities (approx. 78%), data generated by standardised tests/assessment remains at school level and is used for a variety of purposes: to assist the class teacher with identifying gaps in learning; set targets with pupils and parents; target additional support where required; measure and track pupil attainment; set ability groups within classes; inform planning for learning; is included in the package of information supplied at transition.

The data is, in 4 local authorities (approx. 17%), used to measure and compare the performance of schools within the local authority. In one case information was supplied to the effect that the data collected is used to set targets for individual schools and in another case, for the purposes of identifying where ASN support should be targeted. In one of these local authorities, test results are supplied to the Educational Psychologist Team who record and track the results.

One Local Association did not supply information for this part of the survey.

SECONDARY

From the 21 responses received, it is clear that the majority of local authorities for which information was provided- 19 in total (approx. 91%) - are making use of standardised tests/assessments in all or some of their Secondary schools.

Types of standardised test/ assessment

The types of standardised test/assessments that are typically being administered included the following include the following combination of summative and diagnostic:

- MidYis
- SOSCA
- GL CAT Test
- ALLESS (Hodder & Stoughton)
- CAT
- GL PIM Test
- NGRT
- PIE
- PIP
- NFER.

Which groups of pupils sit standardised tests/ assessment?

According to the information supplied by Local Associations, in 3 local authorities (approx. 16%) S1 and S2 complete standardised tests/ assessments.

In 2 authorities (approx. 11%) pupils sit standardised tests/assessments either in S1 or S2.

7 local authorities (approx. 37%) test S2 only while 2 (approx. 11%) test only S1.

2 local authorities (approx. 11%) test S1 and (some) S3.

For 1 local authority (approx. 5%) information suggested that there is no uniform policy applied in relation to the standardised testing/ assessment of Secondary pupils.

Information supplied by 2 Local Associations was unclear.

Frequency and timing of standardised testing/ assessment

Survey responses indicated that where standardised testing/assessment is taking place in Secondary schools, it occurs once for each of the year groups targeted.

In 12 local authorities (approx. 52%) which use standardised tests, they are administered by schools at set times in the year.

A variable pattern of timing exists in 3 local authorities (approx. 16%).

The information supplied by 4 Local Associations was inconclusive in this regard.

Who administers standardised tests/assessments?

In almost all local authorities for which information was supplied, class teachers are identified as being involved in administering standardised tests/assessments.

In 5 local authority areas (approx. 26%) the tests are administered solely by class teachers; in 2 (approx. 11%) by class teachers and support staff; in 4 authorities (approx. 21%) class teachers are assisted by support staff and SMTs; in a further 4 (approx. 21%) they are assisted by SMTs only and in 1 (approx. 5%) by a PT Raising Attainment.

Information supplied on 2 local authorities (approx.11%) suggested that there was no set pattern in terms of personnel involved in delivering standardised tests.

1 Local Association did not supply information on this part of the survey.

How is standardised test/assessment data used?

In 13 local authority areas (approx. 68%) the data generated by standardised tests/assessment remains within the school and is used for a range of purposes: to inform planning both by class teachers and school improvement plans; target setting for pupils; setting of classes by ability; monitoring and tracking; identification of additional support needs; supporting course choices; measuring 'added value' across transitions; making predictions of pupils' longer term SQA attainment.

In 3 areas (approx. 16%), it is used at school and local authority level. Responses stated that standardised test results are used to compare the performances of individual schools and in one case that results are reported to the Education Committee of the local authority.

Three responses were unclear.

Conclusions

Within the majority of local authorities for which responses were given standardised tests are in use in both Primary and Secondary.

Most testing occurs at a set time in the year currently, though there are variations across and within local authorities.

The information supplied by local associations suggests that tests/ assessments are administered on a whole cohort basis.

Standardised testing of Primary pupils in particular occurs both with regularity and high frequency across a large number of local authorities.

In many cases- 13 out of 23 (approximately 56%) - the move, as outlined within the NIF, to test at three stages in Primary, these being P1, P4 and P7, could represent a reduction in Primary pupils' exposure to

standardised assessment/testing if local authorities do not continue with current approaches.

In the majority of cases, Secondary pupils sit standardised tests once within the designated year group; this amounts to a comparable degree of standardised testing/ assessment as indicated in the NIF for S3 (or possibly S2, this still to be decided). For some pupils, (in approx. 16% of local authorities) testing in S3 (or S2) only will represent a reduction in their exposure to standardised assessment/testing if local authorities do not continue with current approaches.

In almost all cases, class teachers are involved in the delivery of standardised tests. They are assisted to varying degrees from local authority to local authority by support staff and SMT members.

ICT is being used in some local authorities as the mode of delivery of standardised testing.

In most local authorities, data is held at school level to inform assessment judgments, target setting, planning, etc. Only a minority of local authorities currently collect standardised test/assessment data.

The move towards uniform collection of standardised assessment data at local authority and national level as had been outlined in the original draft of the NIF would therefore have been a significant development on current practice.

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The Educational Institute of Scotland

EIS Response to the Public Petitions Committee: School Libraries

The Educational Institute of Scotland (EIS) welcomes the opportunity to give its views on the petition calling on the Scottish Parliament to 'urge the Scottish Government to set out a new national strategy for school libraries which recognises the vital role of high quality school libraries in supporting pupils' literacy and research skills'.

The promotion of literacy is central to the aims of Curriculum for Excellence (CfE); good, well-resourced school libraries, staffed by qualified professionals are cornerstones of whole school literacy strategies. Therefore, in the view of the EIS, it is difficult to see how the aim of improving the literacy of all children and young people in Scotland's schools can be reached without essential investment in school libraries.

Qualified library professionals as custodians of school libraries are invaluable in the support that they give to children and young people. Their professional knowledge and expertise ensures that library stock is extensive, of good quality and attuned to the diverse interests of library users, at the same time as being organised in such a way as to maximise the accessibility and attractiveness of the environment to encourage students to explore and use it. School librarians, like teachers, get to know students well as individuals, forming positive relationships with them and making libraries welcoming learning environments.

In schools where libraries continue to flourish, pupil learning is enriched by these benefits. The school library supports pupils' development as successful learners and confident individuals, able to engage in both independent enquiry and collaborative research alike, and to develop and maintain healthy personal reading habits. There can be no question that the enhancement of literacy skills such as these has a positive impact on students' overall attainment. In the context of the drive to raise attainment generally, and to close the gap in achievement between Scotland's most and least disadvantaged children and young people, it is the view of the EIS that the value of school libraries and qualified librarians cannot be underestimated.

Regarding the aim of improving equity within education specifically, the EIS believes that adequate resourcing of schools, which takes account of the need for additionality proportionate to need, is essential. It is understood that some local authorities have already made cuts to school library provision to make financial savings. Variance of approach across local authority areas has resulted in learners across Scotland having unequal access to the significant benefits that school libraries bring. Among those, the poorest children and young people are the most deeply affected since they are the least likely to have access to books, journals, magazines and reference material, and quiet places to work, at home. Many of those same children and young people are already denied access to community libraries because of cuts to services and several more local

authorities are proposing cuts to public libraries as cost saving measures for the near future. Thus, any erosion of school library provision serves to widen the achievement and attainment gap at the very time when, in the EIS view, there requires to be a national collective effort to close it.

The promotion of digital literacy is another feature of CfE which is supported by school libraries and librarians. Many school libraries are equipped with a suite of computers, which contributes to the sense of the physical space as a stimulating learning hub. Students make use of the full range of information resources on offer- reference books and the expanse of the Internet, with the librarian on hand to provide useful signposting and advice where necessary. The library space with its combination of digital, print and specialist human resource, lays the foundations of lifelong learning for the children and young people who use it. Where this is not in place, students are at a disadvantage.

Another advantage brought to schools by in situ libraries and librarians is the conduit function that they can provide for interdisciplinary learning. Not only does the physical environment support this, so too does the librarians' expertise in identifying and acquiring useful material to support cross-departmental projects in the Secondary school, helping students to make connections across their learning and to transfer skills from familiar to less familiar learning contexts in the spirit of CfE.

For learners with additional support needs, the school library is an additional support. It offers vulnerable young people an alternative place to work for short periods on specific tasks with Support for Learning staff during class time where appropriate, and a quiet place to read or complete homework during break, lunchtime and after school. Responding to the growing diversity of our communities and therefore our school populations, good school libraries are able to support the learning of children and young people for whom English is an additional language by making books available in the home languages of these learners- a vital resource for the literacy development of multi-lingual learners. For many young people the school library is a haven and the librarian another supportive adult who knows her or him well. Such opportunities for nurture need to be maintained and, indeed, extended, particularly as GIRFEC becomes statutory.

Where school librarians are in post, they are an excellent support to teachers, making reference material available to support classroom-based research activities and project work, and they act as linchpins of personal reading initiatives- organising author visits, reading competitions, and participation in national book awards, for example- as well as providing the intensive day-to-day administrative support that is required to facilitate the regular book borrowing, reading and sharing that characterise a strong reading culture.

The school library as a physical space is also well used by teachers, particularly in light of the fact that in many schools, teachers share classrooms and teaching spaces with colleagues. During non-class contact time, the library is a space where teachers can complete marking

and preparation, and the writing of reports on computers. Many school libraries retain a section dedicated to teachers' professional learning, the importance of which has never been greater. Again, ICT facilities within school libraries are used by teachers both to access professional learning online and to complete Professional Update profiles.

Finally, school libraries and librarians support the work of Skills Development Scotland in delivering careers education. Good libraries are well-stocked with careers information; librarians support young people in accessing this and in using ICT to inform decision-making around positive destinations beyond school.

In conclusion, the EIS shares the view of the petitioners that libraries and librarians are essential resources to which all children and young people should have equal access on a full-time, daily basis throughout the pupil week. The EIS would support the development of a national strategy for school libraries though would urge that any strategy devised be accompanied with the additional requisite funding to ensure that its aims come to fruition.

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The Educational Institute of Scotland

EIS Response to Scottish Government Consultation on the Development of a Digital Learning and Teaching Strategy for Scotland

Question 1
Is the strategy founded on the right principles?

Yes

Are there other principles that should be considered?

The EIS believes that the five principles are sufficient though there could be explicit reference to equity and/ or equality in the section headed 'Opportunities for all learners'.

Question 2
Are the four key themes identified the right ones to focus on?

Yes, though the EIS would stress that the use of digital technology by pupils should be appropriate to the learning context as judged by teachers. Equally, teacher judgment should determine assessment methodology in accordance with the purpose of the assessment, the needs of the learner and the requirements of teachers as assessors of pupils' progress. At present, in the professional judgment of many teachers, ICT tracking and monitoring systems that are in operation such as SEEMIS are not fit for purpose and are generators of additional workload the products of which teachers find to be of little value.

Are there other themes that should be considered?

The EIS recognises the need for high-quality professional learning opportunities to support teacher confidence and skill in use of digital technology in light of the rapid pace of change in this area. This is particularly pertinent in the context of the demands of digital tracking and monitoring and of growing expectation that teachers engage with ICT platforms such as Insight for the purpose of data analysis to inform practice.
The EIS is of the view that consideration should be given to how ICT systems for the purposes of tracking, monitoring and reporting can be designed in such a way as to be genuinely user-friendly to practitioners and have a positive impact on reducing teacher workload. Direct consultation with teachers in relation to IT system design would be helpful in this regard.

Question 3
Do you agree with the priorities for action outlined in the 'leaders' theme?

Mostly.

Are there other actions that should be considered?

The EIS broadly supports the action points but has concerns over the introduction of another national priority for education at this time: workload burdens for school leaders, the ever increasing demands in relation to school improvement plans and the potential resulting workload increase for the majority of our members are live issues, as acknowledged by the Scottish Government within recent SNCT negotiations.
There is also real concern about how funding will be made available to enable schools to capture the 'vision for digital technology' within improvement plans and to meet any increase in expectations around digital technology with regards to school inspections. Vision alone cannot deliver outcomes.
The EIS welcomes the aim of making digital technology research widely accessible to practitioners.

Question 4
Do you agree with the priorities for action outlined in the 'access' theme? (Page 17)

Yes

Are there other actions that should be considered?

Our members welcome any steps to make school IT infrastructure more 'user-friendly' as currently many experience frustration at time wasted with inadequate IT systems. We have concerns over parity of access to high-speed broadband, particularly in the more rural areas of Scotland as we believe all learners should benefit from the same opportunities. The EIS believes that schools will find it increasingly challenging to fund the purchase of new technologies such as tablet computers in the context of swingeing budget cuts.

Question 5
Do you agree with the priorities for action outlined in the 'curriculum and assessment' theme?

In part. The EIS is of the view that schools and teachers are not in a position currently to engage in curriculum review and development on the scale suggested within the document. Workload demands as they currently sit are unsustainable. Only with the elimination of other priorities could there be further significant development with regards to the place of digital technology within curriculum and assessment.
Regarding the aim of developing and embedding approaches to assessment that make full use of digital technology, the EIS view, as previously stated, is that this should be as appropriate to the context as determined by teacher professional judgement.

Are there other actions that should be considered?

Time for practitioners to engage with curricular change must be embedded in any strategy which is brought forward in this area. The EIS would support the use of IT systems to support assessment, if this was an aid to teacher professional judgement, part of a range of assessment material and effective in reducing workload. Currently, many of our members have concern over use of systems such as SEEMIS and Insight. In addition, any enhancement of learners' entitlement to ICT access and increased use of digital technology by teachers would require significant investment in digital technologies infrastructure in schools.

The EIS recognises the potential for technology to support young people, especially those with additional support needs, to engage with certain assessment activities. However, the EIS is also clear that ICT support is not always the best means by which to support children and young people's engagement. The availability of assistive technology, for example, should not mean that ICT becomes the presumed method of support in every case. The individual needs of each child and young person must be fully considered in the course of such decisions being made.

Consideration must also be given to the fact that children and young people often lack the level of ICT literacy, skill and dexterity to obtain the full advantage from using digital technology for the purposes of assessment. Indeed, for some young people, ICT is a barrier to achievement in this context.

Question 6
Do you agree with the priorities for action outlined in the 'teachers' theme? (Pages 20-21)

Yes

Are there other actions that should be considered?

Currently in schools, especially at key times for reporting and monitoring, access for teachers to computers in schools can be problematic. Essentially there are not enough computers in schools for the numbers of pupils who require to use them, the difficulty compounded when teachers also need to access the same limited number of computers during the school day.
Whilst many teachers may choose to engage with the GTCS Standard for Career Long Professional Learning, they are required only to meet the Standard for Full Registration. The EIS feels language in paragraph 4 of page 20 requires amendment to clear up any ambiguity in the sentence about 'meeting' both Standards.

Question 7
Would you be willing to share your experiences of digital learning and teaching with us?

Yes

If so, please provide the details you would like us to use to contact you (e.g. an email address) in the box below.

abradley@eis.org.uk

Question 8
Is there anything else you wish to add about the strategy?

The EIS believes the cores aims in the strategy are sound but notes that there is no acknowledgement of the financial challenges faced by schools. Without significant additional funding in IT (hardware, software and broadband infrastructure); investment in quality career long professional learning; and alleviation of existing workload, it is likely that implementation of the aims will be patchy and will intensify the issue of inequality of experience and outcome across our schools.
Furthermore, our members will have significant concern over workload implications if this strategy is seen to be an additional burden upon school improvement plans. Additional resourcing, both in time and in budgetary terms will be vital if it is to be successful.

The Educational Institute of Scotland

EIS Response to the Scottish Government Discussion Paper on Early Learning and Childcare 1140 Hours Expansion

The Educational Institute of Scotland (EIS), as Scotland's largest education union and with membership across all sectors, including Nursery, welcomes the opportunity to comment on the forthcoming programme of trials focused on increased ELC delivery.

1. What should be the key features of Scotland's ELC model?

    The EIS believes 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- 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 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, amounting to a 29% 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 designing new models of ELC delivery to take account of the increased 1140 hours of free childcare entitlement, and 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 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 access to a teacher.

Besides staff qualification levels and training, staff salaries, and healthy staff-child ratios and group size, the EIS would concur with the other remaining OECD findings with regards to indicators of other indicators of quality- the effectiveness of the curriculum, the physical environment and staff gender and diversity. The EIS view is that Curriculum for Excellence provides a framework within which, with adequate resources, high quality learning experiences can be designed and delivered for Scotland's early learners. The physical environment is, of course, key to providing the space and surroundings to enable those high quality learning experiences to occur, and to supporting the wellbeing of the children and adults who learn and teach within it. Finally, diversity within the workforce is of huge importance in fostering a sense of belonging among learners, all of whom should see the diversity of their communities reflected in the composition of the staff who work with them.

