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education trade union



Policy Papers Relating to Minutes of Council 2016-2017

EIS RESPONSE TO GOVERNANCE REVIEW

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

1 Responding to the review

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

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

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

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

Having stated these caveats, however, the EIS is responding as a constructive partner in Scottish Education. As Scotland’s largest Education union, representing over 55,00 members across all sectors and posts, we welcome the opportunity to set out below our initial response to the consultation questions with a view to contributing to the debate about where change might advance and support effective teaching and learning and the well-being of students and staff, and where stability might achieve the same objective.

2 Context

Scottish Government and Local Authorities

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

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

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

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

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

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

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

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

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

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

Question 1

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

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

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

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

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

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

Scottish Negotiating Committee for Teachers (SNCT)

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

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

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

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

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

Question 2

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

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

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

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

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

3 Scope and Principles

Commentary on Operation of Organisations/Stakeholders

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

Education Scotland

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

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

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

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

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

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

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

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

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

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

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

Learning Directorate

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

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

Care Inspectorate

The EIS would stress the distinction between the scrutiny functions of the Care Inspectorate and Education Scotland. Inspections of early years establishments by the Care Inspectorate should focus discretely on the health, wellbeing and safety of young learners; inspection of the provision of learning should solely be the function of Education Scotland whose core inspection staff are qualified

teachers. Efforts made more recently by the two bodies to coordinate inspections has reduced what had been a previous blurring of the understanding of some Care Inspectorate staff of the organisation's functions.

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

Scottish Qualifications Authority (SQA)

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

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

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

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

GTCS

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

professional standards are not malleable to the political will of the Government of the day but remain steadfast benchmarks as agreed in large part by the profession itself.

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

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

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

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

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

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

Scottish College for Educational Leadership (SCEL)

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

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

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

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

The EIS has welcomed the Scottish Government's commitment to investment in Masters level learning for Headteachers provided through SCEL, and continues to advocate for such a level of support for all teachers, this being key to the further enhancement of the high standards of teaching in our schools and to minimising the impact of poverty on the outcomes of children and young people at school and beyond. In discussion on Masters level qualifications we believe that consideration would need to be given to enhancement of salary levels commensurate with a Masters level profession.

Universities Providing Initial Teacher Education

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

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

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

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

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

Question 3

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

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

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

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

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

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

4 Empowering teachers, practitioners, parents, schools and communities

Question 4

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

In the absence of a clear delineation of the duties and powers that currently reside with Scottish Councils this question is difficult to answer. The language of

empowerment appears to refer to schools, parents, clusters and communities. There is reference to establishing regional bodies but there is no specific detail as to what this might mean. It is therefore impossible to establish on what we are being consulted.

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

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

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

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

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

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

Question 5

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

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

services and support would add additional burdens on teachers and support staff. This would be unacceptable to the EIS.

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

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

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

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

Question 6

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

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

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

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

The level of participation by parents is an issue that is faced by many schools and not one that we believe will be changed by the introduction of new governance

arrangements. The current arrangements create no barriers for parental involvement in schools and school life, although we recognise that the impact of poverty in society can impact also on the ability of some parents to engage with schools. This requires creative thinking on the part of schools but not necessarily changes to governance.

Question 7

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

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

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

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

Question 8

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

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

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

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

The EIS strongly supports greater enabling of collaborative working across school networks and indeed local authority boundaries. One of the key elements of the success of the London Challenge was precisely the ability of schools to network

around professional and pedagogical development, supported strongly by academic advisers. In a sense this is a practical issue – the key area of expenditure with the London Challenge schools was the buying in of classroom cover to facilitate professional networking. The single biggest barrier to collaborative working is the lack of time, closely followed by budget constraints, lack of supply staff, and workload. The operation of Working Time Agreements and School Improvement Plans is also a significant factor.

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

Question 9

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

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

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

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

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

Question 10

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

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

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

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

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

Question 11

What factors should be considered when establishing new educational regions?

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

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

Could these be established without increasing bureaucracy?

What geographical/local-political considerations come into play?

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

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

What added value would such bodies hope to deliver?

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

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

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

6 A clear national framework and building professional capacity in education

Question 12

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

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

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

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

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

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

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

7 Fair funding – learner centred funding

Question 13

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

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

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

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

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

Question 14

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

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

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

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

It is important, nevertheless, that the funding streams are planned in a coordinated manner. For example, the Attainment Challenge Funding, whilst very

welcome, wasn't factored in to workforce planning forecasts and as a result some projects had to be amended as additional teachers simply weren't available.

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

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

Question 15

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

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

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

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

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

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

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

Question 16

How could the accountability arrangements for education be improved?

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

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

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

Question 17

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

Yes – see below:

Commentary on Key Issues

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

Teacher Numbers

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

Class Size

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

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

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

Workforce Planning

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

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

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

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

Nursery Education

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

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

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

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

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

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

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

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

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

ASL Act

Currently there is misalignment of the intentions of the Additional Support Needs legislation and the delivery of additional support needs provision in practice. Pupil census data provides evidence of significant variance in the numbers of children identified as having additional support needs across local authority areas. This is in large part down to the means by which additional support needs are categorised by individual local authorities. The level of intervention applied is a consequence of categorisation of needs, therefore the nature and extent of support for children with similar needs can differ from one postcode area to another. To compound matters, EIS research has identified that local authorities, in complying with their

statutory duties under the Act, apply a variety of funding formula, with some local authorities having reported that they do not even have such a formula.

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

Implementation of GIRFEC

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

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

However, concerns around how the full implementation of GIRFEC will be resourced are significant. Key features of CYP legislation- Named Person, Child's Plan and inter-agency information sharing- place significant additional resource demands on Education. If the pastoral care needs of all children and young people in Scotland are to be met in accordance with the legislation, adequate and sustained investment must be forthcoming. Essential to the success of GIRFEC will be increased investment in schools- additional administrative support staff to support work around planning and the sharing of data; additional teachers to support the level of pastoral care work that will be required of Named Persons; and relevant professional learning for all who are involved in delivering.

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

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

It is important to state that whilst the EIS supports in principle the presumption of mainstreaming inherent within the GIRFEC approach, members have repeatedly

raised concerns that in practice this has not been funded at the levels required to make it as successful as would have been hoped.

Funding and Resources

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

Conclusion

Impact of changes to Governance

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

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

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

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

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

- enough teachers who have ongoing access to high quality CPD, including inputs on the nature, causes and consequences of poverty;
- teacher numbers increased to deliver smaller class sizes arranged on the basis of mixed ability for the particular benefit of children from disadvantaged backgrounds;
- adequate specialist support for learners with additional support needs, including regular and sustained support for learners at all stages whose first language is not English;
- adequate time for pupil support staff to attend to pupils' pastoral care needs;

- enough time for schools to plan and deliver approaches to enhance links between school and home, crucially supporting vulnerable parents to be involved in their children's learning;
- maximum time for teachers to engage in meaningful professional reflection and collaboration around what works in improving outcomes for children living in poverty;
- the provision of classroom resources and equipment that facilitate learning that has creativity and learner collaboration at the core of it.

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

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

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

Appendix 1

Higher & Further Educational Governance

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

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

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

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

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

EIS Guidance on the Prevent Duty, Counter-Terrorism Legislation and Preventing Racial or Religious Discrimination

Introduction

1. At its January 2016 meeting EIS Council passed the following motion:

"That this Council is opposed to islamophobia and calls for a campaign of resistance against attempts to make training in Prevent strategies mandatory for all teachers and lecturers. Council rejects, and will campaign against, the threats to freedom of speech in educational institutions posed by the Scottish government guidance definition of extremism, because of the broad range of individuals and groups who may at some point fall foul of it."

This document is designed to advise members of the background to the EIS opposition and to the implications of Prevent Duty for schools, colleges and universities. The guidance also provides advice to members on what action to take when faced with Prevent Duty related issues.

2. The Prevent Duty forms part of the UK Government's most recent counter-terrorism and security legislation. This legislation has implications for the education system, because it introduced new responsibilities on schools, colleges and universities. The Prevent Duty has been widely criticised, not least for creating conditions in which racism, discrimination and Islamophobia are exacerbated.
3. The EIS opposes the Prevent Duty, and believes that the legislation should be repealed, but in the interim, it is important for teachers and lecturers to be aware of the Duty and its potential impacts. This guidance seeks to make members aware of the legal framework for Prevent Duty, the background to it, its potential impacts in educational contexts, and actions which could be taken in response.

Legislative Context

4. When reference is made to the 'Prevent Duty' this is in relation to Section 26 of the Counter-Terrorism and Security Act 2015¹, (henceforth CTSA Act), which came into force in February 2015. This Act places a Duty on certain bodies to have, in the exercise of their functions, "*due regard to the need to prevent people from being drawn into terrorism.*" Within the terms of the legislation, local authorities, independent and grant-aided schools, colleges and universities are subject to this Duty.

¹ <http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted>

5. The Duty contained in S.26 does not confer new functions on any specified authority: it is used in the Act to mean that authorities should have “due regard” to the need to prevent people from being drawn into terrorism in the exercise of their existing functions (s.26(1)). The term “due regard” as used in the Act means that *“authorities should place an appropriate amount of weight on the need to prevent people being drawn into terrorism when they consider all the other factors relevant to how they carry out their usual functions”*, according to the accompanying guidance. It remains to be seen how “due regard” and “appropriate” will be interpreted in practice; however, this wording gives some leeway in deciding on how to respond to this Duty.
6. The UK Government, in conjunction with the Scottish Government, has issued guidance on the Prevent Duty for Scotland, and also sector-specific guidance for the HE and FE contexts. (See page 18, Further Information, for links).
7. Under Section 6 of the Human Rights’ Act “It is unlawful for a public authority to act in a way which is incompatible with a Convention right” i.e. a right under the European Convention on Human Rights” unless:
 - (a) As the result of one or more provisions of primary legislation, the authority could not have acted differently; or
 - (b) In the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions.

Background

8. The 2015 Counter-Terrorism legislation arose from the UK Government’s 2011 Prevent Strategy, an element of its overall counter-terrorism strategy, ‘CONTEST’. The aim of the Prevent Strategy is to “reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism.”
9. The legal definition of terrorism, as discussed in the CTSA, is as per the Terrorism Act 2000. In this Act “terrorism” essentially means the use or threat of seriously violent or disruptive action where the use or threat is designed to influence the government, or to intimidate the public or a section of the public, or for the purpose of advancing a political, religious or ideological cause.
10. However, the guidance to the CTSA Act refers to both violent extremism and, importantly, also to *“non-violent extremism, which can create an atmosphere conducive to terrorism and can popularise views which terrorists exploit.”* It

has been suggested that “non-violent extremism” could potentially cover a wide range of activism, such as environmental activism or trade union activity, which is extremely concerning.

11. The definition of extremism used in the Prevent Strategy is *“vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs.”*
12. A number of issues have been raised in relation to such a definition. It has been suggested that this definition could potentially cover the behaviour of a wide range of political activists. It has also been pointed out that the values to which the definition refers are widely shared across nations; they are not unique or exclusive to Britain but are common to many whose nationality is other than British and to those who may have been born and who live in the United Kingdom but whose identity is not ‘British’.
13. The EIS and others perceive aspects of the guidance and its potential effects to be Islamophobic. Four out of the five countries which are listed as the home countries of extremists and terror groups are predominantly Muslim. The England and Wales guidance contains content on monitoring the use of prayer rooms, which has been perceived as targeting Muslims although this is not contained in the Scottish guidance.
14. The EIS believes that the spirit of the Prevent Duty guidance has the potential to create a climate of suspicion which is likely to threaten staff relationships with pupils and students and with each other, and also pupils’ and students’ relationships with each other.
15. The developments around anti-terror legislation have occurred in a climate of increased monitoring and limiting of free speech and political actions. The Trade Union Act 2016, the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, and recurring discussions about possible repeal of the Human Rights Act 1998 all give cause for concern about growing restrictions on free speech and political campaigning.
16. These developments take place within a post 9/11 geopolitical context which includes terrorist activity at domestic and international level. The causes of this terrorist activity and related narratives are, quite appropriately, important themes in the political discourse around contemporary international relations and domestic security. The discourse is hotly contested within the political community and in the media. The notion that this discourse can be kept at the classroom door is naive. The notion that the discourse should be kept at the classroom door runs counter to the GTCS standard for full registration. Moreover, in the setting of further and higher

education, lecturers often have to have individual discussions with students on dissertations and projects that would involve such issues exercising the statutory principle of academic freedom.