2. Which specific principles of ELC models should be prioritised within our programme of trials?

    The EIS believes, as reflected in the response to the previous question, that quality and fairness and equity, should be prioritised as principles within the programme of trials.

    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.

    The Scottish Government prioritises flexibility

3. What do you see as the key barriers to a successful implementation of the 1140 hours commitment?

The EIS would regard 'successful implementation' to mean the delivery of early education and childcare provision that is of high quality and equitable. A barrier to this at present is the absence of legislation safeguarding children's equal and minimum access to a qualified teacher.

If this were to be rectified, a further challenge would lie in teacher recruitment, as is already the case. Large numbers of teachers would require to be recruited and trained, and those who have been removed from the nursery setting to teach in primary, redeployed.

Another dimension of successful implementation is from the perspective of the workforce, including registered teachers. The EIS is of the view that there requires to be improvements in the conditions of all members of the early years workforce. In seeking to deliver the additional hours of free nursery entitlement there certainly must not be any erosion of the terms and conditions of those employed within the sector, including those of qualified teachers, in the interests of offering greater flexibility of access to parents. Delivery cannot be at the expense of the conditions of early years workers and practitioners if it is to be considered 'successful'.

4. How might these trials be designed to overcome such barriers?

    Efforts could be made to fund the recruitment and/ or redeployment of qualified nursery teachers by local authorities for the purposes of the trials, with a view to continued retention beyond the life of the trial.

    The specific detail of improving the conditions of service for early years workers who are not teachers is a matter for the trade unions of which they are members.

5. Are there existing examples of best practice?

    There is 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.

6. Are there existing examples of innovative delivery within ELC provision that you can share with us?

    Examples of good practice are likely to be found in Finland where pre-school provision is characterised by healthy child to adult ratios; staff are among the most highly trained and qualified in Europe; there is close regulation of modes of delivery; and the provision of

curriculum guidelines by government for use in the early years context.

7. What outcomes should we be measuring through this programme of trials?

    The success of the trials should be judged, in the view of the EIS, according to the following:

    - The cognitive and wider developmental progress of the children involved in the trials (though without early learners being exposed to formal testing);

    - The wellbeing of the children involved;

    - The extent to which teachers, as experts in child development, early level pedagogy with the emphasis firmly on play, additional support needs provision, transitions and supporting families, judge the approaches adopted within the trials to have been a success;

    - The extent to which families, and women in particular, report positive impact on their employability and overall income;

    - The extent to which families report positive impact on the overall wellbeing of the family;

    - The extent to which trade unions as representatives of workers in Early Years report positively on resources, delivery and the impact on their members.

8. Are there other services for children and young people that the trials should be integrated with?

    In the interests of effective transition into and from early years education, integration with Health and Education (Primary sector) respectively would be advisable for all children. For children with additional support needs, Health and Social Work services should be involved in the trials. Time for staff to liaise with professionals from other agencies would be a requirement.

9. Are there local/ regional characteristics that should be explicitly built into trials?

    Consideration should be given to assigning additional resources to models of provision being trialled in areas of high and multiple deprivation, or generally in instances where it is known that children have additional needs.

    Consideration should also be given to how children and families in rural areas will be able to access their entitlements.

In areas where teacher recruitment has been a difficulty, careful planning and resources are needed to incorporate adequate qualified teacher access for children into the trials.

10. How can we design trials in such a way as to ensure scalability?

The answer to this question is very much dependent on the integrity of the Scottish Government's commitment to ensure that 'Scotland is the best place in the world to grow up' and that the education system will embody the twin aims of equity and excellence. The realisation of such a vision for early childcare and education requires significant investment. Trials should be designed with this in mind.

11. Would you be interested in being involved in the programme of trials? If so, in what capacity?

The EIS would be willing to seek feedback from any members who are involved in trials and to feed this back to the relevant personnel. Beyond that, we would be willing to work with partners in the design, delivery and evaluation of trials, and thereafter in the process of scaling up and implementation.

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The Educational Institute of Scotland

Bi-Level and Multi-Level Classes

1. Introduction

1.1 The following Resolution was passed by the 2015 AGM:

"This AGM instructs Council to investigate the use of bi-level and multi-level classes in schools, with particular regard to issues of workload and stress, and to report back to members by December 2015 with their findings and recommendations."

2. Action

2.1 The Education Committee contacted Local Association Secretaries and Subject Specialist Group members, seeking relevant information.

The following are the definitions of applied within this paper :

Bi-Level: configuration of classes to maximise pupil/ teacher ratios in terms of timetable efficiency. Class groups are combined in spite of there being limited or no commonality of content in the courses being studied, and presentation ranges across two.

Multi-level: configuration of classes to maximise pupil/ teacher ratios in terms of timetable efficiency. Class groups are combined in spite of there being limited or no commonality of content in the courses being studied, and presentation ranges across two.

Multi-stage: configuration of classes to maximise pupil/ teacher ratios in terms of timetable efficiency. Class groups from a range (3 or more) of ages and stages are combined.

2.3 14 Local Associations and some Subject Specialist Group members responded to the request for information.

3. Findings

3.1 <u>Occurrence</u>

3.1.1 Local Associations and Subject Specialist were asked about the extent to which bi-level and multi-level classes were being taught in schools within their local authority. Every response indicated that this was at least a common occurrence across all subjects, with teaching of up to 4 levels taking place in single classes. In smaller schools particularly, it was said to be extremely common or the shape of class configuration in the majority of cases.

3.1.2 Responses also indicated that within the Secondary sector, there is incidence of S4, S5 and S6 students being taught in multi-level, multi-stage classes, undertaking courses from N4 to Advanced Higher. Such arrangements were said to apply within smaller schools; in some cases in the teaching of subjects for which there is lesser uptake; in other cases these arrangements occur within typically high-uptake subjects such as English and PE. The pattern of multi-stage teaching across and within local authority areas is therefore variable.

3.2 Impact on workload

3.2.1 Most respondents stated in response to questions relating to the impact of bi-level and multi-level teaching on members' workload that it was significant.

Factors creating additional workload included:

- at least double the planning and preparation;
- simultaneous assessment of students working across at least two different levels;
- the number and range of internal assessments;
- the demand that students meet all assessment standards in order to pass Unit Assessments;
- building in differentiated support for learners whose needs cover a wider range;
- teaching classes outwith timetabled hours to ensure that course content is covered.

A number of responses stated that teachers are exhausted after teaching bi and multi-level classes.

3.3 Impact on teachers' wellbeing

3.3.1 Responses indicate that the prevalence of bi-level and multi-level teaching is having a detrimental impact on teachers' wellbeing.

Increased levels of stress and greater incidence of stress-related absence were reported frequently within the responses received. Stress-related absence among Secondary teachers was reported to have increased significantly since the introduction of new qualifications and thus multi-level teaching, in a number of local authority areas.

Further negative consequences for the health of teachers were identified as:

- sleeplessness, exhaustion and fatigue;

- damage to mental health, including anxiety and depression and also affecting teachers in the early stages of their careers;
- feelings of guilt and futility regarding ability to do a good job in teaching such classes.

3.4 Impact on learning

3.4.1 All of the responses expressed the view that bi and multi-level classes have a deleterious impact on learning.

3.4.2 It was reported that such class configurations have a negative impact on pupils' motivation as a consequence of difficulties in pitching lessons in such a way as to engage all learners simultaneously. As a result of teachers having to teach at different levels, there is less time for one-to-one support for pupils, including those with additional support needs, thus limiting their progress. Learners, for large amounts of the time, are required to work independently while the teacher focuses on groups of learners working at other levels. The concentration levels of all groups of pupils can be affected. Potential distraction arises from the teacher continuing to work with other learners and/ or as those working independently of the teacher collaborate in order to make progress. Related to this, it was suggested, is indiscipline resultant from the needs of some learners not being met by the arrangements, then this disrupting the learning of others in the class. Frequently commented upon was the difficulty that pupils experience in terms of the pace of lessons either being too fast or slow, again as a consequence of different levels being taught at once.

3.4.3 Several responses highlighted teachers' perceptions of the negative impact of bi and multi-level teaching on pupil attainment, the teachers having made comparisons of results between the results of such classes and previous cohorts whose classes were not configured on that basis. Concern was expressed about this, particularly in relation to the aim of improving the attainment of the most disadvantaged learners.

3.4.4 A common perception conveyed within the responses is that learning is less enjoyable for students who are taught in bi and multi-level classes, and that morale and confidence are eroded among learners who are working at the lower/ lowest levels when divisions on the basis of ability are obvious.

3.4.5   Pupils were also said to be aware of teacher stress and frequently to desist from asking for help to avoid exacerbating this.

3.5   Other comments

3.5.1   With regards to multi-stage (and often also multi-level) teaching across different year groups, it was suggested that students do not always mix well within this context.

3.5.2   Responses also emphasised that course content at each of the different levels is often vastly different, therefore making it more accurate to say that pupils undertaking different courses are being taught within the same classes rather than pupils working at different levels are being taught simultaneously.

3.5.3   Differences in assessment design were also cited as being significant, particularly for learners being presented at National 4 and below, and for whom there is no external exam, in contrast to arrangements for their counterparts sitting National 5 and Higher. In some cases, this was reported to cause disruption to exam preparation for pupils working at National 5 and demotivation among those who are not being presented for exams.

3.5.4   Concern was also expressed that bi and multi-level teaching does not allow the recommended number of hours per course, as stated in SQA guidelines, to be met.

3.5.5   Responses indicated that teachers and departments are put under pressure to run bi-level and multi-level classes to ensure that the subjects run, either on the grounds of viability or staffing availability.

4. Recommendations

The EIS should continue to campaign both nationally and locally for the structural changes necessary, for example in relation to education funding, workforce planning and teacher recruitment, to enable schools to make curriculum decisions based on sound educational principles, and not on staffing, budgetary or other constraints.

4.1   Decisions by senior management relating to curriculum architecture, learner pathways and the composition of classes should be based on sound educational rationale which should be shared with teaching staff. It is recognised that small schools in rural areas may face particular challenges.

4.2 The imposition of bi-level and multi-level classes as mechanisms for achieving savings should be resisted.

Care should also be taken to ensure that students are assigned to classes and presented at the course level that is appropriate for them from the beginning of the session in order that scenarios involving mid-session course level changes within what began as single-level classes can be avoided.

While the EIS acknowledges the pressure members are under in this matter, members are reminded that it is in their and the pupils' interests that they do not take on unreasonable or undeliverable workloads in order to try to deliver courses at a variety of levels. The resultant stress and damaging effect on their health and wellbeing, is likely to have a significantly more detrimental impact on pupil learning than a constrained subject choice is.

4.3 In such circumstances members are advised to raise the matter with their Head Teacher and the school EIS representative before the end of the preceding session in order that possible solutions can be explored.

4.4 Agreed solutions might include, where appropriate:

- the provision of additional staffing to enable the configuration of single-stage, single-level classes;
- some students attending a class in another school or college;
- suitable aspects of courses being offered through supported self-study; where staff are asked to provide support to students following this option, this to be fully acknowledged through provision of additional preparation and correction time, or other suitable timetable adjustments
- the withdrawal of one or more level from the option choice matrix.

4.5 The detrimental impact of teaching bi-level and multi-level classes on the wellbeing of teachers should be highlighted and measures established to alleviate this. Possible solutions may include:

- additional time for preparation and correction allocated to teachers of bi-level and multi-level classes;
- smaller class sizes.

4.6   No pressure should be put on teaching staff to provide a solution which they believe to be inappropriate or on students to take up an option for the purposes of timetable expediency.

4.7   Where members believe that they are being placed under inappropriate pressure to teach a bi or multi-level class, they should bring this to the attention of their school representative and the Head Teacher.

4.8   In the event that a resolution cannot be achieved the matter should be raised with the Local Association Secretary, who should raise the matter with the education authority.

5. Further action

5.1   The EIS should request that Education Scotland and SQA issue guidance, making explicitly clear where senior phase subjects at different levels are, in fact different courses.

5.2   Local Associations should seek to ensure through LNCTs that staffing levels are not predicated on the inappropriate use of bi-level and multi-level classes, with a view to reducing as far as possible the incidence of such classes.

5.3   At a national level, the EIS should ensure that the Government commits sufficient funds to education authorities to employ the appropriate number of teachers as determined by schools and education authorities for the effective delivery of senior phase courses.

5.4   The EIS should continue to campaign for significant reduction of teacher workload incurred by senior phase course and assessment design and delivery, including that generated by the configuration of bi and multi-level classes.

The Educational Institute of Scotland

GTCS REGISTERED TEACHERS: CLASSES OF CHILDREN

UNDER THE AGE OF 16

1. Introduction

1.1   The 2015 AGM agreed the following resolution:

"This AGM resolves that only GTCS registered teachers or lecturers can have responsibility for teaching classes and delivering course content to all children under the age of 16 years. In addition, this AGM instructs Council to investigate and report on the extent to which children under the age of 16 are currently being taught by non-GTCS registered teachers in schools and colleges".

2. Action

2.1   Information was sought from Local Association Secretaries and FE Branch Secretaries in relation to the above AGM Resolution. Responses were received from 21 Local Associations (66%) and 2 college branches.

3. Findings

3.1   The information supplied by Local Associations and college branches is contained in table 1 below.

3.2   Responses establish that while there is no regular use of non GTCS registered teachers in school, only eight Local Associations reported categorically that no non-registered teachers are being used. There is a pattern of three particular situations regarding the use of non GTCS registered teachers delivering content to children under 16:

- **Filling subject gaps or hard-to-fill posts** with college lecturers, tutors or 'experts' in a particular field; it is recognised that in most cases a Class Teacher is also present.
- **Consortia or partnership arrangements with colleges.** It is recognised that where Secondary school pupils are attending classes at a Further Education establishment it is likely that the lecturer is not GTCS Registered and is not required to be so in the course of their employment at the College.

- **Early years education:** children may have "access" to a GTCS registered teacher; however this is generally on an infrequent basis, sometimes as little as once a week.

Table 1:

Are non-registered teachers teaching under-16s?				
LA	Yes	No	With Class Teacher	Comments
Aberdeen		✓	✓	Some instances of subject gaps being plugged by college lecturers or experts in non-certificated classes with teacher present.
Aberdeenshire		✓	✓	Active Schools input with teacher present.
Dundee	✓*			*In college under the partnership arrangement and given that the senior phase is now s4-s6. Issue raised with Chief Exec and Family Services.
East Ayrshire	✓*	✓		* Early Years – infrequent 'access' to a teacher, e.g. once per week.
East Dunbartonshire		✓		
East Lothian		✓		
East Renfrewshire		✓		
Falkirk	✓*		✓	*Consortia arrangements, Secondary pupils attending classes at college. Raised with LNCT but unable to get data.

Are non-registered teachers teaching under-16s?				
Fife	✓*			* Unable to quantify extent of use. Matter raised at LNCT. Consultation paper on Consortium arrangements in secondary schools has been issued by Education Services.
Highland	✓*	✓		* Early Years – occasional access
Inverclyde	✓*	✓		* Early Years – occasional access
Glasgow			✓*	*Sports coaches from SRA/Prince's Trust with class teacher present.
Moray	✓*		✓*	* Skillforce and CLD. Teacher allocated but usually a DHT so not always present in class. Senior classes attending Moray College.
North Ayrshire	✓*	✓		* Early Years
North Lanarkshire		✓		
Orkney	✓*			* Early Years. Secondary school pupils attending college for certain activities.
Renfrewshire		✓		

Are non-registered teachers teaching under-16s?				
Shetland	✓*			* Early Years. Temporary tutor for hard-to-fill posts in remote areas (currently 1 in Home Economics). Pupils travelling to college for a number of subjects.
Stirling		✓		
South Ayrshire		✓		
South Lanarkshire		✓		(Non teacher-led initiatives are done with a teacher present).
FE				
Borders	✓			Common practice. Some staff don't have PDA in Education or TQFE. GTCS registration encouraged but not mandatory.
West Lothian	✓			Regular practice. Some staff don't have TQFE.

4. Conclusion and recommendations

4.1 The AGM decision has implications for and connections to a number of existing EIS campaigns and priorities.

4.2 We have identified that, while there is no regular use of non GTCS registered teachers in school, there is a pattern of three particular situations in which non-registered teachers are being used:

- Filling subject gaps or hard-to-fill posts
- Secondary schools' partnership arrangements with colleges
- Early years education.

4.3   In relation to the matter of subject gaps and hard to fill posts, this relates to the ongoing work of the EIS to protect teacher numbers, and supports the continuation of that priority. The EIS will continue to advocate for a national minimum staffing standard to be agreed to address issues of teacher numbers and recruitment in order to ensure consistent, high-quality education provision across Scotland.