Mechanisms for Reporting, Monitoring and Inspection on the Prevent Duty

17. Prevent activity in Scotland is overseen by the Prevent sub-group of the Multi-Agency Strategic CONTEST Board (MASCBS) for Scotland. Local multi-agency CONTEST groups oversee Prevent activity in their area and provide progress updates on the local implementation plan. Local Prevent groups may also be convened, 'where required'. The guidance does not elaborate on what factors might mean that a local group is required. In addition to an objection in principle to this degree of monitoring, the EIS also has concerns that this could create a new layer of bureaucracy e.g. a referral point in each local authority.
18. The Scottish Government will draw together data about the implementation of Prevent from all partners and will submit an annual report of performance against the Prevent delivery plan to the Cabinet Secretary for Justice. The Scottish Government will also provide data on the delivery of Prevent in Scotland to the Home Office, whose Prevent Oversight Board may agree on further action to support implementation of the Duty. If Scottish authorities are to be discussed at the Prevent Oversight Board, Scottish Ministers will be consulted and will attend. The EIS will monitor these developments closely.
19. The guidance states that "*Where a specified body is not complying with the Duty, the Prevent Oversight Board may recommend that the Secretary of State use the power of direction under section 30 of the Act. Scottish Ministers would be present at the Prevent Oversight Board if the power of direction in respect of any Scottish specified authority is under discussion. This power would only be used when other options for engagement and improvement had been exhausted. The power would be used only to ensure the implementation and delivery of the Prevent Duty. The power of direction under the CTSA [as amended by The Counter-Terrorism and Security Act 2015 (Risk of Being Drawn into Terrorism) (Amendment and Guidance) Regulations 2015] allows the Home Secretary to seek an order of specific implement from the Court of Session against authorities specified under the CTSA. These include local councils, the proprietor or governing body of higher and further education bodies and the proprietor or governing body of independent and grant-aided schools. The Act does not give the Home Secretary any power to seek an order of specific implement against staff members or trade unions*"
20. The guidance states that "*central support and monitoring will be supported by existing inspection and audit regimes in specific sectors*" and that "*some*

sectors may see a parallel with the equality Duty and wish to explore whether or not they can use existing bodies that monitor compliance with that Duty for Prevent purposes". The EIS will monitor developments in terms of inspection regimes and the Prevent Duty.

Potential Impacts of the Prevent Duty

Contractual issues

21. The Prevent Duty may have implications for teacher and lecturer contracts. The legal Duty rests with local authorities, the governors of independent and grant-aided schools, College Boards, and the proprietors or governing bodies of post-16 education bodies, not with the individuals who work in schools, colleges and universities.
22. However, teachers and lecturers are likely to be subject to an express or implied contractual obligation to take such steps as the school, college or university deems necessary to meet its statutory Duty.
23. The Prevent Strategy from which the subsequent legislation emerged specifically references school staff and suggests various actions:
 - Having awareness of Prevent and the risks it is intended to address
 - Ensuring that children are taught "*in a way that is consistent with the law and our values*"
 - Helping to identify and refer to relevant agencies "*children whose behaviour suggests that they are being drawn into terrorism or extremism.*"
24. The EIS believes that having awareness of the law; teaching in a way that is consistent with the law and with societal values as reflected in CfE and GIRFEC; and safeguarding children and young people from harm are fundamental to teacher professionalism and need not be specified in this way. The implied contractual obligation to assist a school, a local authority, a college or a university to comply with the Prevent Duty may therefore mean few or no changes in teacher or lecturer practice.
25. In line with the January 2016 Council Motion, concerns regarding the Prevent Duty should be communicated to employers to help them frame policies and procedures in relation to the Prevent Duty and to clarify that existing safeguarding training makes specific Prevent training unnecessary since existing safeguarding duties are entirely sufficient. If such persuasion is unsuccessful and the members wish to carry out a boycott of Prevent training this would amount to industrial action. In order to be lawful this would have to be sanctioned through due process as laid out by the Institute's policy on industrial action.
26. If teachers or lecturers fail to comply with their contractual terms or their employer's policies and procedures in relation to the Prevent Duty this may

make them vulnerable to disciplinary procedures. If policies relating to the Prevent Duty are contractual, teachers or lecturers who fail to comply with those policies may be deemed to be in breach of contract.

27. In the context of Higher Education there is no specific mention of lecturing staff in the Prevent Guidance; it states that "Institutions should give relevant staff sufficient training". The content of lectures is not mentioned. In Universities it would be up to the employer to explain why it believed it was appropriate for a member of lecturing staff to undergo this training.
28. Teachers or lecturers who are instructed to attend training on the Prevent Duty or to participate in Prevent Duty related activities should contact their Local Association /Branch Secretary for guidance.

Professional learning

29. The EIS believes that staff development on anti-racist education and on anti-discriminatory practices is essential. The GTCS Standards directly address the themes of equality and social justice, in addition to the wellbeing of learners, and it is important for teachers and lecturers to have opportunities to access quality professional learning on equality matters.
30. For the most part, the EIS has not supported mandatory Professional Learning for teachers. Existing EIS policy views teachers as professionals who ought to have agency in identifying their own professional learning needs and in seeking the best means by which to address these. The EIS opposes attempts to make Prevent Duty training mandatory for all teachers and lecturers.
31. In addition to objections to the injustice of the Prevent Duty, there are workload implications of introducing any new stand-alone mandatory training on Prevent Duty, and it is vital that discussions about training take place within the context of working time agreements. This is of particular pertinence to members in pastoral care roles.
32. The joint UK/Scottish government guidance suggests that schools may wish to develop training related to Prevent for Parent Councils. The EIS has concerns about the implications of this suggestion. The role of teachers is not to police, spy on or otherwise monitor their learners or their families, nor is it their role to train others to do so. Any member who is asked to participate in the development and/ or delivery of training on Prevent for Parent Councils or Student Associations should notify their EIS Rep within the branch.

Safeguarding

33. Learners have a right to be safe and respected in their educational establishments, and not to be seen through a lens of security as potential

terrorists. Teachers and lecturers are professionals. Their role is not to police, spy on or otherwise monitor their learners. Teachers and lecturers are committed to the wellbeing of their students, and are adept at using their professional judgement to raise safeguarding concerns (of any kind) where necessary, through the appropriate channels.

34. The GTCS standards, GIRFEC and its associated practices, the Children and Young People (Scotland) Act 2014, and the focus of Curriculum for Excellence on responsible citizenship, provide a strong framework within which teachers and lecturers in education settings are able to ensure that learners are safe, enabled to learn, have their specific needs addressed, and equipped to contribute positively to their communities.
35. The EIS perceives no need for an additional layer of safeguarding procedures concerning the specific risk of involvement in terrorism, and has concerns that developing specific new approaches to address the Prevent Duty would inhibit progress with regards to race equality and would have significant implications for collegiality and trust within educational establishments, and for teachers' and lecturers' workloads. The Prevent Duty is neither required nor helpful in ensuring that a child's vulnerability to involvement in terrorism is addressed.

Supporting a positive learning environment

36. A positive learning environment and collegiate relationships within educational establishments are key to providing high quality education. The EIS has concerns that the Prevent Duty creates mistrust and suspicion, inhibits the fostering of an environment that is conducive to sound learning, and undermines collegiality. In colleges and universities that now includes explicit restrictions and limits on external speakers being invited to address staff or students which is a direct attack on freedom of expression. Evidence from England and Wales bears this out in relation to the learner experience. The July 2016 'Preventing Education?' report by Rights Watch UK² highlights a number of concerning cases in which learners who have made innocent remarks that have been misinterpreted have been reported to various authorities. In all of the cases highlighted, the pupil or student was Muslim.
37. Pupils and students from particular ethnic minorities or religious groups may experience racial or religious discrimination and prejudice arising from current concerns and sensitivities about terrorism and security, and from application of the Prevent Duty. Teachers and lecturers can support those pupils and students in a number of ways, including:
 - Listening carefully and being supportive

² <http://www.rwuk.org/prevent-report/>

- Treating cases of racism and Islamophobia seriously and sensitively
 - Ensuring that all racist incidents are reported and recorded accurately by the senior management of the school/ college/university
 - Being familiar with EIS policies on racism (e.g. our Challenging Racism guidance).
38. Teachers and lecturers can also support pupils and students by encouraging a climate and ethos which will prepare learners positively for the diverse society in which they live. There are various means of achieving this, ranging from curriculum design and delivery to developing partnerships with parents and the community. There is more information in the EIS 'Challenging Racism' guidance.

Tackling Racist Discrimination in Educational Establishments

39. The EIS strongly opposes race-based discrimination and has a long track record in combating racism in education. Challenging racism is part of our responsibility as educators. Creating a culture of equality and respect in which all learners can to achieve their potential is a fundamental aspect of the work of teachers and lecturers.
40. We encourage members to ensure that any activity undertaken in accordance with the Prevent Duty does not breach learners' rights to be protected from race-based discrimination. Race is a protected characteristic under the Equality Act 2010 and it is unlawful for someone to be treated less favourably because of their ethnicity, including their race, colour, and nationality, ethnic or national origins. This includes discrimination on the basis of a person's actual race (direct discrimination), their perceived race (direct discrimination by perception) or the race of someone with whom they associate (direct discrimination by association).
41. The EIS is concerned about the degree of scrutiny to which Black and Minority Ethnic (BME) learners and families may be subjected. It has been suggested that a disproportionate focus on security concerns as embodied by the Prevent Duty adds to fear and anxiety, particularly among BME staff, pupils and parents, and is likely to incite discriminatory practices. It will therefore be important for schools, colleges and universities to monitor the numbers of racist incidents in educational institutions and take action if a pattern of increased incidents is noted.
42. The EIS is concerned that the Prevent Duty and the current definition of extremism may exacerbate the issue of 'White privilege', whereby people from the ethnic majority are able to make political statements about government foreign policy, for example, which, if they were made by a Muslim or someone perceived as Muslim, would generate suspicion. We have

concerns that the implementation of the Prevent Duty may disproportionately restrict freedom of speech for BME learners and EIS members.

43. It will be important for educational establishments to pay extra attention to safeguarding Muslim pupils or students and staff members, or those who may be perceived or misrecognised as Muslim, through a whole-school or college/university-wide approach. Leadership on this issue will be vital.
44. We encourage EIS members to make use of anti-racist education resources and to encourage open discussion of issues around racism including the myths and facts about immigration. (See links in Further Advice and Information section).

Tackling Religious Discrimination in Educational Establishments

45. The EIS is opposed to religious discrimination, including Islamophobia. We encourage members to ensure that any activity undertaken in accordance with the Prevent Duty does not breach learners' rights to be protected from religious discrimination. Religion and belief are protected characteristics under the Equality Act 2010 and it is unlawful for someone to be treated less favourably because of their religion or belief. This includes discrimination on the basis of a perceived religion or belief (direct discrimination by perception) or discrimination on the basis of a person's association with someone who has a particular religion or belief (direct discrimination by association).
46. The Scottish guidance notes that at times Prevent activity in Scotland may touch upon anti-sectarianism work, or vice versa. The EIS believes that work to tackle all forms of religious prejudice is important and recognises the role education plays in combating it. We encourage our members to find appropriate ways to challenge and address sectarianism and all other forms of religious prejudice such as Islamophobia, which we believe to be increasingly prevalent in Scottish society.

Freedom of speech and academic freedom

47. The EIS believes that the definition of extremism contained in the joint UK Government and Scottish Government advice is open to so many conflicting interpretations that it is meaningless at best and unhelpful and counterproductive at worst. Moreover, it poses a potential threat to freedom of speech in educational institutions. For example, if it was applied to the invitation of external speakers whole swathes of public policy or issues could not be challenged in an academic context.
48. The CTSA Act contains specific references to freedom of speech in universities and providers of further education, but not in schools. Section 31 of the Act states that when carrying out the Duty imposed by S.26 (1), authorities

"must have particular regard to the Duty to ensure freedom of speech" and "must have particular regard to the importance of academic freedom."