4.4   We will continue to oppose attempts to accelerate graduates into the teaching profession via schemes such as Teach First, which would undermine the profession and the quality of education in Scotland. The EIS will continue to challenge any such attempts to dilute teacher professionalism to ensure that all young people have equal access to a good quality educational experience delivered by fully qualified, GTCS registered, teachers. The EIS does not support any erosion of that provision.

4.5   In relation to the matter of school-college partnerships, it is recommended that a meeting is held with representatives of EIS-FELA to seek their views on this issue.

4.6   In relation to the matter of children's access to GTCS registered teachers in the early years context, this relates to the ongoing work of the EIS to ensure that all children in early years settings have access to a fully qualified, GTCS registered teacher.

4.7   A survey report, commissioned by the EIS and conducted independently by the Child's Curriculum Group, on the contribution of registered teachers in the early years sector, highlighted the significant value that teachers bring in Scotland's nursery schools and classes. The survey confirmed the value of maintaining a registered teacher workforce in pre-school settings. We will continue to advocate for maintaining a registered teacher workforce in all pre-school settings, and monitor the implementation of the increased free entitlement to early learning and childcare (expected to rise to 1,140 hours per year by 2020). We will continue to monitor the varying commitment by councils across Scotland to the deployment of teachers in nurseries, and the ambiguous interpretations of 'teacher presence' and 'access to a teacher'.

The Educational Institute of Scotland

National Qualifications System: Social Inequalities

Interim Report

1. Introduction

1.1 The following Resolution was passed at the 2015 AGM:

"This AGM instructs Council to investigate and review the National Qualifications system to determine whether social inequality has been created and if so to bring forward reforms to the system."

1.2 This paper addresses aspects of the National Qualifications system both terms of its design and its delivery.

1.3 The definition of social inequality intended by the mover of the original motion and applied within this paper is as follows:

Unequal access to opportunities and their associated benefits among groups characterised by such features as socio-economic status, gender, disability, race and ethnicity.

2. Action

2.1 Relevant information was sought from Subject Specialist Group members. The terms of the Resolution were also raised with the SQA and the Scottish Parent Teacher Association (SPTA).

3. Key Issues: National Qualifications Design

3.1 Key issues emergent from discussions and indicated within the responses of Subject Specialist Group members were as follows:

The structure of internal assessment was identified within the responses from Subject Specialist Group members as a potential cause of social inequality. There was criticism of the fact that all assessment standards across the full range of skills required in a subject must be passed in order for the candidate to pass units, unit passes being required for an overall subject award. Similar skills are covered in the final externally assessed exam for which an overall mark is aggregated. This incongruity was said to present unnecessary hurdles to student success and to undermine recognition of achievement, which, it was suggested, is likely to be having a disproportionate impact on more disadvantaged learners.

3.2 An alternative view, however, is that the opportunity afforded to students to re-sit aspects of unit assessment, and the fact that they are not generally subjected to time constraints, is more favourable for students than an external exam. Research generally shows that working class students perform better in unit based and continuous assessment arrangements.

3.3 The creation, in some subjects, of distinctly different courses for S4 pupils in particular has inhibited opportunity for mixed ability teaching and differentiation by outcome, in contrast to the design of Standard Grade which had facilitated such an approach. There is a perception that the new system of qualifications has created division between groups of learners who, in the past within Standard Grade courses, would have been taught together in the same classes with less obvious delineation on the basis of ability, and greater fluidity in terms of decision-making around final presentation levels. The view of many teachers is that learners from less affluent backgrounds benefit least from the more marked setting arrangements forced by the differences in course content between the new CfE qualifications at different levels.

3.4 It should be noted that the design principle behind the new qualifications was for hierarchical course content which would have allowed for significant overlap in skill terms between different levels but this is not what has transpired.

3.5 The difference between the external assessment for qualifications at National 4 and below, and those at National 5 and above, was identified as potentially creating social inequality. A common theme of the responses from Subject Specialist Groups was the stigma felt by pupils being presented in particular at National 4 for which there is no external exam. This was reported to have an effect on pupils' self-esteem, the perception being that the N4 qualification is of limited value in comparison to N5.

3.6 Responses did not refer to the fact that there is no exam included within the assessment of N1, N2 or N3. This is likely to be because these qualifications replaced Access courses for which there was no exam within the previous assessment system, although N3 is stated by the SQA to be the equivalent of Foundation Level at Standard Grade. National 4 is stated to be the equivalent of Standard Grade General for which there was an exam in the past. Significant numbers of students are being presented at this level.

3.7 It is important to note that the original intention underlying the non-inclusion of an external exam as part of the course assessment within Nationals 1, 2, 3 and 4 was to remove potential barriers to achievement for groups of learners for whom these levels of course are appropriate. From this perspective, this aspect of the design of National Qualifications may be regarded as one which may promote better equality of opportunity for all learners to succeed, including those with special educational and additional support needs.

3.8 It is also worth noting that the design intention of senior phase curriculum and assessment was to minimise the number of assessments and external examinations for students, with a view to there being one external assessment at the point of exit. Were such principles reflected in decision-making on curriculum architecture at local authority and/ or school level, a much smaller proportion of students in S4 (which is identified within the responses as being the stage at which this inequality is most stark) would be being presented for National Qualifications. Presentation would be confined to those students who were leaving school and moving into Further Education, training or employment. The remainder of the cohort would continue pursuit, over a two year period, of whichever qualification was deemed the most appropriate for them. In effect, there would be relatively few students sitting exams at all in S4.

3.9 There was no consensus within the responses from Subject Specialists as to whether the inclusion of an external exam within the overall course assessment at every level was desirable. Rather the responses indicated simply that the exclusion experienced by a significant proportion of students sitting National 4 with no exam, while their N5 counterparts do sit an exam, in schools which continue to present all of S4 for qualifications, was undesirable.

4. Key Issues: National Qualification Delivery

4.1 Related to this are the differentiated arrangements associated with schools, in responding to the variance in design of new National Qualifications, awarding study leave to some S4 students and not to others during the SQA exam diet. This was said to intensify the division between groups of learners and further erode the morale of learners who are not being presented at National 5. It was reported that although classes for students who are not sitting exams continue to run during the exam diet, these are not regarded by students as valuable learning opportunities and attendance is often poor.

4.2 It was also highlighted that the distinction between students being presented for exams and those not is further underlined by school assemblies for S4 students which focus on the importance of exams and the need to prepare adequately for them. Significant portions of time over the course of the year are given from assemblies to this topic to the exclusion of young people who are not being presented for external exams.

4.3 An issue has also been raised about the possible impact of the new Post- Results Service (previously-known as the appeals service) at a time when councils are short of funds. The charge applied by the SQA for clerical checks and the re-marking of externally assessed material for candidates who may have qualified for an appeal within the previous system was highlighted as a potential source of inequality.

4.4 A further potential contributor to social inequality was identified in relation to the variation in the way in which local authorities and/or individual schools design access to and delivery of senior phase qualifications. In some schools only five National 5 subjects are being studied in S4, while in others, the number lies between six and eight. There are contrasting views on the nature of the inequality that this creates: a narrowing of curriculum choice and therefore disadvantage where subject choice is limited to five versus a lack of depth and therefore disadvantage where subject choice extends to eight. Nonetheless, such disparity was considered by some Subject Specialist respondents to be problematic. Drawing any firm conclusions about the extent to which such variance in senior phase curriculum design may contribute to social inequality would require careful analysis of school by school curriculum architecture, and pupil cohort and attainment data.

4.5 Students' access to resources for new courses was reported to be unequal. New materials to support teaching and learning within the senior phase have been developed but this has coincided with cuts to departmental budgets which have resulted in restrictions on the photocopying of such material for students. As a consequence, a growing number of resources are being uploaded to online platforms for students to access and print at home, which can present difficulty for those whose families are on low incomes and who may not have access to the necessary equipment and internet services at home. While schools provide support by offering library time for internet access and providing pupils with photocopying allowances, such support is limited, thus placing many less affluent students at further disadvantage. In

effect, austerity-driven budget cuts have impacted negatively on the provision of new qualifications course materials to students in general, but members have reported that there has been a disproportionate impact on students from poorer backgrounds whose families are less able to provide resources at home.

5. Design and Delivery Issues: English

5.1 English Subject Specialist Group members raised a number of issues specific to English and Literacy courses which they believed to be contributory to social inequality, some of which were raised with the SQA by the EIS.

5.2 The requirement for students sitting National 4 English to pass a discrete Literacy Unit in addition to the core English Units in order to receive the overall award for the course was identified as an inequality. Students presented at National 5 and above are not required to overtake a separate Literacy Unit in order to attain an English award. In effect, this presents the least able and most disadvantaged students with more barriers to achievement than their less disadvantaged peers.

5.3 Furthermore, the withdrawal of human readers and scribes for candidates being presented for Literacy qualifications at National 4 level and below was highlighted as a contributor to social inequality. Candidates sitting National 5, Higher and Advanced Higher still have the benefit of human reader/ scribe support where appropriate to need. Some of the candidates affected by the withdrawal of these assessment support arrangements are legally recognised as being disabled. In addition, of the children and young people who are registered as having additional support needs generally, a disproportionately high number are from economically disadvantaged backgrounds. The SQA has repeatedly defended its position with regards to this decision, citing the availability of technology as sufficient replacement for human support. However, returns from Subject Specialists also highlighted the inequality that exists across schools in terms of ICT access, resulting in further inequality among students.

5.4 English Subject Specialist Group members cited the introduction of the Scottish set text element to National 5, Higher and Advanced Higher as having placed strain on departmental budgets with the result that some schools are no longer purchasing texts for students to use. Students at these schools are required to purchase literary texts independently, which presents difficulty for students whose families are on lower incomes. Students who cannot afford to purchase the texts are

disadvantaged. Again, according to the information received, the impact of austerity has presented challenges in the delivery of aspects of the new qualifications at school level.

5.5 A further social inequality was identified in the lack of diversity within the set text list within which all but one of the authors included is white. This reflects the lack of diversity within the Scottish literary landscape generally. The inclusion of black and minority ethnic writers in the study of English has predominantly required the use of texts by authors who are not from Scotland. Some English teachers are critical of the fact that the mandatory nature of the Scottish set text element has been at the expense of exposing students to greater ethnic diversity in the range of literature studied within senior phase English courses.

5.6 Concern was also raised about the new folio template introduced by the SQA which requires students to download and print the proforma in order to submit their work for external assessment. This requirement does not take account of the limited access that some pupils have to internet and printing resources at home, or the variability of access to such resources across schools as they struggle with cuts to per capita budgets.

6. Interim Conclusions

6.1 The perceptions of those EIS members who responded to the request for information were that the design and/or delivery of National Qualifications is contributing in some way, to a larger or lesser extent, to social inequality.

6.2 The terms of the Resolution to "*determine whether social inequality has been created and if so to bring forward reforms to the system",* however, require that more reliable evidence is gathered from a range of sources over a longer period of time to identify any relevant trends and patterns that may enable sound conclusions to be drawn.

6.3 With this in mind, the EIS may wish to consider commissioning specific socio-educational research in this area in the future.

7. Further action

7.1 In the meantime, the EIS, having called for a review of the CfE senior phase qualifications to include focus on the potential inequality arising from the new system, is now represented on the ministerial-led Working Group on Assessment and National Qualifications, the remit of which is to examine and make recommendations on assessment within CfE 3-18.

7.2 In contributing to the discussions within the group the EIS will seek to have addressed some of the factors which may be contributing to social inequality, reflecting the issues highlighted within this report. The need to focus on the value of wider achievement and on gaining parity of esteem both for academic and vocational qualifications will also be raised by the EIS in the context of these discussions.

7.3 To further inform contributions to this discussion, the Education Committee should seek the views of EIS-FELA.

7.4 In addition, the EIS should continue to monitor the issue in the longer term both at local and national level.

The Educational Institute of Scotland

N5, Higher and Advanced Higher Courses: Externally Assessable Elements

1. Introduction

1.1 The following Resolution was passed by the 2015 AGM:

"That this AGM instructs Council to investigate and report on the degree to which members currently mark externally assessable elements of the N5, Higher and Advanced Higher courses as part of their establishment-based duties."

For the purposes of this paper 'establishment-based duties' are those included in teachers' contracts as agreed within the Scottish Negotiating Committee for Teachers (SNCT).

2. Background

2.1 Secondary teachers delivering a range of senior phase courses had highlighted that within the arrangements for the new qualifications, they were assessing and grading items of coursework which contribute to candidates' overall marks but for no remuneration from the Scottish Qualifications Authority (SQA), in contrast to past arrangements.

3. Action:

3.1 The Education Committee contacted Subject Specialist Group members, seeking relevant information.

4. Findings

4.1 Responses were received from subject specialists within Technologies and Modern Languages, confirming that responsibility for significant portions of external assessment within some subjects now lies with teachers of those subjects.

4.2 The courses identified as being affected were:

- N5 Practical Metalwork
- N5 Practical Woodwork
- N5 Design and Manufacture
- N5 Engineering Science
- N5 Hospitality
- N5 and Higher Modern Languages
- N5 and Higher Graphic Communication
- N5 and Higher Computing Science
- N5 and Higher Fashion and Textiles.

4.3 Within the Technologies subjects in particular, the weighting of external assessment conducted by teachers is very marked, amounting to 50% of the overall course award. None of this assessment work is paid by the SQA.

4.4 Respondents highlighted the inequality among subjects with regards to this whereby some subjects such as the Sciences, Business Education and Art have course assessments at least partly if not fully externally assessed by the SQA as had been the case with predecessor qualifications.

4.5 Information was supplied detailing the amount of time that teachers spend on each assessment item. This ranged from 15 minutes to 90 minutes per pupil, depending on the subject.

5. Further Action

5.1 The matter was raised by the EIS at a meeting with the SQA in November 2015 at which the unfairness of the current arrangements was accepted by the SQA and the intention to address this stated. The EIS will raise the matter again at the May meeting with the SQA.

Should it become clear that the SQA has not, in fact, sought to address this situation in a meaningful way, the EIS will consider appropriate further action.

The Educational Institute of Scotland

False and Defamatory Allegations

Introduction

1.1   The following resolution was approved by the 2015 Annual General Meeting:

"This AGM calls upon the EIS nationally to develop comprehensive strategies for responding to false and defamatory allegations against teachers and lecturers."

1.2   This paper sets out strategies for Local Association Secretaries, Branch Secretaries and Officers to use in response to false and defamatory allegations against teachers and lecturers. It builds on the following resolution which was approved by 2005 Annual General Meeting:

"This AGM instructs Council to issue advice to all members on an individual basis on the contractual and legal rights of members who are subject to spurious, vexatious or malicious complaints."

1.3   Arising from the 2005 resolution, the EIS provided a summary of its position which was issued to members as a leaflet. A revised and updated version of this leaflet is included in this paper.

1.4   Our advising solicitors have assisted in setting out the legal issues section.

2.0   Definitions

2.1   The definitions which are assumed within this process are appended to this report (Appendix A).

3.0   Legal Issues

3.1   The statutory provisions in the Defamation Act 1952 and the Defamation Act 1996 have, for the most part, covered the UK as a whole. The Defamation Act 2013 (the 2013 Act) reformed the law of defamation, but many of its provisions extend to England and Wales only. The Scottish Government was consulted on the 2013 Act during its passage through the UK Parliament. However, the Scottish Government felt that the existing Scottish law was adequate and did not require the same legislative change as the rest of the UK. There are no immediate plans to review the law in Scotland.

3.2   Defamation law in Scotland has always had some significant differences from that in the rest of the UK. Since very little of the Defamation Act 2013 applies to Scotland, the differences are now more acute. The new public interest defence does not apply in Scotland and the requirement for there to be "serious harm" which now applies in England does not apply in Scotland. In addition, someone bringing a defamation action in Scotland has 3 years in which to bring a claim whereas in England and Wales it is 12 months.

3.3   Members who are subject to inappropriate behaviour from vexatious complainants may have a number of possible routes for legal remedy. It is possible to seek an interdict to stop the parent coming to a school/college or otherwise approaching the member. An interdict is usually governed by the need for urgent action to protect someone from harm. Therefore, interdicts are more likely to be granted in circumstances where there is perceived threat of violence. To obtain an interdict the employer or member would have to persuade a sheriff that there was a course of conduct which was likely to lead to harm.

3.4   Threats or abusive behaviour towards teachers and lecturers should be reported to the police as a breach of the peace. Employers also have an obligation to take action on threats or abusive behaviour directed to staff.