49. Further regulations amending the Act elaborate on the original provisions around freedom of expression and specifically mention *"freedom of speech within the law...for members, students and employees of the institution in question, and for visiting speakers."*
50. It is helpful that this mentions students. The EIS are of the view that the Prevent Duty has the effect of silencing young people's and staff's questions and stifling debate and exploration. The EIS considers that to be intolerable. As is clear from the GTCS standards, teachers and lecturers in further and higher education should encourage learners to deepen their understanding of the world through questioning, discussion and debate, and it is vital for critical exploration of topical issues to be enabled and not suppressed.
51. EIS members may wish to use a children's rights approach to their work to allow questioning without fear of censorship or reprisal. Children have the right to free expression under UNCRC article 13, and under article 12 they have the right to be listened to and have their views respected. UNCRC also gives children a right to an education that enables them to fulfil their potential. Arguably the opportunity to debate controversial, sensitive and political topics forms a crucial part of that education.
52. The ability to fully and freely debate such topics has also long been a fundamental element of adult education, and adults engaging in Further and Higher Education share the same right to express views and to be listened to in a respectful environment.

Compatibility with professional standards and teacher professional judgement

53. The GTCS standards set out knowledge and actions that teachers must demonstrate for full registration with the Council. These are standards of capability in relation to teaching in which learners, parents, the profession itself and the wider community can have confidence. The standards provide a clear and concise description of the professional qualities and capabilities teachers are expected to attain, maintain and enhance throughout their careers.
54. The standards have a strong focus on values, on critical thinking and on developing trust and respect in educational settings. They are underpinned by core values relating to social justice, valuing diversity, tackling real world issues, and respecting the rights of all learners. These values and standards could act as a bulwark against some of the practices that might otherwise result from discriminatory legislation such as the Prevent Duty. EIS members

may find it useful to make reference to GTCS standards within any professional dialogue relating to Prevent.

55. Key professional standards/actions relevant to challenging racism and prejudice and which the EIS views as being incompatible with the Prevent Duty:

- Embracing locally and globally the educational and social values of sustainability, equality and justice and recognising the rights and responsibilities of future as well as current generations
- Create a safe, caring and purposeful learning environment
- Committing to the principles of democracy and social justice through fair, transparent, inclusive and sustainable policies and practices in relation to race, ethnicity, religion and belief...
- Political insight and understanding into (sic) policy development and implementation through critical questioning
- Demonstrating openness, honesty, courage and wisdom
- Critically question assumptions, beliefs & values of self and system...
- Acting and behaving in ways that develop a culture of trust and respect through, for example, being trusting and respectful of others within the school...
- ...interact productively with learners...
- Demonstrating a commitment to engaging learners in real world issues...
- Have high expectations of all learners

Specific issues for the FE and HE sectors

56. The joint UK/Scottish government's sector-specific guidance on Prevent sets out some specific considerations for the FE and HE sectors, including:

- Having clear and visible policies for managing whistle-blowing
- Ensuring policies are in place for students using IT equipment to research terrorism and counter terrorism in the course of their studies
- Risk assessing the physical management of the institution's estate
- Having robust procedures for sharing information about vulnerable individuals
- Putting in place a system for assessing and rating risks associated with any planned events, including events involving external speakers
- Having clear and widely available policies for the use of prayer rooms and other faith-related facilities.

57. The EIS believes that having clear and visible policies and procedures for risk assessment, information sharing; and meeting the needs of students from all religious backgrounds would constitute normal good practice. The implied

obligations to assist a college or a university to comply with the Prevent Duty as described in the guidance may therefore mean few or no changes in teacher or lecturer practice. It is not clear from the Government guidance that lecturing staff would need to undergo specific training to comply with these considerations.

Conclusion

58. The EIS and other trade unions continue to campaign for the repeal of the Prevent Duty in the longer term, and to campaign against mandatory training in Prevent Duty. In the meantime, the EIS will monitor the implementation of Prevent Duty and will attempt to reduce the potential harmful impact wherever possible.
59. We believe that there is a role for trade unions in seeking to oppose the delivery of Prevent training. Appendix 1 provides examples of how Prevent training was successfully removed from Safeguarding training as a result of EIS pressure.
60. A summary of advice for members and EIS representatives is provided in the following section of this guidance.
61. The EIS will issue further advice to members as necessary about Prevent and will support members and branches which raise concerns about the implementation or training where they believe this may:
 - i. Breach human rights laws and principles
 - ii Encourage the racial profiling of students
 - iii Encourage the targeting or victimisation of students for reason of faith, culture or legitimate political expression.
62. The EIS re-affirms its opposition to mandatory training in Prevent strategies; urges branches to resist any attempt by employers to impose such training, and will support branches in doing so.
63. For the avoidance of doubt, and notwithstanding our position of opposition to the Prevent Duty, we must advise members that they should not refuse to attend training on Prevent Duty unless their refusal is due to official industrial action.

SUMMARY OF EIS ADVICE

Advice to EIS Members

64. All teachers and lecturers are advised to:

- Participate in professional learning on anti-racist issues
- Make use of anti-racist education resources to challenge all forms of racism and religious discrimination, including Islamophobia
- Ensure that racist incidents are reported and recorded using appropriate formal procedures
- Pay extra attention to safeguarding Muslim pupils and students, or pupils and students who may be perceived or misrecognised as Muslim, who may be at greatest risk of experiencing discrimination in general, and as a result of the Prevent Duty
- Be aware of the added vulnerabilities of certain groups, such as ESOL and EAL learners - such groups may already be vulnerable to racism and Islamophobia, less able to communicate concerns and at greater risk of misunderstandings leading to increased monitoring
- Use a children's rights approach to encourage free expression and open discussion
- Notify and seek advice from your establishment-based EIS representative if you are instructed to attend training on the Prevent Duty, or to engage in other Prevent Duty related activity. However, you must comply with any lawful instruction from your employer in relation to this.

Advice to members in leadership posts

65. The Scottish guidance on the Prevent Duty includes specific recommendations for those in leadership posts. It states that those in leadership posts are expected to:

- Establish or use existing mechanisms for understanding the risks of radicalisation
- Ensure staff understand the risk and build the capabilities to deal with it
- Communicate and promote the importance of the Prevent Duty
- Ensure staff implement the Prevent Duty effectively

66. The EIS advises members in leadership posts to:

- Discuss the implications of the Prevent Duty and this guidance with the EIS Rep/Local Association Secretary/Branch Secretary
- Ensure that all equality practices and policies in their establishment are current and reflect best practice, and, in the case of school leaders, are congruent with local authority policies

- Ensure that mechanisms for recording and dealing with racist incidents are robust
- Establish an ethos of trust and respect in which prejudice is challenged
- Seek to provide leadership on the safeguarding of learners with added vulnerabilities, e.g. Muslim learners or learners who may be perceived to be Muslim
- Ensure that professional learning opportunities which support anti-racist education are made available to staff

General Advice to School Reps, Local Association and Branch Secretaries

67. Branch Secretaries and Local Association Secretaries are advised to discuss with management at the appropriate level the issues contained in this advice and to point out in particular that safeguarding is already covered in existing training packages, e.g. on child protection, preventing the grooming of children and young people for exploitation, IT literacy and online safety etc., rendering Prevent Duty training unnecessary.

Specific Advice for School Reps

68. In particular, School Reps are encouraged to:

- Hold a Branch meeting to discuss the implications of this advice and any appropriate action that the branch may wish to take
- Inform the Local Association Secretary in the event of any member(s) being instructed by the management of the school to undertake Prevent training
- Inform the Local Association Secretary in the event of a member in your establishment being at risk of disciplinary proceedings as a consequence of the implementation of the Prevent Duty
- Discuss with school management the effectiveness of current anti-racist approaches
- Ensure that the school leadership team has robust mechanisms in place for reporting, monitoring and responding effectively to racist incidents and incidents of religious discrimination
- Discuss with management how pupils and students at greatest risk of discrimination are being supported
- Encourage the provision of professional learning on anti-racist education
- Contact the local Equality Rep(s) for general information and advice related to anti-racist education, policy and practice
- Ensure that any training to be delivered at establishment level in relation to the Prevent Duty is consistent with local authority approaches as agreed within LNCTs- contact the Local Association Secretary if in doubt

- Emphasise the importance of a respectful, trusting and collegiate learning environment
- Maintain an overview of developments relating to the Prevent Duty at establishment level
- Seek further advice as required from the Local Association Secretary.

Specific Advice for FE/HE Branch Reps

69. In particular, Reps in colleges and universities are encouraged to:

- Hold a Branch meeting to discuss the implications of this advice and any appropriate action that the branch may wish to take
- Discuss with the college/ university management the effectiveness of current anti-racist approaches
- Ensure that the college/ university leadership team has robust mechanisms in place for reporting, monitoring and responding effectively to racist incidents and incidents of religious discrimination
- Discuss with management how students at greatest risk of discrimination are being supported
- Encourage the provision of professional learning for staff on anti-racist education
- Seek to influence the content of locally-delivered training around the Prevent Duty, including through the use of Equality Impact Assessment
- Bear in mind that EIS Equality Reps are able to support the work of FE and HE Branches in this area
- Emphasise the importance of a respectful, trusting and collegiate learning environment where students are encouraged to develop critical thought
- Maintain an overview of developments relating to Prevent at establishment level
- Monitor the blocking of any invitations to external speakers
- Inform the Area Officer/National Officer in the event of any member(s) being instructed by the management of the college/ university to undertake Prevent training
- Inform the Area Officer/National Officer in the event of a member in your establishment being at risk of disciplinary proceedings as a consequence of implementation of the Prevent Duty
- Seek further advice as required from the Area Officer/National Officer or EIS HQ.

Specific advice for Local Association Secretaries

70. The following may be useful to Local Association secretaries:

- Discuss this advice with the local executive committee/ committee of management and any appropriate action that it may wish to take

- Inform the Area Officer in the event of a member in your local association being at risk of disciplinary proceedings as a consequence of the implementation of the Prevent Duty
- Discuss within LNCTs/JNCTs the effectiveness of current anti-racist strategy, policies and approaches in operation within the authority
- Ensure that the local authority has robust mechanisms in place for reporting, monitoring and responding effectively to racist incidents and incidents of religious discrimination
- Discuss how those at greatest risk of discrimination are being supported
- Encourage the provision of professional learning for staff on anti-racist education
- Seek to influence the content of locally-delivered training around the Prevent Duty, including through the use of Equality Impact Assessment
- EIS Equality Reps are able to support the work of the Local Association in this area.
- Emphasise the importance of a respectful, trusting and collegiate learning environment
- Maintain an overview of developments relating to Prevent at local authority level and across EIS branches
- Seek further advice as required from Area Officer or EIS HQ.

Advice for Equality Reps and Learning Reps

71. Equality Representatives may particularly wish to query how local authorities intend to mitigate the possibilities for incitement of prejudice-based discrimination within their establishments created by the Prevent Duty; to advocate for the provision of high quality professional learning for teachers and lecturers on anti-racist approaches; and to support the provision of anti-racist education for pupils and students.
72. Learning Representatives may particularly wish to query how local authorities and college management teams intend to respond to the Prevent Duty in terms of professional learning, and to support the provision of professional learning on anti-racist approaches and tackling religious discrimination or prejudice.

Further Information

Information is available from the following website sources:

<http://www.eis.org.uk> – for EIS policy and advice

<http://www.eis.org.uk/Equality/Anti-racism.htm> - for EIS anti-racism work

<http://www.stuc.org> – for general trade union policy and advice

<http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted> - Counter Terrorism & Security Act 2015, as enacted

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/445919/Prevent_Duty_Guidance_For_Further_Education_Scotland_-_Interactive.pdf – sector specific guidance (FE)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/445921/Prevent_Duty_Guidance_For_Higher_Education_Scotland_-_Interactive.pdf - sector specific guidance (HE)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/445978/3799_Revised_Prevent_Duty_Guidance_Scotland_V2.pdf - general Prevent Duty guidance for Scotland

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97976/prevent-strategy-review.pdf - the Prevent Strategy

http://www.unicef.org/crc/files/Rights_overview.pdf- an overview of the UN Convention on the Rights of the Child

<http://www.theredcard.org/educational/teachers-area/home> - Show Racism The Red Card - for anti-racist education resources

<http://www.legislation.gov.uk/ukpga/1998/42/contents> Human Rights Act 1998

<http://www.legislation.gov.uk/uksi/2015/928/contents/made> - The Counter-Terrorism and Security Act 2015 (Risk of Being Drawn into Terrorism) (Amendment and Guidance) Regulations 2015.

Appendix 1

Example of how staff safeguarding training was adapted to exclude Prevent:

Case study 1

BEFORE: A female Syrian student (35) tells a member of staff that her husband who currently lives in Syria has threatened to kill her because of family 'honour'. She said he is travelling to Scotland and is going to cause trouble in the college. She has told the police but still feels scared.

AFTER: A female student (35) tells a member of staff that her husband has threatened to kill her. She said he is going to cause trouble in the college. She has told the police but still feels scared.