3.5   Under the Protection from Harassment Act 1997, a person must not pursue a course of conduct which amounts to harassment of another and (a) is intended to amount to harassment of that person or (b) occurs in circumstances where it would appear to a reasonable person that it would amount to harassment of the person. To satisfy the requirement that there is a "course of conduct", there would have to be at least two occasions when harassment is said to have occurred. It should be noted that conduct includes speech. The most likely defence to a claim of harassment is that the conduct was reasonable in the circumstances. However, breach of a non-harassment order is a criminal offence.

3.6   A member may be able to pursue an action for defamation for verbal injury. Defamation requires the member to prove that a statement made, orally or in writing, is false. However, it should be noted that those who complain, in writing or at a meeting, may be covered by qualified privilege. For example, a parent who makes a statement in the interests of her/his child is protected if the parent honestly believes the statement. In a case in which the Institute received an Opinion from a QC a statement made by a parent at a

School Board meeting regarding a Head Teacher was considered to be covered by qualified privilege and not capable of being challenged. If qualified privilege obtains the member would have to have evidence that the statement was malicious.

3.7 The Institute's advising solicitors continue to recommend caution on actions relating to defamation. Any such action would inevitably attract press coverage and that brings unwarranted pressure on the member involved. Complainants who make allegations in a false, spurious or a vexatious way may welcome the oxygen of publicity given to them by court proceedings. Often these cases involve parents/students who have little or any assets against which an order for damages can be enforced. The Institute would therefore look particularly carefully at prospects of success in any court action. It should be noted that Legal Aid is not, as a matter of public policy, available to either pursue proceedings for defamation or to defend them.

3.8 Any legal support for members in pursuing false, spurious, vexatious or malicious complainants is subject to the EIS Case Handling Protocol, and decisions of the Employment Relations Committee.

4.0 Strategies for responding to allegations

4.1 Local authorities and Further Education and Higher Education establishments have a duty to investigate complaints. Therefore, Managers will normally be required to investigate complaints.

4.2 Local Association Secretaries and Branch Officials should enter into discussion with employers to ensure that there are clear procedures to deal with complaints from pupils, students, their parents or guardians. Local authorities, Further Education and Higher Education establishments will be expected to have clear complaints procedures which indicate how complaints will be managed and how those who are subject of complaints are supported.

4.3 It should be noted that even where a complaint or allegation is dropped, is unfounded, is not upheld or is unsubstantiated, it does not necessarily follow that the complaint has been false, spurious, vexatious or malicious. While it can be difficult to demonstrate that this is the case, members are entitled to know the basis for a complaint not being progressed.

4.4 Members should normally be advised of the nature of the complaint and should cooperate with any investigation. It should be noted that the details of complaints under child protection procedures may not be fully set out and Headteachers often do not have the details of such complaints. The EIS accepts that in the circumstances of child protection matters only a very general description of the allegation may be provided at the outset.

4.5 The 2001 teachers' agreement, *"A Teaching Profession for the 21st Century"*, sets out that teachers have a contractual duty to work in partnership with parents. This contractual obligation is normally fulfilled during parental consultation meetings which are set out in a school's working time agreement. Members in promoted posts may be required to meet with parents as part of their management function. Beyond that members may choose to meet with parents, on particular matters, on a voluntary basis.

4.6 In circumstances where parents have submitted formal complaints the member may decline to meet the parent other than during a contractual meeting (i.e. a parental consultation meeting as set out in 4.5 above).

4.7 A member who is subject to a complaint by a parent or guardian can request accompaniment by an appropriate line manager at any subsequent meeting. In such circumstances the line manager is not an arbiter but is acting as an agent of the authority and has a duty of care to support the member.

4.8 Where a member has been subject to a previous complaint that member can also request to be accompanied at contractual parents' meetings.

4.9 Where a member is dissatisfied with the conduct of a meeting with a parent the member should withdraw from the meeting and advise the line manager of the reasons for doing so.

4.10 A member who is subject to false, spurious, vexatious or malicious complaints should expect support from the employer to ensure that the actions stop. In the first instance, the EIS would expect the employer to write to the complainant setting out concerns about the complainant's actions and requesting that these cease.

4.11 If the employer fails to support members then the employer may be breaking her/his statutory duty and could potentially be sued if the member's health is affected by such omissions.

4.12 Often members will be told complaints have been dropped following an investigation. Where complaints have been dropped or found to be unsubstantiated members should have this confirmed in writing.

4.13 The EIS believes that members are entitled to be advised if the employer has found the complaint to be false, spurious, vexatious, or malicious and that the complainant should be advised of the employer's conclusions. In any discussion on complaints procedures at local and establishment level this objective should be sought by local negotiators.

4.14 In circumstances where an anonymous complaint has been lodged the employer will have to decide whether to investigate that complaint. It should be noted that the employer cannot disregard anonymous complaints which relate to child protection matters.

4.15 If an allegation is determined to be false, the local authority should determine what further action may follow.

4.16 In the event that an allegation is shown to have been vexatious or malicious, it is expected that the pupil or student will be dealt with through the establishment's disciplinary procedures for pupils and students. In addition, the police should be asked to consider whether any action might be appropriate against the person responsible if s/he was not a pupil or student.

4.17 The use of staff suspension pending investigation of an allegation should be regarded as a last resort option i.e. where there is a clear risk of harm to a young person from the person remaining in post.

4.18 The time taken to investigate allegations should be reduced.

4.19 More guidance and illustrations of alternatives that can be effective would be useful to avoid suspension where possible.

4.20 There is clearly scope to clarify and to improve the recording of outcomes of concluded cases with a need for better guidance on how information should be recorded.

4.21 In conducting their own investigations schools, further education and higher education establishments are currently more likely to adopt a binary approach to complaints, whether substantiated or not. Greater understanding of what constitutes a false, malicious, unfounded or unsubstantiated outcome should be established.

4.22 The support available to members of staff subject to allegations is varied. There is anecdotal evidence to suggest that teachers and support staff accused of an allegation would benefit from more formal support from their employer.

4.23 More should be done to standardise processes and systems for recording allegations of abuse. Standard definitions relating to the categories of outcomes of allegations would be beneficial to schools, colleges and universities. This would enable better monitoring of trends and a determination of whether or not incidents of allegations are increasing.

5.0 Advice Leaflet to Members

Advice Leaflet to Members

Members Subject to Complaints

1.1 Local authorities, Colleges and Universities have a duty to investigate complaints. Members subject to such investigation are advised to co-operate and to seek early advice and support from their EIS Representative.

1.2 The following advice is for all members who are subject to complaints and to situations where the complaints are believed to be false, spurious, vexatious or malicious.

Legal Rights

2.1 Members who are subject to false, spurious, vexatious or malicious complaints may have legal remedy. However, the legal routes outlined below are complex and should not be considered lightly. Furthermore, any request for legal representation can only be approved by the Employment Relations Committee. Requests for legal advice should be discussed with your Local Association Secretary/Branch Secretary.

2.2 It is possible for employers to seek an interdict to stop a complainant coming to a school/college or otherwise approaching a member. An interdict is likely to be granted only where there is a risk of harm, normally arising from a threat of violence.

2.3 Under the Protection from Harassment Act 1997 a person must not pursue a course of conduct which amounts to harassment of another and (a) is intended to amount to harassment of that person or (b) occurs in circumstances where it appears to a reasonable person that it would amount to harassment of the person. There would have to be at least two occasions when harassment has occurred. In such actions it is necessary to demonstrate beyond doubt that the action was unreasonable in the circumstances. A non-harassment order may be made by a Sheriff.

2.4 A person may be able to pursue an action for defamation for verbal injury. Defamation requires a complainant to prove that a statement made, orally or in writing, is false. Complaints made to Headteachers, Principals, Education Departments, MPs, MSPs or Councillors are liable to be covered by qualified privilege.

2.5   Qualified privilege can be summarised as follows:

Privilege is a legal right to do or say something unrestricted and without liability (e.g. a witness in Court or a Member in Parliament). Qualified privilege will apply to individuals who make statements in the discharge of private or public duties. This covers parents, guardians and students.

2.6   You should note that defamation actions are difficult to pursue successfully, and are likely to bring unwarranted media attention.

Contractual Advice

3.1   Where you are advised that a complaint has been raised against you, you should immediately advise your representative who will advise the Local Association Secretary. If there is a likelihood of police involvement EIS HQ must be informed. In Further and Higher education you are advised to contact your Branch Secretary. It is expected that employers will have explicit complaints procedures. Investigations should be conducted in accordance with such procedures.

3.2   Employers are under an obligation to investigate complaints. Therefore, even if you believe the complaint is false, spurious, vexatious or malicious, you should cooperate. When being interviewed you should seek to be accompanied by your representative or by a colleague. Where a complaint moves beyond investigation to disciplinary procedures you are entitled to be advised and represented by EIS.

3.3   In circumstances where parents have submitted complaints you can decline to meet the parent unless the meeting is a parental consultation meeting set out in the school's working time agreement. It is not appropriate for members to meet with parents who have initiated formal complaints through an employer's complaints procedure in relation to that complaint.

3.4   If, however, you do choose to meet the parents you are entitled to seek accompaniment by a member of the establishment's senior management team. If you are a Headteacher you can seek this support from the authority.

3.5   You may withdraw from any meeting with a parent if you are dissatisfied with how the meeting is being conducted. If you do so you should advise your line manager of your reasons for doing so.

3.6 You are entitled to be advised if complaints are dropped or proven to be unfounded. If you believe there is evidence of false, spurious, vexatious or malicious complaints you should ask your employer to protect you from future complaints. You should raise this with your Local Association Secretary or Branch Secretary.

6.0 Recommendation

6.1 The paper and the accompanying leaflet should be issued to Local Association Secretaries, Branch Secretaries and EIS Officers.

Some Legal Definitions

Defamatory statements. An offending statement may not necessarily be defamatory as it may fall into another category of hurtful words, such as being a "malicious falsehood" or a "slander of title". To be defamatory "a statement must be false and must lower the defamed in the estimation of right thinking members of society". In addition, a defamatory statement must be communicated. The traditional forms of communication are publication in print or oral dissemination. However, modes of communication have increased with technological advances and now include communications made on Twitter, LinkedIn, Facebook, Trip Advisor and blogs. The greater the circulation by the original defamer, the greater the sum of damages is likely to be. However, qualified privilege, which is explained below, sets out a context for defence.

 Interdict is a judicial prohibition or court order preventing someone from doing something. In English law, this is called an injunction.

Malice. There is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.

Qualified privilege. Privilege is a legal right to do or say something unrestricted and without liability (e.g. a witness in Court or a Member in Parliament). Qualified privilege will apply to individuals who make statements in the discharge of private or public duties. This covers parents, carers and students.

Substantiated. There is sufficient identifiable evidence to prove or disprove the allegation.

Unfounded. There is no evidence or proper basis which supports the allegation being made, or there is evidence to prove that the allegation is untrue. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances.

Upheld. This means to confirm or support something which has been questioned.

Unsubstantiated. This simply means that there is insufficient identifiable evidence to prove the allegation.

Workplace Bullying

1.0 Introduction

1.1 The following resolution was approved by the 2015 Annual General Meeting:

"This AGM instructs Council to:

(a) investigate and report on what guidelines, procedures and strategies Local Authorities and colleges currently have in place to deal with workplace bullying;

(b) review and revise, as appropriate, the EIS guidelines and advice regarding workplace bullying with particular reference to the role of EIS school and college Representatives."

2.0 Background

2.1 A 2015 poll was carried out by YouGov for the TUC and revealed that:

- nearly a third of people (29%) are bullied at work
- women (34%) are more likely to be victims of bullying than men (23%)
- the highest prevalence of workplace bullying is amongst 40 to 59-year-olds, where 34% of adults are affected
- in nearly three-quarters (72%) of cases the bullying is carried out by a manager
- more than one in three (36%) of people who reported being bullied at work leave their job as a result of bullying.

2.2 The survey showed that nearly half (46%) of people say that bullying has an adverse impact on their performance at work, and the same amount believe it has a negative effect on their mental health. More than a quarter (28%) say it has a detrimental effect on them physically, and around one in five (22%) have to take time off work as a result of being bullied.

3.0 Report

3.1 The Employment Relations Committee wrote to local association secretaries and branch secretaries in the first instance requesting copies of policies and procedures.

3.2 The Committee received replies from 22 local associations and 2 Colleges. 6 Councils specifically used the word "Bullying" in the title of the policy and 12 Councils used the specific word "Harassment". Other Councils reference to "Dignity at Work" and "Fair Treatment at Work".

4.0 Duties of Employers

4.1 There is no specific legislation aimed at preventing workplace bullying. Unions have campaigned for many years for a specific legal right to dignity at work. Nevertheless, employers have specific duties and the duties of employers regarding workplace bullying derive from three sources.

4.2 Firstly, an employer has certain duties that arise from the contract of employment. These include a duty to maintain trust and confidence. If an employer behaves in a way which has the effect of destroying trust and confidence, the employee can resign and argue constructive dismissal. The employer has a duty to provide employees with reasonable support, a duty to provide a safe workplace and a duty to investigate complaints.

4.3 Secondly, the employer has a common law duty of care to ensure that reasonable steps are taken to prevent workplace bullying that causes an employee to suffer physical or psychological harm. If an employee fails to take reasonable steps and harm occurs there can be a civil court remedy for negligence.

4.4 Thirdly, employers have statutory obligations mainly arising from discrimination legislation. A person who has a protected characteristic is likely to have a discrimination claim and an unlawful harassment claim if bullying is related to a protected characteristic. Employers also have to be mindful of Codes of Practice which set out minimum standards relating to reasonable steps which can be taken to avoid workplace discrimination. The Protection from Harassment Act 1997 may be used in an employment context although the normal route would be to pursue a case through the civil courts. Finally, employers have statutory duties arising from the Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations 1999.

5.0 Bullying and Harassment Policies

5.1 The CIPD guide "Bullying at Work" (2005) claimed that bullying costs over £2 billion per year. It is also clear that certain management cultures, performance management cultures in particular, engender risks of bullying to deliver outcomes.

5.2 The first issue to be considered is the status of a policy. It is in the interests of both the employer and the employee to have a contractual policy. For EIS members, a contractual policy ties the employer to dealing with the issue. However, any policy should allow an individual to pursue matters through grievance rather than a discrete policy if that is their preference.

5.3 Policies should be negotiated and agreed through collective bargaining mechanisms, at branch level in further and higher

education sectors and at LNCT level for the school sector. LNCT and SNCT agreements have less contractual effect.

5.4   The policy should cross refer to other policies where relevant, in particular, grievance and discipline and diversity/equal opportunities policies.

5.5   The policy content should have clear terminology, and avoid language which could be construed as pre-supposing outcomes (e.g. the use of the word "victim"). The policy should have a clear statement of intent and should be clear to whom the policy applies. Finally, the policy should have clear examples of unacceptable behaviour while setting out that any list is not exhaustive.

5.6   Extant EIS policy is appended.

6.0   Conclusion

6.1   While the responses from local association secretaries and branch secretaries did not indicate that bullying and harassment was endemic there is every reason for workplace bullying to be kept under scrutiny.

6.2   At this time, however, extant EIS policy does not require revision.

BULLYING AND HARASSMENT POLICY

CONTENTS

INTRODUCTION

All employees have a legal right to work in an environment that is safe and to be protected from all forms of abuse, violence and harassment. Among the array of pressures facing teachers and lecturers none is so insidious or so sapping of self-esteem as the threat of violence, intimidation or harassment which many members face on a daily basis.

EIS strategy to promote equality for all members in the workplace includes the development of policies and training on bullying and harassment. Behaviour which excludes, intimidates, threatens or affects the dignity of men and women at work is unacceptable and should not be tolerated.

It is in the interests of all employers to have a clearly stated set of aims and objectives regarding equality of opportunity.

LEGISLATION

The Equality Act

Employers have a duty to prevent unlawful discrimination. The principal legislation under which cases can be taken is the Equality Act 2010. Protection is provided by the Equality Act in relation to the following *protected characteristics*:

- *Age*: Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds)

- *Disability*: A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

- *Gender reassignment*: The process of transitioning from one gender to another.

- *Marriage and civil partnership*: Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.

- *Pregnancy and maternity*: Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavorably because she is breastfeeding.

- *Race*: Race refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

- *Religion and belief*: Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.
- *Sex*: A man or a woman.

- *Sexual orientation*: Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

HARASSMENT

What is Harassment?

Harassment is defined as:-

> "Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".

'Unwanted conduct can include any kind of behaviour, including spoken or written words or abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks, acts affecting a person's surroundings or other physical behaviour.

For behaviour to count as harassment in equality law, it has to be one of three types;

unwanted behaviour related to the protected characteristics (listed previously)

- sexual harassment

- less favourable treatment because of submission to or rejection of previous sex or gender reassignment harassment.

Unwanted behaviour related to the protected characteristics

This is related to age, disability, race, sex, gender reassignment, religion or belief or sexual orientation.

'Related to' a protected characteristic covers situations:

- where the harassment is related to the worker's own protected characteristic
  or
- where a person is abusive to other workers generally, but a particular worker feels harassed because they have a protected characteristic.

- where the worker who is harassed does not have the relevant protected characteristic. For example, a worker might be incorrectly perceived to have a characteristic or they may be associated with a person who has a characteristic, such as a family member. Similarly, a worker is known not to have the protected characteristic, but nevertheless is subjected to harassment related to that characteristic.

Examples:

- *Paula is disabled and is claiming harassment against her principal teacher after she frequently teased and humiliated her about her disability.*

- *During a training session attended by male and female staff, a male trainer directs a number of remarks of a sexual nature to the group as a whole. A female member of staff finds the comments offensive and humiliating to her as a woman. She can claim harassment even though the remarks were not specifically directed at her.*

- *A member of staff is subjected to homophobic banter and name calling, even though his colleagues know he is not gay. Because the form of the abuse relates to a protected characteristic, i.e. sexual orientation, this could amount to harassment related to sexual orientation.*

The unwanted behaviour does not have to be specifically aimed at the person who finds it violates their dignity or creates for them an intimidating, hostile, degrading, humiliating or offensive environment.

Example:

- *A white teacher in a staffroom where most of the other teachers are also white finds the habitual racist comments of another member of staff also creates a hostile and intimidating environment for them. This may amount to harassment.*

It may also be harassment where the unwanted conduct is related to the protected characteristic, but does not take place because of the protected characteristic.

Example:

- *A male teacher has a relationship with his female principal teacher. On seeing him with another female colleague, the principal teacher suspects he is having an affair. As a result, the principal teacher makes his working life difficult by continually criticising his work in an offensive manner. The behaviour is not because of the sex of the male teacher, but because of the suspected affair, which is related to his sex. This could amount to harassment related to sex.*

Sexual Harassment

Sexual harassment takes place when a person does something of a sexual nature (which might be verbal, non-verbal or physical) which has the purpose or effect of:

violating a person's dignity, or

- creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

'Of a sexual nature' can include unwelcome sexual advances, touching, forms of sexual assault, sexual jokes, displaying pornographic photographs or drawings or sending emails with material of a sexual nature.

Women are overwhelmingly the victims of sexual harassment and the harasser is usually male. However, harassment can happen to men by women, to women by women or to men by men. The intention of the harasser is not important, the effect is.

Sexual harassment is about power, asserting superiority and exerting control.

Any incident of sexual assault, rape or 'stalking' is a criminal offence and should be reported to the police

Less Favourable Treatment Because of Submission to or Rejection of Previous Sex or Gender Reassignment Harassment

This type of harassment is best illustrated by examples.

Example:

- *A principal teacher propositions one of his department members, she rejects his advances and is then turned down for promotion which she believes she would have got if she had accepted her line manager's advances.*

This kind of harassment also applies where the person who treats the individual badly is someone different from the person carrying out the original harassment.

Slightly Different - Third Party Harassment

An employer can be held responsible for harassment of a worker by someone who doesn't work for them. This is sometimes called 'third-party harassment'.

The employer will become legally responsible if they know that their worker has been harassed by someone who does not work for them at least twice before but they have failed to take appropriate action to protect the worker from further harassment. It does not have to be the same person harassing the worker on each occasion.

Example:

- *An employer is aware that a female teacher has been sexually harassed on two separate occasions by two different parents. Once the employer has been told or has found out about the first two occasions, they will be liable for a third act of harassment towards the same teacher, if they have failed to take reasonably practicable steps to prevent further harassment. This will be the case even if the third act of harassment is committed by an unconnected parent.*

For All Types of Harassment

The following should be borne in mind;

- The word 'unwanted' means 'unwelcome' or 'uninvited'. This does not mean that express objection must be made to the conduct before it is considered unwanted. A worker does not need to make it clear in advance that those offensive or stereotyped remarks are unwanted.

Example:

- *A teacher of Indian ethnic origin has lived in Scotland all her life. After she gives notice that she intends to resign from her job, the principal teacher comments, 'We will probably bump into each other in future, unless you are married off in India'. This remark is unwanted conduct related to her ethnic origin which, though unintended, has the effect of violating her dignity. It is reasonable for her to take what was said as a stereotypical view of Indian women and to be offended.*

- In some situations, a woman may need to make clear that unexceptional behaviour is unwanted, before it can be considered harassment.

  Example:

- *A woman is asked for a drink after work on a few occasions by her colleague. She makes an excuse and says she cannot come. On the third occasion, she explicitly states that she does not want to go for a drink with him at all. Her colleague continues to ask her. His continued invitations after she has stated clearly that she does not want to go out with him may be harassment. On the first few occasions, before this was clear, his invitations are unlikely to be considered harassment.*

- A serious one-off incident may also amount to harassment.

- If the person carrying out the unwanted behaviour actually intends to violate the other person's dignity or create an intimidating, hostile, degrading, humiliating or offensive environment for them, this will of itself amount to harassment and you will not have to consider the effect on the individual.

Harassment can come from colleagues, management, students and pupils, members of the public or parents. It can happen because of the sex of the victim, race, ethnic origin or nationality, age, sexual orientation, religious, political or trade union beliefs and activities, physical or mental ability or disability.

People should not be discriminated against or victimised because of trade union membership or for supporting people who make complaints about harassment.

All forms of harassment are unacceptable for whatever reason.

Effects of Harassment

People who experience harassment may feel guilty, humiliated and too embarrassed to complain. They will also experience anger and other emotions. Stress may lead to loss of sleep, headaches and other physical symptoms. In turn this may lead to increased absences, loss of performance or interest in work which will have a long term effect on the person as well as their colleagues. (See also section on 'Effects of Bullying'.)

It is important to establish the origins of workplace stress. These can be rooted in unacceptable workload, deadlines or targets; in poor, untrained or over stretched managers or in a workplace culture which encourages blame or is subject to constant and unnecessary change.

If harassment is allowed to continue there may be formal complaints and, therefore, heavy costs involved.

BULLYING

What is Bullying?

The most widely used definition of bullying at work is as follows:

> "Persistent, offensive, abusive, intimidating, malicious or insulting behaviour, abuse of power or unfair penal sanctions which makes the recipient feel upset, threatened, humiliated or vulnerable which undermines their self-confidence and which may cause them to suffer stress."

As strong as these words may be they do not convey the sense of devastation of an individual, family and friends which can result from workplace bullying.

Examples of bullying behaviour are:
- intimidation and aggression

- withholding information

- setting impossible deadlines or tasks

- disparaging comments or remarks, often in front of others

- blocking promotion or staff development opportunities

- constantly changing objectives and goals

- taking credit for others achievements or initiatives

- constantly changing the remits and responsibilities of others

- isolating certain individuals and limiting consultation on important issues

This is not an exhaustive list. There is a whole range of subtle, insidious behaviour which may constitute bullying. This behaviour can be directed at individuals one at a time or groups of individuals. People are too afraid of becoming the next target to do anything to support the person being bullied. They may be afraid also that a complaint will be construed as an inability to cope. A number of factors combine to make it difficult to challenge. It is possible that bullying has become institutionalised through badly formed and ill thought out procedures used to monitor workplace performance e.g. an ill-conceived development planning process.

It is not possible to make a direct complaint to an Employment Tribunal about bullying as it is not related to a protected characteristic.

Cases of bullying may be covered by Health and Safety at Work legislation. Health and Safety at Work legislation places a duty of care on employers, as far as is reasonably practicable, to ensure the health, safety and welfare at work of all their employees. The Health and Safety Executive (HSE) defines stress as "the adverse reaction a person has to excessive pressure or other types of demand placed upon them". In *Tackling work-related stress* HSE reminds employers that looking after the health of employees includes "taking steps to make sure that employees do not suffer stress-related illness as a result of work". Further information can be obtain from the HSE website at http://www.hse.gov.uk/stress/

Behaviour which is a criminal act should be reported to the police.

Bullying is Poor Management

There are many reasons for this type of behaviour. It may in part be due to the personality of the bully. Often it is attributable to a workplace culture which provides organisational justification for this type of behaviour.

Workplaces where bullying is likely to occur have certain characteristics which may include the following:

- insecure, aggressive management

- organisational change and uncertainty

- envy fostered among colleagues

- lack of respect for people's work or opinions

- lack of opportunity or a forum to voice opinions collectively

- fear of alternative views

- poor working relationships

- excessive, demanding workloads

- no opportunity to discuss or resolve problems

- insecurity deliberately fostered

Effects of Bullying

On the individual

Workplace bullying can lead to an individual's health being destroyed, family life ruined and career ended.

Leading experts on stress suggest the effects of bullying can be to produce symptoms similar to those suffered by trauma victims. Stress can cause a variety of physical and emotional symptoms such as

- headaches

- nausea

- high blood pressure

- sleeplessness

- loss of appetite

- anxiety

- panic attacks

- depression

- irritability

- aggression

- abuse of or increased use of alcohol, tobacco, drugs

These symptoms often lead to further more serious physical and mental health problems not only for the victim but the victim's family.

On the organisation/workplace

People working in a hostile environment or who are fearful and resentful do not work well. The result may be an increase in the rate of short term and long term absences and deterioration in quality of work and commitment. All of the systems which operate to make a good working environment break down. Teaching and learning suffer.

The behaviour, if left unchecked, may lead to grievance and disciplinary procedures being used thus increasing stress in the workplace. There may also be recourse to remedy in law which is time consuming and costly to both employer and employee.

PREVENTING BULLYING AND HARASSMENT

Bullying and Harassment should not be tolerated in the workplace. Employees have a right to work in an environment in which they can contribute, have their opinions and work respected, and where diversity is valued.

Employers have a duty of care towards their employees and a duty not to discriminate. Whilst there may be remedy in law for some people subjected to offensive behaviour reliance on the law alone will not provide protection for those who have been bullied or harassed nor prevent bullying and harassment from occurring.

A distinguishing characteristic of bullying and harassment is that those subjected to it are vulnerable and often reluctant to complain. They may be too embarrassed or intimidated or feel their complaint will be trivialised. They may also fear reprisal. Usually, what most people want is for the behaviour to stop.

It is better to challenge the root causes of bullying and harassment through effective policies and practice. Promoting good management and workplace practices is more effective than attempting to remedy the effects of a hostile and threatening workplace culture once the damage is done.

One of the defences which may be used by an employer in cases of harassment is that all steps which could be reasonably taken to prevent the behaviour were taken. It is, therefore, in their interests to have policies which are operational. This will include training not solely on the reasons for, definitions and effects of bullying and harassment but interpersonal, behavioural, workplace organisational and management skills. Training opportunities should be provided for all employees.

EDUCATIONAL CONTEXT

Harassment of pupils/students by teaching staff is an intolerable infringement of rights and betrayal of trust. Bullying and harassment of teaching staff by pupils and students is equally unacceptable. Very often teachers are reluctant to admit to bullying or harassment by pupils either within or outwith the school environment for fear of being considered incompetent by colleagues or fear of reprisal.

New technology can be used. There have been numerous reports on the use of text messaging, e-mail or websites to bully and harass.

All forms of bullying and harassment which apply to teaching staff and learners also apply to others who use or work in schools, colleges and universities.

AN EFFECTIVE POLICY

An effective policy is one that is agreed, a result of proper consultation and negotiation between unions and employers and is widely known and put into practice.

The legal basis of the policy should be made clear as well as the intention to provide a workplace in which equality of opportunity for all employees is achievable.

The policy should include:-

- declaring the type of working environment that is to be achieved

- providing definitions of bullying and harassment

- that bullying and harassment are not acceptable and will not be tolerated

- that every employee will be treated with dignity and respect

- that every employee will be made aware of their rights to fair treatment

- that bullying and harassment are disciplinary offences

There should also be:-

- a clear indication of the responsibilities of employers, management and employees under health and safety at work legislation

- a commitment to review and monitor the policy including any complaints made

- a formal employer's agreed procedure for pursuing a complaint

As well as a high profile commitment to the policy other measures may include:-

- appropriate training of employees at all levels

- training for managers in the conduct of hearings

- provision of trained counsellors

- review of management practices and structures

- monitoring workplace stress

- inclusion of the policy in recruitment or induction packs

A Formal Workplace Complaint using your Employer's Agreed Procedures

This should include:-

- a statement regarding the purpose of the procedure

- definitions of bullying and harassment

- an informal stage where a complaint may be discussed

- the opportunity for confidential discussion of a complaint

- a formal stage

- a clearly set out guideline of the steps to be taken in the event of a formal complaint being made

- guidelines of steps used during the procedures including time limits

- advice on disciplinary action or alternatives to disciplinary action

- advice regarding the rights to representation

- a statement regarding victimisation of those making a complaint

- a commitment to provide a same sex officer

- a clear statement that the procedure does not alter rights relating to
  formal grievance procedure or further action of a legal nature

Advantages of Having a Policy that Works

- good relationships in workplace

- promotion of equality of opportunity and social justice

- avoiding stress, hostility and formal procedures

- creating a safer, healthier teaching and learning environment

ADVICE TO MEMBERS

IT IS IN YOUR BEST INTERESTS TO SEEK ADVICE FROM YOUR EIS REPRESENTATIVE.

ADVICE TO MEMBERS: If you are a victim of bullying and harassment

Always seek advice

Do not ignore it

Your employer is obliged to have good policies to deal effectively with bullying and harassment. If you feel you are being subjected to bullying or harassment do not feel that you have to ignore it or that it is your fault.

Seek help and support

Seek advice from an EIS representative. They will be able to offer support and advise you of the best course of action.

Take notes

Keep a note of incidents and the dates, times and places and the effects on you, as soon as possible after the event. This will be valuable if you decide to pursue your complaint formally. Wherever possible get witnesses and/or medical evidence if appropriate.

Record tasks you are asked to do and timescales. Keep a note of good reports about your work.

Consider whether or not you are alone or if other people feel the same way or have been subjected to similar behaviour. You may well find you are not alone.

Asking for the behaviour to stop

You may feel confident enough to ask those responsible for this behaviour to stop or you may wish to do this with the help of your representative. It is important to let the person know that you do not like the behaviour.

If you feel you cannot face the person you may wish to write. If you do decide to put it in writing seek advice from your EIS representative. Ensure that you state clearly the behaviour you find objectionable and that you wish it to stop.

If the behaviour continues after you have asked the person to stop, you may wish to consider, with the assistance of your EIS representative, pursuing a formal complaint using your employer's agreed procedures.

Some incidents may be so serious that your EIS Representative may wish to refer your case to the local association secretary for your area.

In the event of disciplinary action being taken with regard to the allegations, you may be required to give evidence at a hearing and your EIS Representative will be able to provide you with advice.

ADVICE TO MEMBERS: If you are a witness to bullying and harassment to another colleague

Everyone has a responsibility to prevent this behaviour. Often inaction encourages the behaviour to continue. Seek advice on what to do from your EIS Representative. If the victim decides to pursue a formal complaint you may be called upon to give oral or written evidence.

Members should not experience bullying/harassment as a result of taking part in trade union activities or supporting or giving evidence on behalf of a colleague. If this occurs, members should seek advice from their EIS Representative as soon as possible.

Any incident of assault or violence should be reported to the police.

ADVICE TO MEMBERS: If you are accused of bullying or harassment

Bullying and Harassment are serious matters. Most authorities, colleges and universities have agreed policies on bullying and harassment. Employers have a duty of care towards their employees and a duty not to discriminate on grounds of any of the protected characteristics.

If you are advised that your behaviour is causing distress or upset to a colleague then you should stop and consider why this is the case. What you consider to be harmless fun, strong management or a personality trait may be causing distress to others.

Listen carefully to the complaint

It may be that this is an informal approach alerting you to the behaviour.

Do not assume the person complaining is overreacting

People rarely make such complaints frivolously.

Stop the behaviour at once

Consider what has been said and try to put yourself in the position of the other person. You may not realise that your behaviour has caused distress.

Seek advice

If you do not understand the complaint seek advice from your EIS representative. If you were acting in a management capacity consult the authority. If your authority fails to provide advice and assistance you should seek advice from your EIS Representative.

If you feel the complaint is unjust or malicious

Seek advice from your representative.