Case study 2

BEFORE: A tutor receives a telephone call from the Social Work Department requesting an attendance report for a female student (21) whose family are originally from Sudan. The tutor refuses the request on the grounds of data protection. The social worker then says this is likely to become a police investigation.

AFTER: A tutor receives a telephone call from the Social Work Department requesting an attendance report for a female student (21). The tutor refuses the request on the grounds of data protection. The social worker then says this is likely to become a police investigation.

Case study 3

BEFORE: A young male student (17) tells his lecturer that he no longer wants to progress into the second year of his course. His career plans had been to go into the police force but he felt that this no longer was for him, that it no longer mattered to him although not long before he had been full of enthusiasm for the idea. When pressed he volunteered the information that he was going to Pakistan with his parents and did not know when or if he would be back.

AFTER: A young male student (17) tells his lecturer that he no longer wants to progress into the second year of his course. His career plans had been to go into the police force but he felt that this no longer was for him, that it no longer mattered to him although not long before he had been full of enthusiasm for the idea.

APPOINTMENT PROCEDURES

1. Introduction

The Institute's current Appointment Procedures in respect of Officials and Officers were last reviewed in 2014 with Council approving these at its meeting on 7 March in that year.

Concern was, however, expressed at the November 2016 meeting of Executive Committee over the timescales involved in undertaking the appointment process - particularly given the two month notice period of existing Officers which can be further shortened by the legal entitlement to take accrued leave in these two months.

Finance Sub-Committee was asked by Executive Committee to give initial consideration to updating the Appointment Procedures, and its suggestions in this regard were considered by Executive at its February meeting. Executive Committee now submits this report to Council.

2. Recommended Changes

(a) Initial Meeting of the Appointments Forum

This meeting is intended to undertake a review of the Job Description/Person Specification, Application Form, the draft advertisements for the post, and thereafter confirm advertising arrangements. The meeting is also expected to consider whether the essential/desirable criteria be individually weighted and if a scoring system be used in letting or interview. In practice this meeting has rarely taken place, and should it do so then the appointment procedure can only be elongated and not curtailed. Accordingly, Executive Committee suggests this section of the Procedures be deleted.

(b) Direct Replacement of Existing Posts

Currently the General Secretary does not have the power to initiate the Institute recruitment process at Officer level or above. It is suggested this is amended where the vacancy is for an existing position such as an Area Officer, National Officer, Assistant Secretary, and there is Planned Expenditure provision. Where the General Secretary intends that there be a direct replacement made then he, in conjunction with the Convener of Finance Sub-Committee, be given powers to initiate the process. This would enable posts to be advertised (as there are now generic Job Descriptions/Person Specifications) within days of a vacancy being known. Where, however, the General Secretary intends that a post's remit or terms and conditions be varied the Procedures stipulate that a report be provided to Finance Sub-Committee.

(c) Creation of New Post(s)

Here it is suggested that Finance Sub-Committee determines whether a new post or posts are authorised following submission of their details by the General Secretary, and then at the same meeting confirms the documentation for issue and the advertising arrangements. There are two main reasons for suggesting Finance Sub-Committee – firstly it has responsibility for Planned Expenditure/Budgetary matters, and secondly it has a regular meetings calendar, which in normal circumstances will enable the process to be accelerated.

(d) Requirement for Pre-Appointment Medical Examination

Recently there have been delays experienced in arranging the pre-appointment medical examination – the preferred candidate is firstly required to complete a questionnaire, and thereafter an appointment is arranged via the Institute OHA's, Duradiamond. Frequently it can take two weeks or more to obtain such appointments.

The principal purpose of the medical examination is to permit the employee to join the Institute pension scheme. An alternative would be to amend the appropriate clause in the Further Particulars as follows;

"The successful candidate will, **subject to satisfactory medical examination**, be eligible to join the Staff Superannuation Scheme which currently provides a range of benefits, including age benefits at age 65, ill-health retirement benefits and death-in-service benefits. The employee's current contribution is 9% of salary. The Scheme provides for annual increases in pensions in line with RPI"

The relevant sections regarding membership and health in the Pension Scheme's Trust Deed and Rules state:

2.3 An employee before becoming an Active Member may be required to produce his certificate of birth, or such other evidence of his age as the Trustees shall deem satisfactory, together with such evidence of his marital status and health, as the Trustees may at their absolute discretion require.

2.4 If an employee provides evidence of health which is not satisfactory to the Trustees they may, subject to the requirements of the Disability Discrimination Act 1995, restrict the level of death and incapacity benefits payable under the Rules.

New employees wishing to join the Pension Scheme would still require to undergo the medical examination, however if the change was made, this would not be a condition of their employment. It could be argued that a medical examination should not be such a condition in any case and indeed recent legal opinion suggests that any attempt to withdraw the offer of a post as a consequence of a medical would be fraught with

danger and, for the Institute, almost certainly lead to it breaching disability legislation. If a problem was identified in the medical it would be an issue for the Trustees to deal with as 2.4 above indicates. **Executive Committee was advised of the position at its January meeting in an oral report by the General Secretary and agreed to the immediate cessation of the medical as a condition of employment.**

(3) Recommendation

Council is requested to give approval to the recommendations above and to the enclosed revised procedures which incorporate the recommended changes.

APPOINTMENT PROCEDURES FOR ACCOUNTANT, ASSISTANT SECRETARIES AND OFFICERS

1. Recruitment of Assistant Secretaries/Officers

- (1) Short listing of applicants and the appointment of Assistant Secretaries/Officers be undertaken by a Forum comprising:
 - (a) The President & Vice-President (2)
 - (b) The General Secretary or his/her nominee (1)
 - (c) Four members of Executive Committee selected by the Committee with the aim of achieving as near as possible gender balance of the complete Forum (4)
(7)
- (2) The Forum together with two reserve members is selected annually by Executive Committee at its June meeting and serves until the subsequent AGM of the Institute. For all meetings of the Appointment Forum the quorum is 5 members. Forum members must have previously attended an Institute training course to be eligible to participate in any meeting.
- (3) The Forum is chaired by the President.

2. Replacement of Existing Post

Where an existing post becomes vacant, for example following the retirement or resignation of the post-holder, and provision exists in Planned Expenditure for the appointment to be made, the General Secretary, in conjunction with the Convener of Finance Sub-Committee, will determine if there is to be a direct replacement and, if so, to review the Job Description/Person Specification and to make arrangements for the post to be advertised. Where it is determined that there be no direct replacement, or it is intended there is to be substantial changes to the remit or terms and conditions of the post the General Secretary shall prepare a report for submission to Finance Sub-Committee.

3. Creation of New Post

Where it is intended that a new post or posts are to be created the General Secretary will prepare the appropriate Job Description(s)/Person Specification(s) for submission to Finance Sub Committee which, after ensuring provision exists in Planned Expenditure for the appointment(s), will have the responsibility of reviewing and approving the documentation for issue, and for confirming advertising arrangements.

4. **Job Description/ Person Specification**

The documentation will have identified a number of essential and desirable criteria for the post and, where necessary, appropriately reflect the profile of candidate desired at the time - for example accentuating the relevance of a teaching, trade union, or legal background.

5. **Leeting Meeting**

(1) The following information is circulated to members of the Forum prior to the meeting.

A list of applicants.

Application Forms.

Job Description and Person Specification.

Pro-forma to be used for notes on applicants and for assessing them against the criteria.

(2) Initially applicants are briefly considered in alphabetical order with the first "trawl" aimed at elimination of those who are clearly lacking one or more of the pre-determined essential criteria for the post. If any Forum member indicates that they think an applicant should not be eliminated then the application is carried forward into the next stage. Servicing officials document the reasons given by members for elimination of applicants for dealing with subsequent enquiries.

(3) The second "trawl" is aimed at providing a leet for interview. The second "trawl" entails fuller discussion of applicants and if there are differing opinions as to whether the applicant is eliminated or progresses then debate in relation to the assessment of the applicant against the essential criteria in relation to the post. Applicants require the support of at least two members to remain under consideration.

(4) Should at the conclusion of the second "trawl" the potential leet be considered as unwieldy by the Forum a third "trawl" may be undertaken to eliminate a further number of applicants which again will focus on the relative strengths and weaknesses in relation to the essential criteria . In the event of failure by the Forum to reach consensus over the candidates to invite for interview the majority view shall prevail. The Forum may also consider the introduction of a long leet interview prior to a final interview where it considers this to be appropriate.

When the leet is agreed lots are drawn to determine the order in which applicants will be interviewed.

(5) Finally the Appointments Forum requires to determine the interview and pre-interview process for the specific post including the consideration of pre-interview task(s) where appropriate, the identification of questions for candidates, and the intended duration of the interviews.

6. **Interview Meeting**

- (1) The following information is circulated to the members of the Forum prior to the meeting:

Application Forms.

Job Description and Person Specification.

Pro-forma to be used for taking notes on applicants during/post interview and for assessing them against the criteria.

Latecomers may not participate.

(2) Interview Procedure for each Applicant

1. Welcome by Chairperson.
2. Where applicable there will be an oral presentation by applicant which, for example, could be in response to a pre-assigned task set by the General Secretary.
3. Questioning of applicant by forum members at the invitation of the Chairperson. Questions will be focused on the essential criteria identified for the post and certain forum members will have been pre-selected prior to the commencement of the interviews to have responsibility for the initial questioning on a specific essential criterion. Forum members will also, at the discretion of the chair, have the opportunity to probe further on the essential criterion by asking supplementary questions.
4. Final questions to applicant, if applicable, at the discretion of the Chairperson.
5. Opportunity for applicant to make a brief closing statement.
6. Closing remarks by Chairperson.
7. Following the exit of the applicant there is an opportunity for Forum members to make private notes on the interview and to score the candidates. Group discussions on the merits of applicants will not be permitted at this stage and will only commence when the final applicant has exited the interview and individual members have completed their private notes as referred to above.

(3) Appointment

Firstly the Forum will move into general discussion in an attempt to reach a consensus as to which if any is the preferred applicant. The general discussion will focus on the relative strengths and weaknesses of applicants in respect of the specified essential criteria for the post and may also involve desirable criteria.

With a view to aiding discussion and at the discretion of the Chairperson there may be a consultative ballot conducted on a Single Transferrable Vote

(STV) basis which is aimed at informing the subsequent consideration of candidates.

The Forum will make every effort to reach a consensus but where this is not achieved the majority view shall prevail with the Chairperson having the final ruling.

The preferred applicant will be required to submit to pre-employment checks in respect of references and will also have been requested on the application form to make a declaration that they are not aware of any criminal convictions or other matter that would be an impediment to their employment with the Institute. The Institute will continue to require provision of a "Basic Disclosure" certificate from Disclosure Scotland. However, it will not await receipt of the certificate prior to issuing the formal employment offer. If the "Basic Disclosure" reveals information of concern to the Institute the employment of the applicant will immediately be terminated.

Appropriate feedback for unsuccessful applicants will be gathered.

7. **Recruitment of Accountant**

The Forum and procedures for the recruitment of the Accountant are the same as for Assistant Secretaries/Officers with the exception that the General Secretary nominates an additional non-voting adviser to the Forum with the appropriate technical expertise.

8. **Additional Meetings of the Appointments Forum**

The Forum may hold additional meetings in the course of the year unrelated to a specific appointment to give consideration to aspects of the recruitment process in general.

PAYMENTS TO MEMBERS ENGAGING IN STRIKE ACTION

(1) Introduction

Over the period between September 2016 and February 2017 Executive Committee and Finance Sub-Committee have received a series of reports and given consideration to the current system in operation for the payment of Strike Pay, and to possible alternatives including flat rated payments or payments which are linked to the daily deduction rates applied by employers on members taking strike action. Eg 1/365, 1/260 or 1/235.

The impact of delaying commencement of Strike Pay until the third day of a dispute but increasing the percentage of support above 50% was also explored.

Executive Committee also revisited the key political imperative around strike pay which is to support members in making an informed and committed decision at the point of ballot. To do that they need to be aware and be absolutely clear about what level of support is available and, also, what level of financial sacrifice is being asked of them. In this regard the Committee felt Strike Pay applied on a straightforward %age of salary lost, as is currently operated, has a distinct advantage over the alternatives.