Ensure you are familiar with the existing agreed procedures

In the event of any formal proceedings ensure you have proper advice and representation.

ADVICE TO REPRESENTATIVES

All members are entitled to advice, support and help from the EIS.

Employment legislation requires that internal procedures are exhausted before proceeding further.

You should:-

- ensure you know existing agreed policies on equality, bullying and harassment

- support and publicise EIS policies against bullying and harassment

- ensure you know EIS advice to members

- ensure you know grievance and disciplinary procedure

- refer to EIS Representative's handbook/Health and Safety handbook

Members may approach you for advice on this issue. It may be because they feel they have been subjected to harassment or bullying.

You should:-

- treat cases of bullying and harassment sensitively and seriously

- consider if one complaint is an indication of a widespread problem

- ensure confidentiality

- advise the member(s) of existing procedures

- accompany the member(s) to meetings if called

- take notes of meetings

You should remember that people are reluctant to complain about such behaviour and very often approach you after having tolerated it for a long time. They will be feeling very vulnerable. Ensure that the member(s) are fully aware of policies relating to this issue. Do not judge or minimise the complaint. Do not exert pressure on the member.

Someone who has been accused of this type of behaviour may also approach you. The person may either deny the behaviour took place or not recognise that the behaviour is unacceptable. Ensure that the member is fully aware of policies and advice relating to this issue.

The most important advice is the EIS protocol on casework handling:

5. Grievance Procedure

5.1   The EIS will provide advice to any member regarding grievance procedures, including any member acting in a management capacity, subject to the provisos set out below.

5.2   The EIS will not normally provide representation to a member who is acting in a management capacity in a grievance.

5.3   However, in certain circumstances representation may be provided. In deciding upon such representation consideration will be given to the nature of the grievance, including in particular whether the grievance relates to a decision of a member acting in a management capacity implementing the employer's policies, or to a decision otherwise involving an action or the exercise of judgement by a manager. Account will also be taken of the level of support provided to the member by the employer.

5.4   In considering representation the EIS has no obligation to defend the policies, procedures and practices of any employer.

5.5   Where a member raises a complaint in terms of Harassment/Bullying against another member advice should be provided to both members if requested. As in 5.3 above, in certain circumstances the EIS may provide representation to a member who is acting in a management capacity.

5.6   It is the duty of the employer to provide legal advice and assistance where necessary to employees exercising management functions on its behalf. If an employer fails in this duty the EIS will give consideration to the provision of representation to the member to pursue a grievance against the employer.

5.7   Where members are in conflict on an issue advice/representation will not be provided by the same official.

'EIS Representatives Handbook: Support Policy and Advice'

Contact your local association secretary:-

- for advice on this issue

- if you feel the situation is too difficult or serious for you to deal with

- if both parties involved are members and ask for support or representation

As an EIS representative you should not tolerate bullying or harassment arising from your trade union duties/activities.

The Educational Institute of Scotland

Misogynistic Attitudes among Children and Young People

While there can be no doubt that there has been significant progress made in the journey towards gender equality within our society, much ground remains to be covered before we reach the desired destination.

In Scotland, the gender pay gap currently averages 11.5% (comparison of men's full-time hourly earnings with women's full-time hourly earnings, using the mean) or 32.4% (comparison of men's full-time hourly earnings with women's part-time hourly earnings, using the mean)[1]. Meanwhile, only 29% of MPs, less than 35% of MSPs, 24% of councillors[2] and less than 36% of public board members are female[3]. In part, this gender imbalance within the contexts of employment and public life is a consequence of attitudinal prejudice. In the eyes of many in our society, women remain inferior to men.

The EIS is concerned about the prevalence of such attitudes within our schools, colleges and universities, and indeed, even in our nurseries. Clearly, misogyny- a dislike for, contempt of or belief in the inferiority of women- begins to take root in the early years of a child's development, much of which is influenced by the home environment. Thereafter such attitudes, if unchallenged at home, or at school and college and beyond, can become firmly embedded.

The effect of such a culture of misogyny and sexist stereotyping on children and young people, both female and male, can be significant in hindering personal and social development in the short term, as well as having longer term damaging consequences for individuals and for society as a whole. With this in mind, it is important that EIS members are aware of the issue.

Some recent focus group research by the EIS has highlighted that misogynistic attitudes towards women and girls are evident in a variety of forms within educational establishments, from overt sexual bullying to casual sexist comments which some seek to trivialise as humour. Both boys and girls, and both men and women, can be the perpetrators of such behaviour, albeit by females to a lesser extent. Overall, women and girls are more likely to be the targets of such sexist behaviour.

The research findings suggest that educational establishments require more support to develop more consistent, coherent approaches to the promotion of gender equality and towards tackling the problem of the sexual harassment and bullying of young women and girls, and of boys and young men who are gay or who are judged by others to be failing to conform to gender norms. The EIS is keen to make a contribution to

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[1] http://www.closethegap.org.uk/content/gap-statistics/
[2] http://researchbriefings.files.parliament.uk/documents/SN01250/SN01250.pdf
[3] http://news.scotland.gov.uk/News/More-women-in-senior-roles-415.aspx

ensuring that in every one of Scotland's educational establishments, there is an ethos which is wholly gender inclusive.

This guidance is intended to support EIS members in addressing the issue at establishment level for the benefit of all learners, both female and male. It seeks to highlight the possible dangers of allowing misogynistic attitudes to prevail and to suggest some approaches which EIS members currently find useful in addressing the problem.

Legal context: the Equality Act

The 2010 Equality Act identifies gender as a protected characteristic. Protected characteristics are identified on the basis that those who share them are proven to be vulnerable to disadvantage within society. Schools and colleges are bound by the terms of the Public Sector Equality Duty, part of the 2010 Equality Act, to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Act explains that advancing equality involves

- removing or minimising disadvantages suffered by people due to their protected characteristics;

- taking steps to meet the needs of people from protected groups where these are different from the needs of other people;

- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

These legal duties clearly have implications for educational establishments with regards to how they tackle misogyny.

Recognising misogynistic attitudes and behavior

Displays of misogyny among children and young people occur in a variety of forms and are demonstrated verbally, non-verbally and physically, in classrooms, corridors and social spaces within educational establishments.

Focus group participants reported a number of these:

- Casual use of mildly misogynistic language- 'girly' as an insult or pejorative term; 'man up' implying that masculinity is preferred to femininity

- Casual though often vindictive use of overtly sexualised and derogatory language- 'slut', skank' and 'whore' were widely used against girls or women staff

- 'Feminist' and 'feminism' considered as negative terms

- 'Feminazi' used to silence women and girls who speak from a feminist perspective

- Dismissive, contemptuous attitudes of some boys towards female pupils and staff, and towards their mothers (and sometimes acceptance or endorsement by male staff of such attitudes towards female colleagues)

- Objectification of women and girls on the basis of their looks

- Dismissive attitude that women and girls should have responsibility for menial domestic chores

- Mockery and derision when women and girls adopt non-stereotypical gender roles, for example as football fans, footballers, surgeons

- Criticism of young women who are sexually active compared with acceptance that young men are and/ or should be

- Sexual entitlement issues arose in various guises – for example, overt sexual propositioning of girls and young women through to boys' pushing, grabbing and groping of girls

- Joking about the sexual abuse of and physical violence against,women and girls, or framing conversations about the issue in such a way as to blame victims

- Engagement with computer games which are demeaning in their portrayal of women and often normalise violence against women

- Sending/ sharing through social media sexual images of women and girls either with or without consent

- Use of social media to target sexual innuendo at girls and young women.

Dangerous consequences

Clearly such attitudes and behaviour carry with them some worrying consequences for both sexes, and those who identify as transgender or non-binary.

Sexual bullying and harassment

Much of what is described as misogyny constitutes bullying, the effects of which upon victims are well documented. Faced with sexual bullying which is offensive, abusive, intimidating and malicious in nature, and which represents an abuse of power, victims experience fear, anxiety and stress, loss of dignity, humiliation and low self-esteem. The threat that this poses to victims' health and wellbeing and on their educational outcomes, is undeniable.

Some of the behaviours which fall under the term 'sexual bullying' are actually criminal in nature- i.e. on a spectrum of harassment for which there are consequences in the adult world. The Violence against Women sector tends to denote behaviour which constitutes sexual bullying as harassment, assault, etc. This is not designed to frighten parents or children but to create a culture of community sanctions or intolerance around such behaviour and thus prevent it.

There is also the threat of police involvement for individual behaviour in cases such as the non-consensual sharing of images, sexual assault etc., as well as reputational damage and possible legal redress within local authorities in which there is failure to uphold duty of care towards children.

Gender policing

In addition, such treatment can result in individuals feeling pressured to conform to the expectations of those who perpetrate misogynistic attitudes and behaviour, rather than risk falling victim to it further. For example, research has highlighted that between age 11 to 14/15, girls and boys strive to develop identities which primarily conform to existing cultural norms in relation to social expectations of femininity and masculinity respectively. Boys and girls alike are quick to highlight negatively any deviation from established gender expectation by their peers either from members of the same or the opposite sex.

This gender policing and coping with the social backlash which follows lack of conformity, often in the form of peer-group bullying, requires great emotional effort on the part of young people. Many young people, both male and female, or those who identify as transgender or non-binary, who do not meet societal expectations in terms of gender suffer ongoing rejection, direct discrimination and abuse, the psychological effects of which can be deep-rooted and lasting.

Long-term impact on society

On a wider scale, the failure to challenge expressions of misogyny, either mild or marked, leads to the entrenchment of gender inequalities within society as a whole. Our children and young people are the parents, community members and employees of the future. Teachers and lecturers are their mentors and educators. Educational establishments must, therefore, have a role to play in counteracting misogynistic attitudes and behaviour among young people in order that they are not cemented further within homes and communities, workplaces and civic institutions.

Violence against women

In particular, the inter-relationship between misogyny and violence against women and girls continues to be of concern to the EIS. Violence against women is an extreme, but alarmingly commonplace, expression of misogynistic attitudes. Research has shown a strong link between attitudes towards gender and the perpetration of violence against women. For instance, men and boys who hold traditional attitudes about gender roles, believe in male authority and/or have 'sexually hostile attitudes' or 'victim blaming' attitudes towards women, are more likely to perpetrate violence against their intimate partners than those who do not subscribe to such views.[4] Meanwhile, available data from the World Health Organisation suggests that nearly one in three women worldwide may experience sexual violence by an intimate partner in their lifetime.[5]

Violence against women is a term used by the Scottish Government to define a range of actions which harm or cause suffering and indignity to women and children. In the context of violence against women, 'violence' has a broader meaning than the normal dictionary definition. It encompasses a range of behaviours which constitute violence against women and which can be physical in nature, but they also include emotional, psychological and sexual abuse, and behaviour which is coercive and controlling in nature.

They include but are not limited to:

- Physical, sexual and psychological violence occurring in the family, within the general community or in institutions, including: domestic abuse, rape, incest and child sexual abuse

- Sexual harassment and intimidation at work and in the public sphere

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[4] See prevention on intimate partner violence, P.19
http://apps.who.int/iris/bitstream/10665/44350/1/9789241564007_eng.pdf?ua=1
[5] http://www.who.int/reproductivehealth/publications/violence/VAW_Prevelance.jpeg?ua=1

- Commercial sexual exploitation including prostitution, pornography and trafficking

- Dowry related violence

- Female genital mutilation

- Forced and child marriages

- Honour crimes.[6]

These actions are mainly, though certainly not exclusively, carried out by men against women and children, and at times, may be sought to be justified within some communities on the grounds of religious, social or cultural reasons. The different forms of violence have their roots in gender inequality and in the imbalanced power relations between men and women in society. They are therefore understood as gender-based violence and are interlinked.

This does not mean that women do not use violence or carry out the actions described above. Nor does it mean that men are not the victims of these actions. It merely recognises that statistically men are commonly the perpetrators, and women and children the victims.

The EIS as a trade union is committed to gender equality and the associated eradication of violence against women. We recognise the evidence which suggests that the prevention of violence occurs by tackling the root cause of the problem. That is to say that changing attitudes (primary prevention) and fostering community level intolerance and sanctions towards such misogynistic behaviours are required, a vision which has been promoted and enhanced by the Scottish Government's strategy, "Equally Safe: Preventing Violence against Women and Girls". [7]

We wish our members to regard the eradication of violence against women as a collective aim which is pursued within education through ethos, curriculum, and policy and practice within our establishments, in ways which solidly promote gender equality and seek to prevent young women and girls becoming, or continuing to be, victims of gender violence.

Gender inequality in the economy

A permissive approach to misogynistic attitudes and behaviour among children and young people will serve to further solidify existing gender inequalities within the economy. Allowing the perpetuation of dismissive, contemptuous attitudes towards women to go unchallenged will contribute to the continuation of occupational segregation within

employment and the wider economy, and to the persistence of the associated gender pay gap. At present, female-dominated occupational and industrial sectors are low-paid and undervalued. According to statistics compiled by the feminist organisation Engender, in the UK currently:

- 62% of unpaid carers are women

- Twice as many female carers as male carers receive benefits, at a rate of only £1.70 per hour

- Twice as many women as men rely on benefits and tax credits

- Women are 95% of the lone parents who receive income support

- Women earn 12% less than men as full-time workers and 32% less than men part-time[8]

- Only 15% of senior police officers, 10% of UK national newspaper editors and 8% of Directors of FTSE firms are women[9].

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[8] http://www.engender.org.uk/content/publications/A-Widening-Gap---Women-and-Welfare-Reform.pdf
[9] http://www.engender.org.uk/content/publications/Engender-briefing-1---Women-politics-and-power.pdf

Occupational segregation on the basis of gender occurs within the teaching profession also. Statistics obtained from the 2014 Scottish Government Teacher Census illustrate this as outlined in the table below[10].

% female primary all grades	91		% male primary all grades	9
% primary headteachers female	87		% headteachers male	13
% primary deputes female	88		% deputes male	12
% part-time primary teachers female	95		% part-time primary teachers male	5
% primary supply teachers female	91		% primary supply teachers male	9
% female secondary all grades	63		% male secondary all grades	47
% secondary headteachers female	39		% secondary headteachers male	61
% secondary deputes female	54		% secondary deputes male	46
% part-time secondary teachers female	82		% part-time secondary teachers male	18
% secondary supply teachers covering a vacancy female	60		% secondary supply teachers covering a vacancy male	40
% local authority directors of education female	34		% local authority directors of education male	66

Women's lower earnings over a lifetime usually lead to lower savings, smaller pensions and less economic independence than men; therefore the financial consequences of gender inequality are far-reaching and long-lasting.

In addition, a lack of financial resources or economic independence can make it harder for women experiencing violence or abuse in an intimate relationship to move on; and financial inequality can create another dimension to domestic abuse in situations where one partner seeks to control the other through controlling resources.

A gendered economic landscape such as this is both unjust and economically imprudent. Education has to play its part in the transformation of this uneven territory.

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[10] Summary Statistics for Schools in Scotland, No.5 2 Editionhttp://www.gov.scot/Publications/2014/12/7590/1

Misogynistic Attitudes towards Women in Public Life

Another consequence of a culture which allows contempt for women to go unchecked is disproportionately low levels of participation by women in public life.

Across political parties, misogynistic attitudes towards women in public life, as reflected in media coverage, continue to undermine the democratic process. While this is a consequence of gender inequality, it also further contributes to the perpetuation of the raft of gender inequalities which exist within the wide variety of social and economic contexts previously discussed.

In the UK, female politicians are routinely subjected to sexist comments in the press and other media. Women MPs and MSPs are frequently marginalised by meagre newspaper and media broadcast coverage in comparison to that afforded to their male counterparts and, often, to their wives' wearing of fashion and such like.

Such demeaning treatment of women in this way has a damaging impact on the participation of women in public life, and therefore, on society in general. Only 29% of MPs and less than 35% of MSPs in Scotland are female, and only 24% of councillors[11] and less than 36% of public board members[12]. Clearly, there is a need to address this stark under-representation of women in public life and the negative attitudes which inhibit women's much needed participation in public life. Gender balanced participation is essential for bringing about gender sensitive policy within our public institutions.

Suggested strategies to combat misogyny among children and young people

Undoubtedly, all sectors of the education system have a part to play in challenging existing gender inequality and in striving for equality.

 EIS focus group discussions on the issue highlighted a number of strategies that may be deployed at establishment level to address gender inequality.

Policy and practice

- Whole school policy (which articulates with local authority service plans in the case of schools), the precise language of which specifically addresses issues related to gender equality and violence against women, and how establishments will tackle this

- Careful analysis of data by gender- e.g. suspension rates, attendance, attainment, support for learning referrals- to inform policy and practice and identify inadvertent discrimination.

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[11] http://researchbriefings.files.parliament.uk/documents/SN01250/SN01250.pdf

[12] http://news.scotland.gov.uk/News/More-women-in-senior-roles-415.aspx

Ethos

- School mission statements aligned with local authority mission statements which reflect commitment to gender equality and to which pupils have contributed

- Sensitivity to existing and safeguarding against further, gender stereotyping, of both girls and boys, from early years through to secondary- reflected in classroom resources, assigning of roles and responsibilities, class groupings, etc.

- Regular and open discussion with pupils on issues related to gender equality: use of language which is derogatory towards women, violence against women, pornography, etc.

- Assemblies which explicitly focus on the issue

- Consistent approaches to the problem by all female and male staff across the school

- Teachers challenging 'group-think' among children and young people in relation to conventional attitudes towards gender

- Peer to peer anti-sexism education

- Agree with pupils a list of derogatory words and phrases that are unacceptable with all knowing the reasons why.

The curriculum

- Explicit exploration of the topic within subjects such as Modern Studies, Religious Education, English, History, Drama, Personal and Social Education, Art

- Tackling of gender issues as they relate to body image, size, self-esteem and confidence through Health and Wellbeing

- Learning designed to address gender equality, body image, media portrayal of women, human trafficking, etc

- Cross curricular work themed around 16 Days of Action highlighting violence against women in November and International Women's Day in March

Partnership working

- Supporting parents to understand the issues, particularly with regards to the use of social media for the purposes of sexual bullying and harassment, and as a child protection issue

- Meaningful and sustained engagement with voluntary organisations whose specialist knowledge can help embed anti-sexism education across the whole school

- Visits from the police to highlight the seriousness of sexual bullying, misogynistic abuse on social media and violence against women

- Education Scotland addressing the issue of gender equality within HGIOS and inspection and review.

CPD provision

- Equality and diversity training for teachers and support staff which explicitly includes content on gender equality and Violence against Women

- Adequate information and guidance on equality legislation

- Guidance on legal issues around the sharing of images and accompanying child protection issues

- Greater links between equality issues, including gender equality, and the Professional Update process.

Recommended Action for EIS Members

Use this guidance as the basis of discussion on the issue of misogynistic attitudes among young people at EIS branch level

Raise any emerging issues with the school management team

Seek review of current establishment policy and practice where required in light of the advice

Consult with the local EIS Equality Rep and/ or the Local Association or Branch Secretary in the event that additional advice/ support is needed

Request access where necessary to relevant CLPL opportunities

Share any examples of strongly gender inclusive practice with the EIS Equality Department

Continue to monitor policies in terms of their effectiveness in eradicating gender discrimination and promoting equality.

Useful contacts
EIS Equality Reps

EIS Equality Reps can offer advice on a range of equality issues, including those related to gender.

Visit http://www.eis.org.uk/Equality_Reps/equal_rep_contacts.htm   for contact details of your Equality Rep.

Zero Tolerance

Zero Tolerance is a Scottish charity working to end men's violence against women by promoting gender equality and by challenging attitudes which normalise violence and abuse.

http://www.zerotolerance.org.uk/

Engender

Engender is a Scottish feminist organisation campaigning for equal opportunities for men and women, equal access to power and resources, and equal safety and security from harm.
http://www.engender.org.uk/

Scottish Women's Aid

Scottish Women's Aid is the lead organisation in Scotland working towards the prevention of domestic abuse. We play a vital role campaigning and lobbying for effective responses to domestic abuse.

http://www.scottishwomensaid.org.uk/

White Ribbon Scotland

White Ribbon Scotland is a campaign to involve men in tackling violence against women. It is a joint initiative by a coalition of individuals and groups of men around Scotland.

http://www.whiteribbonscotland.org.uk/

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The Educational Institute of Scotland

STATUTORY TEACHING OF LGBTI+ ISSUES

SCOTTISH PARLIAMENT PUBLIC PETITION PE1573

"The Educational Institute of Scotland is committed to the promotion of Equality for all teachers, lecturers and young people in educational establishments and to wider society in Scotland.

The EIS in all aspects of its work seeks to combat any infringement of human rights including discrimination on the grounds of race, gender, sexuality and disability wherever they occur". (EIS Equal Opportunities Statement)

This commitment is evidenced by the existence of a dedicated EIS Equality Committee at national level which addresses a range of Equality matters within Education and wider society. The Institute's focus on Equality is further demonstrated by the EIS's growing network of trained Equality Representatives whose role it is to work in schools and colleges supporting members with Equality issues as they impact on the workplace and on the educational experiences of children and young people.

The EIS is committed to the provision of sound education on Equality issues for all children and young people. This is vital to allow them to become responsible citizens and to develop positive, informed attitudes. As part of such education, it is right that homophobic bullying and attitudes are challenged at all levels in light of the fact that LGBTI+ pupils and staff have a right to feel supported and nurtured by the school environment.

However, the EIS also believes that the principles of Curriculum of Excellence are best served by allowing teachers and schools to tailor the provision of Equality education in their establishments to the particular circumstances of the learning context. Staff in schools are best placed to develop and deliver the curriculum in a way which is sensitive and responsive to the specific needs of learners and those of the community in which they learn, and in a way which utilises the specific skills of teachers.

The EIS recognises the importance of consultation with parents in the delivery of the curriculum and recognises that there may be sensitivities around addressing particular areas of curricular content in light of the varying religious and moral beliefs among parents of children and young people attending school. The EIS would highlight the need for appropriate, high quality professional learning opportunities to be made

available for teachers who may feel it necessary, in supporting them to address these particular sensitivities.

In general, the EIS believes that it is crucial for practitioners, including those engaging on courses of Initial Teacher Education, to be well equipped and confident to teach their pupils and students about the full breadth of Equality issues in order that they receive a high quality educational experience, and one which will allow the goals of Curriculum for Excellence as they relate to equality and social justice to be realised. The EIS is of the view that a strengthening of focus on Equality within Initial Teacher Education programmes could be beneficial.

The GTCS Standard for Full Registration, which all fully registered teachers must meet, states clearly that teachers *'show in their day to day practice a commitment to social justice'* which includes behaviours shown to ' *value and promote fairness and justice and adopt anti-discriminatory practices in all regards, including gender, sexual orientation, race, disability, age, religion, culture and socio-economic background'.* Further, the GTCS Code of Professionalism and Conduct states that teachers must treat pupils and colleagues fairly and with respect and without discrimination.

With regard to the continuing professional learning of teachers, the EIS is of the view that practitioners are skilled in identifying their own professional learning needs. The EIS believes that there should be high quality opportunities for staff to engage with further learning in Equalities issues should they identify that as a need. At present, local authority CPD budgets are under significant strain. This, coupled with a lack of supply cover, is causing the EIS real concern that members are not able to access high quality professional learning opportunities to the desired degree. In delivering our training of EIS Equality Representatives, we are finding that teachers are very keen to learn more about this agenda and to take forward the knowledge and skills acquired into the school setting. Much of the evaluation feedback is to the effect that they would like more time than the four training days allocated to develop their expertise.

In conclusion, the EIS, agrees that there is a need for education for children and young people, and for professional learning opportunities for teachers, on all aspects of Equality, including that which is LGBTI+ focused. However, the Institute is not in favour of responding to this need through mandatory or statutory measures for the reasons outlined above.

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The Educational Institute of Scotland

School Dress Codes

1. Introduction

1.1 The following Resolution was passed at the 2015 AGM:

"This AGM calls on the Council to investigate and report on the financial impact of school dress codes on Scottish families."

2. Action

2.1 In responding, the Equality Committee referred the terms of the *Resolution* to the Poverty in Education Campaign Working Group. The Group recommended that contact be made with local authorities, parent groups, relevant partner organisations and Local Associations, requesting information.

2.2 24 of the 32 local authorities replied. Of these, 12 supplied useful data on council policy related to school dress codes; Glasgow City Council stated that information relevant to school uniform policy in Glasgow could be found in the report of the Cost of the School Day Project.

2.3 Of the parent groups, neither the National Parent Forum of Scotland nor the Scottish Parent and Teachers Association had relevant information gathered by their own organisation to share but suggested that the Cost of the School Day Project, and the 'Learning Lessons' report published by Save the Children and the Scottish Commissioner for Children and Young People would be of use.

2.4 Child Poverty Action Group had no further data to share besides that which is contained in the Cost of the School Day report.

2.5 Reponses were received from 5 local associations.

3. Local Authority Responses

3.1 <u>Uniform policy</u>

3.1.2 All but one of the local authorities which responded indicated that their policy was to encourage the wearing of school uniform. The common rationale was that uniform contributes to school security and personal safety; promotes strong school identity; supports positive behaviour, good discipline and a healthy work ethic; and promotes social justice and equality of opportunity, protecting children and young people from pressures to dress for school in expensive, branded clothing.

3.1.3 Several local authorities supplied information on the items which comprise school uniform, the lists, they stated, having been agreed following consultation with parents. Typically, the lists make reference to shirts, ties, (polo shirts and sweatshirts for younger pupils), trousers, jumpers, cardigans, and in a minority of cases, blazers, appropriate footwear, outdoor clothing and PE kit.

3.1.4 The documentation provided by only two local authorities, one of which stressed its commitment to supporting schools to 'robustly implement school uniform/ dress codes as an important way of reinforcing the drive for excellence', was explicit in stating that pupils and students should not be excluded from any educational opportunity in the event of any non-compliance with policy.

3.2 <u>Clothing grants</u>

3.2.1 23 local authorities supplied information on clothing grants, the means by which local authorities meet the terms of the 1980 Education Act, which stipulates that local authorities must make provision for the clothing of pupils who would otherwise be unable to afford schoolwear. Councils are responsible for deciding the eligibility criteria, the grant amount and the application process.

3.2.2 In general, grants are available to families who are in receipt of benefits, including Income Support, Jobseekers' Allowance, Employment and Support Allowance, Universal Credit, Housing Benefit or Council Tax rebate.

3.2.3 Within the group of local authorities for which information was supplied, grants range from £40 in one case, to £110 in another, clearly pointing to significant inequity across local authority areas. (Further data obtained by the BBC through freedom of information requests indicated that the clothing grant is as little as £20 in one local authority.) The majority of grants awarded are between £45 and £50.

3.2.4 Four local authorities indicated that lesser amounts in clothing grants are awarded for pupils of Primary school-age, the amount differing by 10% in one case.

3.2.5 The data supplied by three local authorities contained evidence of a reduction in the number of applications for clothing grants, of note a 9.4% reduction in Moray and 5.6% in South Lanarkshire. (This is consistent with the data obtained by the BBC which shows that over the ten year period between 2005 and 2015, there has been a 15 ½ % reduction in the amount of

money distributed in clothing grants nationally, from £9 million to £7.6 million. In the past three years there has been a 4% decrease in the number of applications overall, the decrease amounting to 40% in Aberdeen City and 15% in Edinburgh in the past four years.)

3.2.6 No explanations were provided for the reduced number of applications by local authorities though it is likely that in some cases it will be linked to cuts to the amounts of the grants awarded, this acting as a disincentive to prospective applicants. In other cases, it may be a consequence of the parents of former clothing grant recipients moving into low-paid employment affecting their eligibility to apply.

3.2.7 In addition to variance in the amounts payable to claimants of clothing grants, methods of payment can also be inconsistent, with some councils making BACs payments, others issuing cheques and one making the award in vouchers.

3.2.8 In 2009 the Scottish Government established a working group to examine the issue of school uniform costs. The Group had recommended that "with immediate effect, a minimum level of £70 is set for the school clothing grant, with a further review agreed to make progress towards a more realistic contribution towards the cost of school clothing." Evidence uncovered by the BBC found that by 2015, only six councils- Dumfries and Galloway, Inverclyde, North Lanarkshire, West Dunbartonshire, West Lothian and Highland- had met the recommended minimum.

3.2.9 In December of 2015 the Scottish Government announced that it would be making provision within the Education Bill for consistency across the country in terms of a minimum clothing grant, setting the figure at £70 nationally for all children of school age.

3.3 Other means of support

3.3.1 In addition to clothing grants, other means of supporting families on low incomes to meet the cost of school uniform were cited by seven local authorities.

3.3.2 Of these, two indicated that they encourage schools to keep the cost and affordability of items of uniform under review, particularly in relation to more expensive items and those which require school branding.

3.3.3 One local authority stated that schools are encouraged to bulk-buy items of uniform from suppliers, including less expensive suppliers, in order that accompanying discounts can be passed on to parents.

3.3.4 Two indicated that they have an additional fund, the purpose of which is to support families with uniform costs, while four local authorities gave information that additional means are in place of providing items of uniform free of charge through recycling or schools keeping stocks of new items of various types and sizes to distribute as necessary. One local authority has begun providing additional support with the application process to families who are entitled to receive clothing grants.

3.3.5 The supplementary information given by Local Associations cited an example of a local authority partnership with a major supermarket which offers a discount of £5 for online orders of school uniform exceeding £25 and a 5% cash donation to the school on every purchase.

4. Summary of local authority position

4.1 In summary, the responses received from local authorities suggest that school uniform is the favoured policy of almost all. Justification of such a policy approach is frequently on the grounds of saving families money, reducing competition, and addressing issues of alienation and stigma that can be experienced when children and young people dress in individual clothes- school uniform is considered by local authorities to be the more inclusive option.

4.2 While local authorities encourage adherence to such policy, there is also evidence within the information provided, of an awareness of the potential financial burden that uniform policy can place upon families, and of some measures being taken to address this. Two local authorities indicated that they are currently researching the issue further.

5. Relevant findings from the Cost of the School Day Project

5.1 The report presents qualitative data from eight Glasgow Primary and Secondary schools in areas of varying levels of deprivation. In total, 339 children and young people between Primary 5 and S6, and 111 staff members shared their views, experiences and ideas in workshop sessions and focus groups as part of the project.

5.2 The report concluded that uniform is a less expensive option for families overall but still presents a significant cost, particularly to those families struggling on low incomes.

5.3 While the clothing grant of £47 that is available to eligible families in Glasgow is helpful, it does not cover the whole cost of even the minimal school clothing requisite for a school session, which includes shoes, jackets and PE kit. Furthermore, families require to purchase multiple items to allow for laundry during the course of a week and to accommodate children's growth throughout the year. The struggle to meet the cost of uniform is particularly acute for larger families in which there is more than one child of school age.

5.4 When families are unable to meet the cost of uniform, there are often consequences: children are forced to wear items of clothing to school that are dirty, ill-fitting, or worn, this being a source of stigma, frequently accompanied by bullying; siblings share items of school clothing, especially PE kit; pupils attend school wearing items of clothing which do not conform to school uniform policy and can be subject to punishments, including detention, punishment exercise and being sent home; non-attendance as a means of avoiding embarrassment, punishment or both. Clearly, then, the pressures on families to afford prescribed school clothing extend significantly beyond financial pressures alone.

5.5 That said, however, the report concludes that school uniform reduces the amount of money that parents need to spend on clothing for their children, removing the pressure on children and young people to wear different outfits every day, which would potentially highlight differences in financial status even more markedly.

5.6 A number of conclusions are drawn within the report as to how uniform policy could be made less financially onerous for families:

- Providing support to ensure that entitlements to clothing grants and Educational Maintenance Allowance are taken up by all who are eligible;

- Ensuring that the overall cost of uniform is affordable;

- Developing flexible uniform policies which allow items to be purchased from less expensive suppliers;

- Payment plans enabling parents to pay for uniform in instalments;

- Non-insistence on school logos on jumpers and polo-shirts-school colours should suffice;

- Non-requirement of specific colours of PE kit;

- Allowing realistic time-scales in accordance with family income patterns, when items of uniform require to be purchased.

6. Recommendations

6.1   The EIS should continue to campaign nationally and locally on the issue of schools costs, including those associated with the wearing of uniform.

6.2   Where a school has or decides to introduce school uniforms, this should be underpinned by school policy. Such a policy should fully recognise the financial, social and cultural pressures that families with limited financial resources face. Moreover, the school should conduct an equality impact assessment of any school uniform policy to include a focus on socio-economic disadvantage.

6.3   In the course of schools reviewing or developing a uniform policy, EIS members are encouraged to make full use of the relevant sections of the EIS 'Face Up To Child Poverty' booklet and the accompanying Power Point and 'School Costs' film.

6.4   In the event of a uniform policy being reviewed or developed within a school, EIS members should challenge any efforts to encourage or insist upon elaborate versions of uniform featuring, for example, the addition of special braiding on blazers or separate ties for older year groups, which unnecessarily increase costs for families.