Case studies were undertaken which examined the impact the alternative methods of operating strike pay would have had on members had they applied in disputes compared to the actual payments in the disputes. The case studies revealed that whilst each method had pros and cons the application of a single daily flat rate would, despite having a degree of clarity and equity, vary considerably in terms of offsetting the losses experienced by members according to the deduction regime operated by employers, and was therefore discounted as a viable alternative. By way of example a member paid £35,800 on strike in a 8 day dispute with Strike Pay commencing from the third day at £75 per day would have lost £280 in the recent West Dunbartonshire dispute compared to a member in Ayrshire College on the same salary who would have lost £20. This is simply due to the daily deduction of 1/235th in the latter compared to 1/365th applied by the employer in the former.

Consideration was also given to having a number of flat rates linked to the deductions applied by employers using the 4 most likely ratios (1/365, 1,260, 1/235, 1,190) Whilst this, to some extent narrowed the differentials exposed in having a single flat rate, there still remained a considerable diversity in the losses that would be experienced by members. Furthermore, it could appear to members to be a complicated calculation and other than a cash figure has no obvious rationale as a selling point despite being nuanced to different deduction regimes. Accordingly, Executive Committee was not inclined to recommend to Council to adopt the flat rated model in any format.

The existing method, however, presents a clear formula, 50% of loss of earnings for any strike moving beyond a single day. This has a degree of simplicity, clarity and equity around it. It has the further advantage of not

discriminating against any category of member in that losses are proportionate across the board. One weakness is that it operates retrospectively and can be bureaucratic, although that may be addressed through a different operating model. The basic method could also be modified, for example, by increasing the percentage above 50% if a dispute exceeds a specified number of days should Executive Committee feel that this would assist the Institute in supporting members involved in prolonged disputes. (NB This discretion already exists within the powers of both Executive and Emergency Sub Committee but is on a case by case basis.)

This paper sets out Executive Committee's recommendations for EIS provision of payments to members undertaking strike action.

(2) General Principles and Amounts Payable

Any member engaged in a national strike will not normally be paid strike pay but will be eligible for access to the Strike Hardship Fund. This fund will be based on the system put into place in 2016 for the FELA industrial action, at that time it was referred to as the 'Strike Support Fund' and is as described in **Annex A**.

The Strike Hardship Fund will be open to all members engaging in unpaid strike action of any duration and will be available from the second day of loss of earnings from strike action.

Industrial action involving ULA branches, FELA branches or Local Associations may be eligible for strike pay but a decision on eligibility will be made at the beginning of the dispute (ie before members are asked to vote in a statutory ballot). Such decisions will be made by the EIS Executive Committee/Emergency Sub-Committee of Executive.

In the event that a dispute is eligible for strike pay payments the following will apply:

- (1) Where a strike has a duration of one day that day be unpaid.
- (2) Where the duration of the strike exceeds one day the Institute base its reimbursement on *50% of the member's net loss of earnings from the strike (including the first day).

Members receiving strike pay will not be eligible to access the Strike Hardship Fund.

*Executive Committee and or Emergency Sub-Committee retain the discretion to increase the percentage paid above 50% on a dispute by dispute basis or during the course of a dispute.

(3) Operation of the Strike Hardship Fund

The fund will be open to all members but payments will only be made in circumstances of disproportionate hardship and decisions on this will be made by a panel consisting, in normal circumstances, of the President, Vice-President and an Official. Where an Office Bearer is unavailable the Ex-President or a second Official will be requested to substitute.

(4) Conclusion

This proposal ensures equality of treatment between FELA and ULA branch disputes and disputes involving a Local Association. In each case it would be for Executive Committee and or Emergency Sub-Committee to decide on if or when strike pay would be paid.

The proposal recognises that the EIS could not sustain strike pay payments if there was a national strike of teachers. In addition, it provides access to support for members who are suffering hardship during a dispute where strike pay is not provided.

It is recognised that any new system will need to be reviewed and evaluated to ensure it meets the needs of members and that it also enables the EIS to achieve our objectives.

ANNEX A

Educational Institute of Scotland

Strike Hardship Fund

The above Fund has been instigated by the Institute with the aim of providing financial support to members engaged in disputes who have been disproportionately affected from taking strike action. Members should be aware that it is not the intention for this Fund to be used as general Strike Pay, and it will not be available in disputes where the Institute has decided that Strike Pay will be in operation. The Fund opens with the sum of £50,000 which has been allocated to it from the Professional Fund.

The Strike Hardship Fund will be open to all members engaging in unpaid strike action and will be available from the second day of loss of earnings from strike action.

The Fund is intended to provide assistance to members who have been disproportionately affected by a loss of earnings through participation in strike action, compared to colleagues. Applicants might include, for example, part time teachers or lecturers who normally work primarily on designated strike days or members who are the sole earners in their household.

The application process has been made as straightforward as possible. There will be two forms required from applicants. The first of these will include details of applicants working hours and normally* require the signed confirmation from an appropriate official of participation in the strike on the relevant days of action. (*provision has been made for e mail confirmation in certain circumstances) The second form will require applicants to outline the reason or reasons for seeking support from the Fund – why they have been disproportionately affected and/or their specific personal circumstances. Applicants must post both forms to the Freepost address provided.

No payments from the Fund will be made in respect of the first day of any strike action. Should the action continue into a second day Headquarters will issue details on the process to be followed for submission of applications and the timescales involved. Where strike action extends to a period of several weeks or more updated application forms and information on payment dates will be available on the Institute's website. As the intention is to get financial support to members as quickly as possible during a dispute, and not on its conclusion, the aim will be to process funding on a fortnightly basis.

Approved applications will be paid at a flat rate of £50 for a full day's loss of pay (*pro-rata* for a part day's pay) for each day of strike action covered by the relevant application. Payments will be made by BACS directly into bank accounts using the details held on membership records.

THE EDUCATIONAL INSTITUTE OF SCOTLAND

INDUSTRIAL ACTION

Guidance and Advice

This document updates and consolidates a number of previous policy papers and policy decisions of the Institute regarding industrial action involving both the Institute and other trade unions. In addition, the requirements of the Trade Union Act 2016 have been incorporated.

CONTENTS

		PAGE
PART 1	INDUSTRIAL ACTION AND THE LAW	2
PART 2	EIS POLICY AND PRACTICE IN CALLING AND AUTHORISING INDUSTRIAL ACTION	9
PART 3	PROCEDURES TO BE FOLLOWED IN A DISPUTE	11
PART 4	SKELETON TIMETABLE FOR ALL INDUSTRIAL ACTION BALLOTS	13
PART 5	POLICY ON PICKETING	14
PART 6	ADVICE TO MEMBERS IN THE EVENT OF STRIKE ACTION BY MEMBERS OF OTHER TRADE UNIONS	19

PART 1 – INDUSTRIAL ACTION AND THE LAW

1.1 Introduction

The EIS exists to serve the interests of its members, and to do so may require strike action, or action short of strike. While the democratic right to take industrial action is essential, it is also the case that changes to the law make it increasingly difficult to take lawful industrial action. This document provides guidance and advice on how the Institute can take effective industrial action if required, while avoiding legal difficulties in the process.

The limited right to take industrial action in this country takes the form of statutory immunity from action which would otherwise attract legal liability in common law. The current basic immunity and any qualifications upon it are to be found within the Trade Union and Labour Relations (Consolidation) Act 1992 (TULCRA) as amended by the Employment Relations Act 2004 and the Trade Union Act 2016 (hereinafter referred to as "the 2016 Act"). Before any legal action can be taken against either individuals or unions it must first be ascertained whether an unlawful act has taken place, e.g. a breach of contract and, then, whether immunity conferred by TULCRA applies. In deciding whether legal action can be taken consideration has to be given to the following:

- (a) Was the act done in contemplation or furtherance of a trade dispute?
- (b) Did the industrial action have the support of a ballot?
- (c) Was the industrial action properly initiated?
- (d) Whether the immunity has been lost because the action was unlawful secondary action or for some other reason.

1.2 Immunity from Liability

There is immunity from liability so long as the requirement to ballot has been met and the employer is given notice (see below).

Section 219 of the Trade Union and Labour Relations (Consolidation) Act 1992 provides as follows:

- (i) *An act done by a person in contemplation of a trade dispute shall not be actionable in tort on the ground only*
 - (a) *that it induces another person to break a contract or interferes or induces any other person to interfere with its performance, or*
 - (b) *that it consists in his threatening that a contract (whether one to which he is a party or not) will be broken or its performance interfered with, or that he will induce another person to break a contract or to interfere with its performance.*

- (ii) *An agreement or combination by two or more persons to do or procure the doing of any act in contemplation of furtherance of a trade dispute shall not be actionable in tort if the act is one which if done without any such agreement or combination would not be actionable in tort.*
- (iii) *This sub-section deals with picketing and liability from an act done while picketing (see paragraph 5.3).*
- (iv) *This sub-section provides that acts done during industrial action will not be protected unless the industrial action is official industrial action.*

1.3 Liability at Common Law

The law relating to so-called "economic torts" (civil wrongs) has developed gradually through case law and commonly applies to what is known as interference with contractual relations. The following are merely examples:

- (a) Inducement to breach of contract, e.g. strike action.
- (b) The inducement or procurement of a breach of contract by unlawful means, e.g. secondary action.
- (c) Impedance of the performance of contracts, e.g. in situations where there may be no actual breach of contract.
- (d) Intimidation, e.g. the threat of using unlawful means in a dispute situation.
- (e) Conspiracy, e.g. an agreement either to do an unlawful act or to do a lawful act by unlawful means.

1.4 Definition of a Trade Dispute

Section 244 of the Trade Union and Labour Relations (Consolidation) Act 1992 defines a trade dispute as follows: A dispute between workers and their employer which relates wholly or mainly to one or more of the following:

- (a) *terms and conditions of employment, or the physical conditions in which any workers are required to work;*
- (b) *engagement or non-engagement, or termination of suspension of employment or the duties of employment, of one or more workers;*
- (c) *allocation of work or the duties of employment as between workers or group of workers;*
- (d) *matters of discipline;*
- (e) *a worker's membership or non-membership of a trade union;*

(f) *facilities for officials of trade unions;*

(g) *machinery for negotiation or consultation, and other procedures, relating to any of the above matters, including the recognition by employers or employers' associations of the right of a trade union to represent workers in any such negotiation or consultation or in the carrying out of such procedures.*

1.5 Limits Imposed on Secondary Action

Secondary action is defined as industrial action taken by workers where the real dispute is not between themselves and their own employer, e.g. a sympathy strike and is not protected by the statutory immunities referred to in paragraph 1.1.

1.6 Ballots Before Industrial Action

The EIS believes in the democratic right to choose whether or not to engage in industrial action. It is therefore important that the Institute ensures all those being balloted for industrial action are well-informed of the issues, and are given the opportunity through EIS structures to discuss and debate why industrial action is being considered. The EIS will therefore seek to provide relevant publicity materials for this to take place in advance of a ballot, and if a decision to take action is made it will fully support such action while it is being carried out.

The EIS may undertake indicative ballots prior to a statutory ballot. Indicative ballots are not bound by the same legal restrictions as statutory ballots, but are a useful indicator of the views of the membership.

In order to maintain immunity from action, trade unions must be supported by a statutory ballot before initiating industrial action. The 2016 Act introduced a new requirement that in all ballots for industrial action at least 50% of the trade union members entitled to vote must do so in order for the ballot to be valid. The number of those voting includes spoiled or otherwise invalid ballot papers.

The 2016 Act also introduced a new minimum threshold of support that must be satisfied in ballots for industrial action in defined important public services. This definition includes education of those under 17. For such services, at least 40% of those entitled to vote must have voted in favour of the action. For the avoidance of doubt this threshold is in addition to the 50% participation threshold.

Given these high thresholds EIS representatives should encourage a large turnout and informed result by ensuring that the members being balloted understand the issues, have the opportunity to discuss and express views, and are engaged as much as possible in the process of moving into dispute and ballot. The Institute will provide as much assistance as possible in achieving these aims.