6.5   The Equality Committee should prepare specific advice to Local Associations on addressing the cost of uniform at local authority level.

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Professional Update: Advice

Background

1.1 The following resolution was approved by the 2015 Annual General Meeting:

"This AGM instructs Council to investigate and report, with a view to providing national advice to members, on the implementation of Professional Update across Scotland and to monitor any attempted inappropriate use by employers in relation to Professional Update processes (Standard for Career-Long Professional Learning and Standards for Leadership and Management)."

1.2 Information was sought from LA Secretaries. 15 responses were received.

Issues

2.1 While some LA Secretaries reported that Councils had been slow to address the framework required at local level to support Professional Update (PU) there were no reported concerns. This confirms the positive outcome from GTCS on the PU completion rates, which in February 2016, indicated that almost 97% of teachers undergoing PU had been signed off.

2.2 There was one comment from a Local Association that some of the processes as set out on the GTCS website were not particularly clear.

2.3 In general, the PU process has rolled out successfully. In particular, at this stage, there has been no evidence that the PU process has been used to question teacher performance.

2.4 The terms of the resolution also refers to the Standard for Career-Long Professional Learning and the Standards for Leadership and Management. There is no evidence of these standards being misapplied during the PU process. On the contrary it appears that these standards are used by members to frame CPD needs and to use the Professional Review process to support professional development. However, a significant issue has been reported regarding the standards. This relates to using the Standards for Leadership and Management to measure the performance of a Principal Teacher. These Standards are to assist an individual to evaluate their professional development, to participate in effective PRD, and meaningful CPD. The PRD process should not be used for performance management. Such development runs the risk of Standards becoming management tools rather than support frameworks for Continuing Professional Development.

Conclusion

3.1 The PU process is in the early stages. However, it is clear from responses received that there are no significant concerns reported by Local Association Secretaries.

3.2 Local Association Secretaries are asked to report any ongoing concerns to the Employment Relations Department to monitor the situation

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New Qualified Teachers: Non Class Contact Time

Introduction

1.1 The following resolution was approved by the 2015 Annual General Meeting:

"This AGM instructs Council to investigate and report on the contractual working arrangements of newly qualified teachers and in particular on any variations imposed on newly qualified teachers with regard to contractual non class contact time."

1.2 The contractual working arrangements are set out in the SNCT Handbook.

1.3 Information was sought from Local Association Secretaries. 12 responses were received.

Working Time Arrangements for Newly Qualified Teachers

2.1 The SNCT Handbook sets out the provisions for teachers who are on the Teacher Induction Scheme (TIS) in paragraph 3.8 and 9.7-9.12 Part 2 of the SNCT Handbook. (Paragraphs 9.7-9.12 are appended in Appendix 1)

2.2 Other teachers who are following the alternative route during probation are treated as teachers in the Handbook.

2.3 Paragraph 9.10 of the Handbook sets out the maximum class contact of probationer teachers on the TIS.

2.4 Arising from the 2011 Pay and Conditions Agreement, the working hours of teachers on the Induction Scheme increased from 15.75 hours to 18.5 hours.

2.5 The SNCT Joint Secretaries had dialogue with GTCS on this change and advice was issued. The GTCS advice is appended (Appendix 2).

2.6 This confirmed the position that those who were progressing through the Induction Scheme on a satisfactory basis could increase class contact time post Easter. Such class contact time should be agreed as part of staff development.

Responses from LA Secretaries

3.1 The majority of LA Secretaries did not report any Council policies or any contractual hours issues raised by NQTs. One LA Secretary reported that the probation manager in the Council was very supportive in ensuring that probationers were aware of their entitlements.

3.2 Concern was raised by one LA Secretary that probationer teachers are being used to cover supply shortages.

3.3 If those who are on the induction scheme do not report inappropriate requests from managers to work beyond contractual hours it is difficult to ascertain whether there is a significant issue.

Recommendations

4.1 Separately, the Salaries Committee has prepared guidance for new members on contractual rights which includes explicit reference to the Teacher Induction Scheme. This will make clear to new members their contractual class contact hours.

4.2 This paper should be copied to LA Secretaries who should raise the issue at LNCT level to ensure that probationers on the TIS are reminded of contractual arrangements.

4.3 Thereafter, Local Associations should raise any perceived breaches with Councils and report these to EIS HQ.

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Teachers on the National Teacher Induction Scheme

9.7 The National Teacher Induction Scheme training placement covers a school session and is subject to registration with the GTCS. Teachers on the Scheme have the same terms of conditions as teachers, except for those provided in paragraphs 9.8 to 9.12 below.

9.8 Teachers entering the National Teacher Induction Scheme will be placed on Point 0 of the Main Grade Scale (Appendix 2.1).

9.9 The National Teacher Induction Scheme will correspond with the working year for teachers and will normally consist of 195 placement days.

9.10 The maximum class contact time during the placement will be 18.5 hours per week.

9.11 To terminate the training agreement, a minimum period of four weeks notice, in writing, is required by either side.

9.12 For entitlement to Maternity Leave, see Section 7 (Family Leave). Depending on eligibility, there may also be entitlement to Statutory Maternity Pay or Maternity Allowance.

JS/11/25

14 June 2011

Dear Colleague

Teacher Induction Scheme

The SNCT has agreed that the class contact time of probationer teachers on the Teacher Induction Scheme will be increased from a maximum of 15.75 hours to a maximum of 18.5 hours per week. This equates to an increase to 0.82 FTE. Changes to the SNCT Handbook of Conditions of Service for teachers have been made accordingly.

You will be aware that the GTCS has raised some concerns about increasing beyond 0.8FTE and has suggested some flexibility in implementation of the new working arrangements for probationer teachers. The Joint Chairs and Joint Secretaries have considered the terms of the letter sent by Anthony Finn, Chief Executive, GTCS, to Directors of Education which is appended. The Joint Secretaries have also met with GTCS to consider the matter directly. This meeting was constructive and positive.

The SNCT, recognising that GTCS has responsibility for professional standards, accepts that there is scope for flexibility in local decision making around how class contact time might be balanced over the course of the year for probationer teachers. We would ask that local authorities take into account the GTCS request for flexibility in the implementation of the new arrangements for probationer teachers who commence deployment in August 2011.

The SNCT also advises that in the few cases where probationer teachers require additional support to achieve the Standard for Full Registration it would not be appropriate to increase the maximum class contact time at a later stage in the session.

Yours sincerely
Tom Young (Employer's Side)
Drew Morrice (Teachers' Panel)
Stephanie Walsh (Scottish Government)

Joint Secretaries

COSLA Directorate	Teachers' Panel	Scottish Government Learning
Verirty House	46 Moray Place	People and Leadership Unit
19 Haymarket Yards	Edinburgh	2A South Victoria Quay
Edinburgh	EH3 6BH	Edinburgh
EH12 5BH	T: 0131 225 6244	EH6 6QQ
T: 0131 474 9200	F: 0131 220 3151	T: 0131 2440230
F: 0131 474 9292	E: dmorrice@eis.org.uk	F: 0131 244 0957
E: tomy@cosla.gov.uk		E: Stephanie.walsh@scotland.gsi.gov.uk

To: **Directors of Education in Scotland
(ADES)**

04 May 2011

Dear Colleague

SNCT Teachers' Deal relating to the Teacher Induction Scheme (TIS)

I feel it important to bring to your attention some significant concerns which GTC Scotland (GTCS) has about that part of the SNCT teachers' deal which relates to the Teacher Induction Scheme (TIS). If agreement is reached, an allocation of 18.5 hours teaching time (0.82 FTE) to the TIS would mean that beginning teachers would have just *four* hours per week more than experienced teachers to complete all that is expected of them in the Induction Year. We believe that this allocation would make it very difficult for GTCS to endorse the completion of the Standard for Full Registration (SfR) within one school year.

We are, of course, discussing these matters very closely with Government at present and we are confident that that any final protocol agreed within SNCT will allow us to find a suitable way forward. As you will be planning your own provision for next year, however, I would suggest that, in order to avoid any potential difficulty for the next cohort of probationers, you consider very carefully your plans for the Teacher Induction Scheme within your authority area. Our considered view is:

- that there should be a firm commitment to a minimum of <u>**one full day (or equivalent) relief from class**</u> at the outset of the school year for all those entering the Induction Scheme in August 2011;

- that this figure (0.8 FTE) might be varied later in the session, but not normally before Easter, for capable new teachers who would benefit from further opportunities to develop their potential and to gain additional skills. This variation would however follow full discussion with the individual probationer about his/her needs and would be endorsed by the relevant manager within the local authority.

- that the teaching time expected of individual teachers about whom cause for concern has been expressed should be maintained at no more than 0.8 FTE;

- that any agreement to vary current arrangements for the SfR would apply for session 2011/2012; and

- that any current probationers teachers who are asked to undertake an extension of probation in session 2011/2012 would do so under current arrangements (ie with a teaching allocation of 0.7 FTE).

letter to directors re TIS - 4 May 2011

I regret having to bring this matter to your attention at this time. However, as you may know, we have in recent months consistently shared with both Government and with ADES officers our view that an SNCT decision to vary the agreement on the hours required for teaching on TIS would have significant implications for teacher professionalism and for the Standard for Full Registration. In private discussions, we have sought to be as flexible as possible, while keeping professionalism as our key guideline and stating that "GTC Scotland may require to be convinced that increased time allocations would allow probationers sufficient time to attain the Standard for Full Registration." Despite many pressures, we have tried to avoid making any public comment which might be unhelpful to negotiations.

In discussion with government (and ADES) colleagues, we agreed that the original suggestion of an allocation of *0.9 FTE* teaching time for probationer teachers was inappropriate, in that it put the whole integrity of the Teacher Induction Scheme at risk. However, recognising that the compelling financial circumstances facing Councils might require an increase from the current 0.7FTE provision, we agreed on the need for *appropriate* time to deliver the Teacher Induction Scheme. The proposal to grant beginning teachers just four additional hours was, however, clearly beyond any flexibility which GTC Scotland might consider to be appropriate.
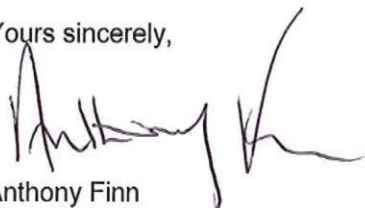
In 2001, GTCS was only convinced that the previous 2 year probation scheme could reduce to one year because of the quality of support to be offered by the new TIS. By contrast, teachers currently completing probation outwith the Induction Scheme (on the Flexible route) have a reduced level of support and require 270 days of satisfactory service to complete their probation.

Our concern in GTC Scotland is to ensure that high standards of teacher education and professionalism are maintained and improved. While we recognise the serious difficulties facing both Government and local authorities, our ultimate concern must be to ensure the quality of the teaching profession and the integrity of the TIS, a scheme highly rated across the world and, of course, deemed "world class" by OECD because of its clear focus on promoting high standards for probationers. It is important not to lose sight of how this success has been secured; and we need look no further than the Donaldson Report for a clear statement of the advantages of TIS for new teachers and, above all, for pupils. For example, in his report, Graham Donaldson asserted that "evidence and research suggests that investing time for professional development, reflection and learning with experienced teachers within the induction year is a critical factor in its success" and he then argued that savings, while needed, should not be at the expense of building much-needed quality in our future teaching force. GTC Scotland strongly supports these principles.

An allocation of four hours per week is unlikely to allow Scotland to retain an induction scheme which is viable, offering new teachers appropriate time and experiences to reflect on their strengths and to learn about and understand the key elements required of a reflective practitioner by the SfR (see Appendix).

We are, of course, keen to engage in further discussion which might resolve some of our concerns and allow us to find a suitable way forward; and I therefore look forward to further discussion on these matters. However, I did feel it appropriate to share these issues with you at present and would be happy to discuss this matter further with you.

Yours sincerely,

Anthony Finn
Chief Executive

If calling please ask for: Fiona J Hands on Direct Dial 0131 314 6027

See attached appendix

Letter to directors re TIS – 4 May 2011

Appendix: Allocation of time for the Teacher Induction Scheme

New teachers need time and support to fulfil the expectations of the Induction Year.

The time allocation should allow opportunities for authorities to bring teachers together to share experiences and learn from them. In addition, it is clear that a beginning teacher, with all the pressures associated with induction into a new profession, requires time to:

- develop the skills of a teacher and an understanding of curriculum, assessment and pedagogy;

- have access to a range of appropriate experiences which would assist them to reflect and develop sufficient understanding of their strengths and weaknesses as a teacher, allowing time to:

  o hold regular meetings with their supporter;

  o seek advice and guidance from key colleagues;

  o meet regularly with their fellow probationers;

  o maintain a record of professional development;

  o identify and record appropriate critical incidents and evidence to use as a focus of discussion with supporters;

  o engage, where possible, in research relating to their practice and to the impact of that practice on pupil learning;

  o experience and understand the context of teaching (other schools and sectors; Additional Support Needs; policy frameworks etc);

  o gain a sufficiently detailed understanding of what is required to meet specific elements of the Standard in respect of, for example, Professional Knowledge & Understanding, Professional Skills & Abilities and Professional Values & Personal Commitment.

Anthony Finn

May 2011

SNCT
Scottish Negotiating Committee for Teachers

JS/12/35

Dear Colleague

Teacher Induction Scheme

Following the 2011 Pay and Conditions Agreement the SNCT agreed that the class contact time of probationer teachers on the Teacher Induction Scheme was increased from a maximum of 15.75 hours to a maximum of 18.5 hours per week (equating to 0.82 FTE).

In June 2011 the SNCT issued advice (JS/11/25) appending advice from GTCS which suggested a flexible approach in implementation of the new working arrangements. The questionnaire issued by the SNCT on the Pay and Conditions Agreements confirmed that all Councils had adopted a flexible approach, balancing class contact time of probationer teachers over the course of the year.

GTCS has issued further advice to Directors of Education and this is appended. The SNCT asks local authorities to take this into account in the arrangements for probationer teachers who commence deployment in August 2012.

Yours sincerely

Tom Young (Employers' Side)
Drew Morrice (Teachers' Panel)
Stephanie Walsh (Scottish Government)

Joint Secretaries

Enc

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**General Teaching Council expectations in respect of
the Teacher Induction Scheme (TIS)**

1. Background

In 2011, SNCT agreed a deal on teachers' conditions which included reference to a teaching time of 0.82 FTE for probationers on the Teacher Induction Scheme (TIS). The General Teaching Council (GTCS), which is responsible for Professional Standards, subsequently agreed a pragmatic way forward which represented a flexible compromise which addressed its concerns. This GTCS position was endorsed by SNCT in June 2011 and then circulated in a joint secretaries' letter (JS/11/25).

2. Implications for Teachers and Local Authorities in 2011/2012

The approach outlined in JS/11/25 allowed local authorities to deploy probationer teachers incrementally across a school session. By allocating reduced teaching time from the start of a session and increasing this once teachers had gained suitable experience, employers were able to:

- provide guarantees to GTCS that the professional needs of teachers were fully addressed at the point of the session when this was most needed achieve across the whole school session an **average** deployment in line with the SNCT agreement

However, at that point, the GTCS's agreement to vary previous arrangements for teachers following the Induction Scheme applied for session 2011/2012 only.

3. Time allocation for probationer teachers from 2012/13: GTC Scotland guidelines

GTCS is able to confirm that the guidelines agreed in session 2011/2012 may now also apply in session 2012/2013.

Consequently, in order to ensure that probationers are given suitable support which will allowthem to meet the Standard for Full Registration (SfR) within one school session (see Appendix),schools should ensure that appropriate time for teaching and for professional development isallocated to probationer teachers. In particular,

- there should be a continued commitment to a maximum of 18 hours per week classcontact time (0.8 FTE) for all those entering the Induction Scheme at the start of theschool year in August;
- this figure of 18 hours may be increased later in the session (but not normally before Easter) for teachers whose progress is deemed satisfactory. This variation, which will offer opportunities to gain additional experience and develop skills, should follow full discussion with the individual probationer about his/her needs. The process for approving variation would be endorsed by the elevant manager within the local authority.

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- the teaching time expected of probationers whose progress has been identified as unsatisfactory or giving cause for concern should be maintained at no more than 18 hours (0.8 FTE);
- the total allocation of teaching time across the school session should not exceed that of an average allocation of 18.5 hours (0.82 TFE) per week. (For clarity, 18.5 hours is equivalent to 0.82 of the established teacher class contact time of 22.5 hours,)
- where practicable, part of a probationer's relief time should include one full day out of class.

Anthony Finn
Chief Executive
30 April 2012

(See Appendix)

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Anthony Finn
Chief Executive
April 2012