The following represent further key prerequisites:

- (a) All members who it is reasonable to believe will be called upon to take industrial action, and no others, must be balloted. If the persons to be balloted are employed at different places of work a separate ballot will be required unless those balloted share a common feature and, where separate workplace ballots are not required, the ballot may include employees of more than one employer.
- (b) As far as practicable every member entitled to vote must have a voting paper sent by post to either the home address or other address which is treated as the postal address and must be given an opportunity to vote by post.
- (c) The trade union are required to state in the ballot paper a summary of the issues that are in dispute between the employer and the trade union and that have resulted in the ballot being called. The summary must be sufficient to enable the member to understand the unresolved issues.
- (d) The trade union is required to specify in the ballot paper the type or types of industrial action that amount to action short of a strike and to provide an indication of the time period during which it is expected that those specific types of action are to take place. The purpose of this is to enable a member to make an informed decision about whether or not to support the proposed action or not.
- (e) The voting paper must contain at least one of the following questions:
 - (i) by answering yes or no whether the member is prepared to take part, or to continue to take part in a strike;
 - (ii) by answering yes or no whether the member is prepared to take part, or continue to take part, in industrial action following short of a strike.
- (f) The following statement must appear on every voting paper:

“If you take part in a strike or other industrial action, you may be in breach of your contract of employment. However, if you are dismissed for taking part in a strike or other industrial action which is called officially and is otherwise lawful, the dismissal will be unfair if it takes place fewer than eight weeks after you started taking part in the action, and depending on the circumstances may be unfair if it takes place later.”
- (g) The voting paper must clearly specify the address to which and the date by which it must be returned. The ballot paper must be numbered.
- (h) The voting paper must specify who has authorisation to call upon members to take part in or to continue to take part in the industrial action referred to in the ballot paper.

- (i) All voting must be in secret and members must be allowed to vote without interference and a reply-paid envelope must be used for the postal ballot.
- (j) The majority of those voting must have answered yes to the appropriate question contained within the ballot paper.
- (k) Where the number of members voting exceeds 50 a qualified scrutineer must be appointed who will report as soon as practicable after the ballot (and before four weeks have elapsed) stating that there are no reasonable grounds for believing that there was any contravention of statutory requirements.
- (l) The union must take all steps to secure that every person whom it is reasonable for the union to believe is an employer of persons entitled to vote in the ballot receives notice (at least seven days) that the ballot will take place, a sample voting paper and must describe the employees of that employer whom the union believes will be eligible to vote. The sample voting paper must be received not later than three days before the opening day of the ballot.

1.7 **Result and Expiration of the Ballot**

The employer and the members must be notified of the number of votes cast, the number of those who voted yes or no, the number of spoiled papers, how many members were entitled to vote and whether the minimum thresholds were met.

A trade union must provide an employer with notice of industrial action after it has secured a ballot mandate and before any such action is taken within **14 days** (unless the trade union and the employer have come to an agreement that 7 days' notice is required). Employers must receive notice of intention to take action along with the necessary information to help employers make plans and bring information to the attention of those of his employees who the union intends should take part in the action.

The members' agreement to a trade union's proposed industrial action will automatically expire **6 months** after the date of the ballot (or up to 9 months if a longer period is agreed between the trade union and the employer).

1.8 **Action Short of a Strike**

Any action initiated by a trade union which involves members breaching their contracts of employment will require a ballot as described in paragraph 6 above. Examples of actions short of a strike include an overtime ban, call-out ban, go slow, work to rule, work-in or sit-in. In addition, any action which may involve the impedance of the performance of contracts without an actual breach (e.g. a work to contract) will also require the authorisation of a ballot.

While EIS members have taken action short of strike action without loss of pay on many occasions, it is important to be aware of the possibility that members participating in such action are deemed to be in partial performance

of their duty and have their pay docked. This is on the grounds that a contract of employment consists both of express and implied terms. Implied terms that might be invoked are

- (a) fidelity
- (b) obedience
- (c) working with due diligence and care
- (d) not to use or disclose the employer's trade secrets or confidential information.

1.9 Damages Against Trade Unions

The following limits apply in respect of proceedings brought against trade unions in any situation where legal immunity has been lost. This can involve personal injury as a result of negligence, nuisance or breach of duty, also proceedings brought in relation to ownership and use of property as well as consumer protection proceedings.

£10,000 for unions with less than 5,000 members

£50,000 for unions with between 5,000 and 25,000 members

£125,000 for unions with between 25,000 and 100,000 members

£250,000 for unions with over 100,000 members.

Section 12(2) of the Trade Union and Labour Relations (Consolidation) Act 1999 provides that any judgement, order or award made in proceedings of any description against a trade union is enforceable against any property held in trust for the union.

1.10 Unofficial Action

The employer may dismiss selectively employees who participate in unofficial industrial action and the employee(s) has no right to complain of unfair dismissal to an Employment Tribunal.

A trade union may, under Section 21 of the Trade Union and Labour Relations (Consolidation) Act 1992 repudiate any industrial action taken by members without the support of the statutory provisions of the act. Unofficial action by members of a trade union will only become unofficial once the action has been repudiated. However, even if the action is official, it may not be lawful in terms of the Act unless a properly conducted ballot is held. Where there is unofficial action, the union may endorse it thereby making the action official again. However, unless there is a properly constituted ballot, the action may be official but not lawful.

1.11 Restrictions on Industrial Action

The legal restrictions on the ability of any trade union to conduct industrial action are so draconian that any advice to members which could possibly be

defined as industrial action must be carefully considered. On the one hand, to have the best chance of surmounting the balloting thresholds imposed by The Trade Union Act (2016) members must be engaged as much as possible in the process of declaring a dispute and discussion of potential industrial action. At the same time this process must be conducted in line with Institute Policy as defined in this policy paper.

PART 2 – POLICY AND PRACTICE IN CALLING AND AUTHORISING INDUSTRIAL ACTION

2.1 Industrial Action

The legal definition of industrial action has been much affected by restrictive decisions in the courts, including extending the definition of 'breach of contract' to include certain tactics used by trade unions. In the course of negotiations, EIS bodies will commonly issue professional advice to members over issues of concern or to provide clarification or information. In the light of the legal position described above, EIS bodies must give full consideration to the content and intention of advice before issuing it to members.

Strict requirements are laid down by the Trade Union and Labour Relations (Consolidation) Act 1992 (As Amended) which underline the importance of there being no dubiety over the procedures relating to industrial action. Mistakes in carrying out such procedures can render the ballot invalid and leave the union open to legal action being taken against it. In recognition of this, the Institute now utilises a balloting agent to carry out these functions.

In addition, there are stringent rules governing the calling, authorisation and endorsement of industrial action. Action by the union is taken to be 'official' if it was done, authorised or endorsed by any "committee of the union or any . . . official of the union (whether employed by it or not)". Therefore, if industrial action is to be called by an officer or other representative of the union, or by a committee which includes such an officer or representative, the union nationally is deemed to be responsible. The law makes it clear that the union is liable in this regard notwithstanding anything in the rules of the union, or in any contract or rule of law. The union can only avoid liability by formal legal repudiation of the action and strict terms are laid down for such repudiation.

2.2 Control of Industrial Action and Requirements on the Union and its Representatives

The AGM has agreed the following points of policy in this area:

- (a) That power to call, authorise or endorse industrial action should rest solely with (i) the Executive Committee*, acting on behalf of Council; or (ii) the General Secretary. Any other policy position which devolves or appears to devolve such powers is overtaken by this policy document.
- (b) That all arrangements for calling, authorising or endorsing industrial action should be under the supervision of the Executive Committee*, and no decision calling, authorising or endorsing industrial action should be taken by any other EIS body, official or representative.

- (c) That any EIS body at local or national level considering issuing professional advice to members should, wherever such advice could reasonably be regarded as amounting to partial performance of duties or otherwise a breach of contract, make contact with the national office prior to issuing that advice. Where such professional advice can be reasonably interpreted as industrial action, the matter must be referred to the Executive Committee*.
- (d) That no statements, literature or other material calling, authorising, endorsing or otherwise pertaining to such industrial action should be issued by any other EIS body, official or representative.
- (e) That all arrangements for industrial action ballots should be under the supervision of the Executive Committee* and organised through the EIS National Headquarters and its balloting agent. No arrangements, literature or other material pertaining to such a ballot should be issued by any other EIS body, official or representative.

The importance of the Executive Committee cannot be underestimated in all of the above.

The Executive may request oral and/or written reports from the relevant SGA or LA. The relevant LA or SGA may make a request to the President to attend a meeting of the Executive Committee considering industrial action.

- * Where appropriate, between meetings of the Executive Committee, the Emergency Sub-Committee shall have powers to authorise action or otherwise make decisions on behalf of the Executive Committee.

PART 3 – PROCEDURES TO BE FOLLOWED IN A DISPUTE

	SITUATION	ACTION TO BE TAKEN
3.1	Deadlock reached in negotiations - SGA, Local Association, SGA Branch or at School level.	SGA, SGA Branches and Local Associations must engage the services of their National/Area Officer to try to break the deadlock.
3.2	Negotiations breakdown / Failure to agree recorded	National/Area Officer makes arrangements for indicative ballot. All material to be produced by F&HE Department/Area Office and approved by Headquarters, under the authority of the Executive Committee*.
3.3	Indicative ballot of members held	Carried out by the Area Office/F&HE Dept
3.4	Indicative ballot result and background to issue reported to Executive Committee*	National Officer/Area Officer to provide necessary material to Headquarters.
3.5	Indicative ballot indicates support for industrial action, taking into consideration of turnout and voting patterns	Executive Committee* will normally put in place one of the following three options, and agree the appointment of appropriate representation for any subsequent negotiations: <u>Option 1</u> : to continue with local discussions; <u>Option 2</u> : to seek the involvement of ACAS; <u>Option 3</u> : to authorise a statutory industrial action ballot.
3.6	ACAS resolution found	Executive* to report successful outcome to SGA/Branch /Local Association.
3.7	Formal industrial action ballot process in compliance with Part 4 of EIS Industrial Action Procedures	Headquarters to process all material and involve balloting agents.
3.8	Ballot of members is held	As soon as reasonably practicable after the ballot all those entitled to vote must be informed of the number of: <ul style="list-style-type: none"> • Votes cast in the ballot

		<ul style="list-style-type: none"> • Yes votes, and no votes • Spoiled voting papers • Number of individuals entitled to vote in the ballot • Whether 50% of those entitled voted in the ballot • If those voting yes was at least 40% of those entitled to vote, where the rules on important public services apply (see paragraph 1.6). <p>The relevant employer must also be informed of:</p> <ul style="list-style-type: none"> • Votes cast in the ballot • Yes votes, and no votes • Spoiled voting papers <p>Number of individuals entitled to vote in the ballot</p>
3.9	Ballot result reported to Executive Committee and action authorised.	Headquarters to liaise with National Officer, Area Officer and Branch or Local Association <i>re</i> type and timing of action.
3.10	Further action and negotiations.	The procedures and arrangements agreed at the earlier stage of the dispute will continue to apply
3.11	Industrial action is taken	<p>Include the following details in the annual return to the Certification Officer:</p> <ul style="list-style-type: none"> • The nature of the trade dispute • The nature of the industrial action • When the industrial action was taken • Confirmation that the relevant ballot thresholds, at 1.6, were met.

* Where appropriate, between meetings of the Executive Committee, the Emergency Sub-Committee shall have powers to authorise action or otherwise make decisions on behalf of the Executive Committee.

**PART 4 – SKELETON TIMETABLE FOR ALL
INDUSTRIAL ACTION BALLOTS**

- 4.1 In order to maintain statutory immunity as a consequence of inducing persons to take part or continue to take part in industrial action, trade unions must be supported by a ballot (Trade Union and Labour Relations Consolidation Act 1992 (As Amended)). Separate ballots (or separate questions) are required for action which includes strike action and for action sort of a strike.
- 4.2 The following timetable represents the shortest timescale available which meets the requirements of existing legislation.

DAY	ACTION TO BE TAKEN
1	Authorisation given to conduct ballot by EIS Headquarters (Executive Committee or Emergency Committee)
2	For single establishment ballots membership list sent to appropriate EIS official for checking and immediate return. Material and timetable to ERBS via the Accountant.
6	Send notice to employer of intention to ballot, copy of ballot paper and indication (to employer) that all EIS members will be balloted and that list will be provided if required.
13	Ballot opens.
20	Ballot closes (absolute minimum time) – First Class post each way).
27	Ballot closes (absolute minimum time) - Second Class post each way.
28(21)	Ballot result communicated to members and employer, including information at 3.3. Decision taken to proceed with action by Executive or Emergency Committee.
29(22)	Notice of first day of action to members and employer.
36(29)	First day of action starts, if 7 day notice period is agreed with the employer.
43(36)	First day of action starts (14 days statutory notice).
193(283)	Mandate for industrial action expires 6 months after date of ballot, or 9 months if agreed.

PART 5 – POLICY ON PICKETING

5.1 Introduction

Picketing can be an essential component of most effective industrial action. It serves to encourage members, whether or not they voted for that action, to comply with the democratic decision of the majority, and to support themselves and their colleagues in pursuing the common aim. However, there are legal restraints on picketing as follows:

As is the case with industrial action, there is no legal “right to picket” but peaceful picketing is regarded as a lawful activity. The Code of Practice dealing with picketing outlines the situations and restrictions which apply in order to maintain a “lawful” picket. Again, as is the case with industrial action, it is a civil wrong to persuade someone to break his / her contract of employment unless the individual(s) are covered by “statutory immunities” which arise out of the individual’s participation in contemplation or furtherance of a trade dispute.

Other civil wrongs (e.g. trespass, nuisance) cannot be covered by statutory immunities nor, obviously, can any liability under the criminal law.

5.2 Immunities from Civil Law Liability

Section 219 of the Trade Union and Labour Relations (Consolidation) Act 1992 provides that such an act done by a person in contemplation or furtherance of a trade dispute will not be actionable in tort on the ground only that it:

- (a) Induces another person to break a contract or interferes with, or induces another person to interfere with, its performance; or
- (b) Consists in them threats that a contract (whether or not it is one to which they are a party) will be broken or its performance interfered with, or that they will induce another person to break a contract or interfere with its performance.

However, an action done in the course of picketing may be actionable unless it is done in accordance with the rules on peaceful picketing. To keep to these rules, attendance for the purpose of picketing may only:

- (i) be undertaken in contemplation or furtherance of a trade dispute;*
- (ii) be carried out by a person attending at or near his/her own place of work; a trade union official, in addition to attending near or at his/her place of work, may also attend at or near the place of work of a member of his/her trade union whom he/she is accompanying on the picket line and whom he/she represents.*

Furthermore, the only purpose involved must be peacefully to obtain or communicate information, or peacefully to persuade a person to work or not to work.

It is also important to note that:

- (a) A "trade dispute" is defined in law so as to cover the matters which normally occasion disputes between employers and workers – such as terms and conditions of employment, the allocation of work, matters of discipline, trade union recognition (see paragraph 1.4).
- (b) The "statutory immunities" do not apply to protect a threat of, or a call for or other inducement to "secondary" industrial action. The law defines "secondary" action – which is sometimes referred to as "sympathy" or "solidarity" action – as that by workers whose employer is not a party to the trade dispute to which the action relates.
- (c) Accordingly, the law contains provisions which make it lawful for a peaceful picket, at the picket's own place of work, to seek to persuade workers other than those employed by the picket's own employer not to work, or not to work normally. To have such protection, the peaceful picketing must be done:
 - (i) by a worker employed by the employer which is party to the dispute; or
 - (ii) by a trade union official whose attendance is lawful.
- (d) It is lawful for a person to induce breach, or interference with the performance, of a contract in the course of attendance for the purpose of picketing only if he/she pickets at or near his/her own place of work.

5.3 Picketing and the Criminal Law

Picketing can be an essential aspect of strike action. If the democratic decision of the membership to strike is to be successful it is important for all members to be aware of the need for common, united action and to understand why that action has been undertaken. Picketing is an important means by which those who are participating in strike action seek to persuade those members who are uncertain of these points of its merits. However, there are legal considerations that need to be taken into account in relation to picketing.

Among other matters, it is a criminal offence for pickets (as for others):

- (a) to use threatening behaviour, abusive or insulting words or behaviour, or disorderly behaviour within the sight or hearing of any person – whether a worker seeking to cross a picket line, an employer, an ordinary member of the public, or the police – likely to be caused harassment, alarm or distress by such conduct;
- (b) to use threatening, abusive or insulting words or behaviour towards any person with intent to cause fear of violence or to provoke violence;
- (c) to use or threaten unlawful violence;

- (d) to obstruct the highway or the entrance to premises or to seek physically to bar the passage of vehicles or persons by lying down in the road, linking arms across or circling in the road, or jostling or physically restraining those entering or leaving the premises;
- (e) to be in possession of an offensive weapon;
- (f) intentionally or recklessly to damage property;
- (g) to engage in violent, disorderly or unruly behaviour or to take any action which is likely to lead to a breach of the peace;
- (h) to obstruct a police officer in the execution of his/her duty.

5.4 Union Supervising of Picketing

If the picketing has been organised by a trade union, or if the union has encouraged members to take part in the picketing there are additional requirements which must be satisfied in order for a picket to be lawful:

- (a) A picket supervisor must be appointed to supervise the picketing.
- (b) The picket supervisor must be an official or member of the union who is familiar with the Code of Practice on Picketing.
- (c) The union or picket supervisor must take reasonable steps to tell the police:
 - (i) The picket supervisor's name;
 - (ii) Where the picketing will take place; and
 - (iii) How to contact the picket supervisor.
- (d) The union must provide the picket supervisor with a letter confirming that the picketing is approved by the union, and this letter must be shown to any person acting on behalf of the employer as soon as reasonably practicable after being asked to see it.
- (e) While the picketing is taking place, the picket supervisor must be present where it is taking place, or readily contactable by the union and the police, and able to attend at short notice.
- (f) The picket supervisor must wear something to identify themselves.

In these circumstances, the definition of picketing is attendance at or near a place of work, in contemplation or furtherance of a trade dispute, for the purpose of either:

- (a) Obtaining or communicating information, or
- (b) Persuading any person to work or abstain from working.

5.5 Limiting the Number of Pickets

Section 14 of the Public Order Act 1986 provides the police with the power to impose conditions (for example, as to numbers, location and duration) on public assemblies of 20 or more people where the assembly is likely to result in serious public disorder; or serious damage to property; or serious disruption to the life of the community; or if its purpose is to coerce.

The Code of Practice, therefore, contains the following recommendation.

"Pickets and their organisers should ensure that, in general, the number of pickets does not exceed six at any entrance to, or exit from, a workplace; frequently a smaller number will be appropriate."

However, it is not in itself an offence nor does it create a legal liability to have more than 6 pickets on a picket line. At the same time 6 or fewer pickets is not a guarantee of lawfulness. The real test is whether the picket line is intimidating to others.

5.6 Advice to Institute Members

The following advice is therefore provided to any member or group of members intending to picket his/her place of work.

- (a) Picketing is only sanctioned by the Institute in situations where there is an official dispute in existence between the EIS and an employer or employers and where members have been advised by the General Secretary, following the conduct of a formal ballot etc. to take part in strike action.
- (b) Members must only picket their own place of work and must not attend for the purposes of picketing at any other establishment. The only exception to this involves full-time officials of the Institute and accredited:
 - (i) members of the Council of the Institute
 - (ii) members of the appropriate Local Association/ Self Governing Association/Committee of Management/ Executive Committee.
- (c) The purpose of the picket involves attempting to persuade other members of the EIS not to attend for work.
- (d) There must be no more than 6 pickets in attendance at any entrance/exit to a workplace. When deciding the number of pickets which are in attendance at any entrance/exit to a workplace, cognisance should be taken of whether the picket line is intimidating to others.
- (e) Where it becomes known that an employer has decided to require non-striking members of staff to report to a workplace which is not their

normal place of work, the Local Association/SGA should give consideration to organising a picket at that central location which consists of an appropriate combination of:

- full-time officials/officers;
- members and office bearers of the Executive Committee/Committee of Management of the Local Association/Self Governing Association;
- members of Council covering the employer's workplace;
- members employed at that central workplace;
- members at establishments which are closed due to industrial action and who have been instructed to report to the central location if they intend to report for work.

**PART 6 - ADVICE TO MEMBERS IN THE EVENT
OF STRIKE ACTION BY JANITORIAL, AUXILIARY
OR OTHER ANCILLARY STAFF**

6.1 General

Strike action or other industrial action by trade unions representing other educational personnel will, usually, involve the statutory notice periods required under the relevant trade union legislation which should provide adequate time for pre-planning and for information to be provided to pupils, parents, staff and the public. Decisions regarding whether a school should remain open to pupils, students and/or other staff will depend largely on the likely effects of the industrial action and attendant health and safety risks which may be envisaged. Any decision, however, will be based on an analysis of the situation in consultation with the Council's Education Department where appropriate.

Where a Headteacher's decision that a school should be closed is not accepted by the Council, or where the EIS membership considers that health and safety would be compromised by the opening of a school or college, then EIS Representative or Branch Secretary should report the situation to the Local Association Secretary or Area Officer as appropriate.

6.2 Standard EIS Advice to Members

It is a well-established trade union principle that members of different trade unions seek to support each others' legitimate demands and show what solidarity is possible in the circumstances. However, there are important points to be borne in mind when considering how this solidarity can and should be demonstrated.

In situations where EIS members are not involved in a dispute and will not, therefore, have been balloted on industrial action members should report to work as normal. This includes situations where a picket line has been organised at the place of work. It should be remembered that the principal function of a picket line is to persuade members of trades unions who are involved in the dispute not to enter the workplace.

No member should engage in any duty which is normally carried out by staff who are on official strike or engaged in any other official industrial action.

It is important that members are aware of the possible consequences of taking part in unofficial industrial action and these are outlined below:

- (a) *It is possible that members who do not report for work on such occasions will be the subject of disciplinary action. In these circumstances it must be remembered that failure to attend for work may be regarded as unofficial industrial action and the Institute may be required to repudiate, formally, the action taken.*

- (b) *Members, almost certainly, will lose a day's pay and, again, the Institute will take no action to attempt to recover the salary which has been docked.*
- (c) *In the unlikely event of any member being dismissed as a consequence of breaking their contract of employment by taking unofficial industrial action, there is no recourse to Employment Tribunal.*
- (d) *It is the EIS view that it is totally unacceptable for teachers to be asked to cover the work of colleagues who have not reported for work (in the context of industrial action). However, members should be aware that any refusal to cover for classes of teachers who have not reported for work could be deemed, in the circumstances, to be unofficial industrial action. Any difficulties should be reported to the Local Association Secretary or Area Officer as appropriate.*

While the EIS is under certain constraints as a consequence of the industrial relations legislation, members will be provided with EIS representation should this prove to be necessary.

6.3 Specific Advice for Headteacher Members

It is important to note that while it is not the duty of a Headteacher to carry out certain duties within the school there is a requirement to supervise, within the resources available, certain duties of other members of staff. The following specific advice is therefore offered.

- (a) During periods of industrial action, the Headteacher should only take responsibility for the physical opening of the school in the following circumstances:
 - (i) where an absolute instruction has been given by the education authority; and
 - (ii) where adequate arrangements are in place to ensure that the buildings are left secure at the end of the school day; and
 - (iii) where the Headteacher, prior to the notification of the dispute, is an official keyholder for the authority; and
 - (iv) where the Headteacher is satisfied that arrangements for ensuring the security and safety of all in the building can be maintained.
- (b) The Headteacher must not request or instruct other members of staff to perform duties normally carried out by staff engaged in industrial action. However, any health and safety issue which arises during the

course of the day must be reported immediately to the Education Department.

- (c) Should arrangements for the provision of cleaning services, heating, hot water, sanitation or school meals be affected by the industrial action and if the school has not been closed to pupils and/or staff as a consequence, further consideration should be given to sending pupils/other staff home.

Victimisation (Representatives) Protocol

1. Executive Committee has previously considered communications from both FELA (Victimisation Protocol) and Employment Relations, to whom the first item was referred.
2. In its memo outlining a response, Employment Relations expressed concern about potential conflict between an Area Officer duty of confidentiality and her/his role in supporting a branch considering an industrial response to perceived TU victimisation. Further reference was made to the limitations on the role of an Area Officer advising Executive or Emergency Sub-Committee in relation to industrial action, whilst also reporting to Employment Relations in term of case handling.
3. A third concern raised by ERC was the potential of the Institute being pursued for loss of earnings where action had been taken in support of an individual who has been deemed to have been legally dismissed.
4. Discussion at Executive centred on the need to resolve these potential conflicts as it was deemed necessary to be able to mount a robust defence, including industrial action, of any member being victimised as a result of Trade Union activities whilst also being mindful of case handling protocols which require a degree of confidentiality.
5. Recent experience in the college sector has fuelled a strong suspicion amongst the FELA Executive Committee that activists were being targeted for disciplinary action and that it was essential for the EIS to defend them.
6. Where such targeting is focussed on the Trade Union activities of an individual, it is relatively straightforward to challenge. Difficulties arise where the circumstances of disciplinary action are predicated on what appear to be non-union related charges but where the motivation of management is perceived to be directly linked to an individual's trade union role.
7. What can and cannot be shared in the public domain then becomes less clear cut. Whilst the Institute has a duty of confidentiality to preserve on casework, and a responsibility not to induce members to undertake industrial action on a false premise, it also has an obligation to support its lay activists.
8. Reconciling these potentially conflicting agendas should be possible, however, if clear lines are established around decision making processes. In effect a dual approach must be undertaken, with a single line of oversight being exercised. The notion that an individual must choose between an industrial response or a case approach is unhelpful and must be discounted – both approaches should be pursued in parallel.
9. For example, case handling protocol can be applied in terms of pursuing an individual's rights under due process, in particular confidentiality around the

details of a case being maintained, but where a clear case exists around potential trade union victimisation, this can be progressed through the normal procedure of indicative ballot and then consideration of a statutory ballot.

10. An important difference, however, would be that it is recommended that either Executive or Emergency Sub-Committee should consider and if necessary authorise any indicative ballot, rather than this being simply at the behest of an Area/National Officer. Additionally, it is essential that where a branch or LA official is leading the case at the branch (e.g. in case handling terms) the Executive Committee (or its Emergency Sub-Committee) has oversight of that process, which means sharing of case details and the seeking of legal opinion, where it is required. In practice, it would be beneficial for full time officials to deal with the case aspects, e.g. representing lay officials.
11. The recent Edinburgh College dispute, whilst not actually being about Trade Union victimisation, highlighted both the potential benefits of pursuing an industrial action response linked to a case, and, also, some of the pitfalls. Emergency Sub-Committee was able to oversee this dispute without being made aware of any confidential issues arising from the case procedures (although a number of limited disclosures were made by both the Branch and the College).
12. It is proposed therefore that Executive respond to FELA's draft protocol for handling victimisation cases in FE in the following terms, the principles of which would apply to other sectors, also:
 - a) It is accepted that it is important to provide support for FELA members who are victimised on grounds of their trade union activity and that there is a distinction between members who are under threat of disciplinary action, suspension, dismissal, or some other detriment due to their role as trade unionists, and those who are targeted for other reasons. For the latter, the standard case-handling protocol applies.
 - b) It is proposed that where a FELA member is threatened with disciplinary action, suspension, dismissal, or some other detriment which they believe is due to their role as a trade unionist, the first person to contact should normally be the EIS representative or Branch Secretary, who thereafter should inform the EIS Area Official, who will alert the national body to the situation.
 - c) Thereafter, any request from the branch for movement towards industrial action should be processed through either the Executive or Emergency Sub-Committee, which will exercise oversight and control of the process including communications.

- d) Where the issue is being pursued simultaneously as a case, this should normally be dealt with by the Area Officer concerned, who will access legal advice as required. Whilst case handling protocols will apply, this should not prevent the branch proceeding with consideration of an industrial response, subject to overall approval and control by Executive or Emergency Sub-Committee.

The Educational Institute of Scotland

Education and Skills Committee

Scottish Parliament

Curriculum for Excellence – 28 September 2016

**EIS Evidence to the Scottish Parliament Education and Skills Committee
on CfE Priorities and Challenges**

- 1 The Educational Institute of Scotland, Scotland's largest teacher trade union, welcomes the opportunity to provide evidence on Curriculum for Excellence (CfE) to the Education and Skills Committee of the Scottish Parliament.
- 2 It is the view of the EIS that the education system in Scotland has reached a stage in the development of CfE at which reflection on progress to date and on future direction, measured against the original aims and philosophy, is required.
- 3 A key principle of CfE is the promotion of deeper learning. The EIS believes that significant further work is needed to create the requisite time and space for this to be realised more effectively, both within the Broad General Education (BGE) and the Senior Phase.
- 4 In Primary in particular, the curriculum remains heavily cluttered with teachers and pupils being placed in the position of having to respond within their learning and teaching to too many national, local authority and school priorities and initiatives. This has resulted in wide coverage of multiple priorities within the pupil week at the expense of depth of learning.
- 5 Efforts are being made to address the cluttered curriculum with the recently published advice to schools from Education Scotland, endorsed by the Cabinet Secretary for Education and Skills. While this is welcomed by the EIS, there is a need to ensure that the advice on paper is translated into decisive action at authority and school level. Previous initiatives such as the "Tackling Bureaucracy Report" have failed to achieve the necessary purchase within the system.
- 6 Similarly, the section of the same advice document that focusses on assessment must be followed up to ensure that assessment practice in schools is firmly rooted in the interests of learning and on the principle of the primacy of teacher professional judgment.
- 7 Two further key aims of CfE were to reduce the burden of formal assessment to maximise time for high quality learning and teaching, and to ensure that teacher judgement is at the heart of decision-making around teaching, learning and assessment.
- 8 Until now, as a consequence of an auditing approach to coverage and assessment of Experiences and Outcomes, pupils have been over-assessed and at the same time, the accompanying recording and reporting frameworks have become unwieldy. This consumes time that could be better spent by

teachers engaging in professional dialogue around understanding of standards and the growing of confidence around assessment judgements.

- 9 The EIS welcomed statements issued pre-Summer by Education Scotland on the importance of teacher professional judgement but has concerns that the aspiration around teacher confidence and reliability relative to this will not be realised without significant additional investment of time for professional dialogue and collaboration within and across schools and local authorities.
- 10 Also regarding assessment approaches, the EIS has ongoing concerns about the Scottish Government's intentions to reintroduce national standardised assessment for pupils within the BGE as an element of the National Improvement Framework (NIF). The EIS believes that the primary function of assessment is to support the learning of pupils as individuals; it should not be used as an accountability mechanism with which to measure the performance of the system or of individual schools. It is the view of the EIS that the suitability and timing of assessment for individual pupils should be left to the professional judgement of teachers. The EIS, therefore, would not support the testing or assessment of whole cohorts of pupils at once, using the same assessment tool. Such an approach is based on "benchmarking" the system rather than supporting pupil learning. The EIS has reiterated this view repeatedly within a variety of NIF fora and awaits the final design detail of the standardised assessments at which point members will be keen to evaluate the extent to which this is consistent with EIS policy.
- 11 Within the Senior Phase, while significant progress towards reducing the burden of formal assessment has been made with the decision to eliminate mandatory unit assessment from National 5 and Higher qualifications, this change being precipitated by the recent EIS industrial action, more work is required to realign the Senior Phase, in practice, with the original design intentions.
- 12 For example, for the most part, schools not having had the time to consider alternative curriculum architecture for the Senior Phase, continue adherence to a legacy model within which all students begin qualifications in S3 for completion by the end of S4. While future cohorts within this model will now be spared the burden of unit assessment, they will continue to sit formal qualifications in S4 which will quickly be superseded by higher level qualifications in S5. In effect, without the requisite time and space for schools to consider alternatives, the vast majority of students will continue to sit exams in S4 in addition to all of the accompanying preparatory assessment for no sound educational purpose. The argument that students need practice in sitting exams, while legitimate, does not demand the current approach—there are other means by which schools can create such opportunities. Such emphasis on formal exams within the period of the Senior Phase mitigates against depth, personalisation, and, arguably for many students, enjoyment of learning.
- 13 Related to this, and also of crucial importance to the future of the Senior Phase, is resolution of tensions around the place and value of National 4 qualifications as perceived by students, teachers, parents and employers. A

combination of adherence to past curricular models and difference in qualification design across N4 and N5, has had the unintended consequence of fostering belief that the N4 qualification is of lesser value than higher level qualifications.

- 14 There is an opportunity to redress this imbalance of esteem in the context of the Developing the Young Workforce agenda and the aspiration to create parity of esteem between 'vocational' and 'academic' pathways (though this is, of course, linked to the rewards in terms of remuneration and status that society attributes to each and so the issue cannot be addressed by schools alone). The NQ Review group also needs to consider the interface between the S3 BGE experience and the move into the S4-6 Senior Phase.
- 15 Finally, the EIS is of the view that in order to secure the healthy future progress of CfE at school level and for schools to 'lead from the middle', as recommended by the OECD, significant efforts to develop and enhance collegiality (this being of crucial importance); to fulfil properly the professional learning entitlements of teachers; and to ensure effective and responsive support to schools in terms of pedagogical leadership and professional networking, are required.

The Educational Institute of Scotland

National Qualifications Proposal

- 1 The thrust of the NQ workload campaign has been about reducing workload associated with the new qualifications, in particular the burden of internal unit assessment. The resolution which gave rise to the current action focused on the internal units at National 5 and 6, which appeared to many people to be largely redundant as they didn't contribute to the external grade, which is based on a combination of coursework and external exam.
- 2 The EIS argued for these unit assessments to be non-mandatory, as a mechanism for achieving an immediate workload alleviation for 2016/17; this was rejected by SQA, and others, as potentially damaging to the integrity of the qualification. Although the EIS did not accept this argument, we responded to a fairly united front of opposition by suggesting that as a minimum the extensive duplication which we perceived to exist between unit assessments and the exam, should be stripped out from the units, again seeking to achieve the desired workload reduction for teachers and an assessment burden reduction for students. This was rejected as not being feasible in terms of implementation for 2016/17.
- 3 Some modifications – particularly around thresholds for unit assessment and the suspension of random verification – have been introduced for this session but the Institute deemed the concessions as too limited to prevent the move to the industrial action now taking place.
- 4 The National Qualifications Working Group has been reconvened under the leadership of John Swinney and is now looking at what further changes can be agreed to address the concerns around workload and over assessment.
- 5 Within the Group, which has met only once to date, the EIS pressed for early decisions on major issues, with a view to ensuring that any agreed changes could be processed and implemented for Session 2017/18. There is little prospect of further significant change being introduced this session as the view that major changes in the middle of ongoing courses would be disruptive and difficult to manage, is one shared by all parties.
- 6 In terms of moving issues forward, the Education Committee is asked to consider the merit of the EIS advancing the following option for consideration by the Working Group:
 - That the SQA migrates to the external exam or coursework, those elements of unit assessment which it perceives as integral to integrity of the qualification.
 - That in the subsequent arrangements the following should apply - on achievement of a graded award through the external assessment, successful candidates would also be awarded the subsumed unit qualifications for that course. (As in current practice around Literacy award at National 5 English.)
 - That the current unit qualifications will remain as potentially accredited individual awards, without the external course grade, to maintain and

support flexibility in meeting the learning needs of different groups of learners e.g. returning adults in FE

- 7 A significant advantage of this approach is that schools would still be free to use the current units as course organisers (and, indeed, to use existing unit assessments as formative or summative classroom assessments) – minimising any further changes to course content or structures (although there may be changes to assessable coursework in some subjects). In essence the course wouldn't change – simply the assessment process for, Centres presenting for graded awards.
- 8 Inevitably, this is likely to lead to either longer examinations or a greater degree of coursework (the EIS preference) with an appropriate degree of proportionality being applied by SQA; whilst everything may potentially be assessed within an exam, not everything can be.
- 9 However, by creating a new context for the way in which units are used, including any associated assessment, the changes would support greater professional autonomy, reduce the burden of formal assessments for pupils, create additional time for teaching and learning and remove the need for the verification and recording processes around unit assessments which have been central to the concerns around workload.
- 10 The importance of unit accreditation being subsumed within the graded award is to prevent unnecessary presentation for unit awards with the sole purpose of improving tariff scores. Given that Units are threshold awards the achievement of a graded award in the external assessment would indicate appropriate mastery of the threshold indicators.
- 11 In the event that it is decided to create a graded external assessment at Nat 4, the same basic principles would apply.
- 12 The EIS view is that an early decision to move ahead along these lines would mean that the changes could be introduced for session 2017/18, a red-line target for the union. Potentially this target may mean additional resource being found for the SQA.
- 13 A number of other issues would remain to be discussed and resolved within the working group – not least being issues of by-pass, senior phase curriculum architecture and the interface between BGE and SP. The EIS has consistently supported the view that time needs to be made available to achieve the key aims of CfE Senior Phase – the promotion of deeper learning, the maintenance of breadth across the curriculum, and the achievement of parity between “academic and vocational” pathways. A resolution of these issues is more feasible if the concerns around the qualifications themselves can be addressed in the first instance.

Action:

Education Committee is asked to consider and approve the approach outlined above.

The Educational Institute of Scotland
Consultation on draft statutory guidance:
Standards in Scotland's Schools etc. Act 2000

October 2016

Response from the Educational Institute of Scotland

About the EIS

- 1 The Educational Institute of Scotland (EIS) thanks the Scottish Government for the opportunity to contribute to this draft statutory guidance which will accompany the Standards in Scotland's Schools etc. Act 2000.

- 2 The EIS is Scotland's largest and longest-established teaching union with over 55,000 members in all sectors of education. Founded in 1847, the EIS is also the oldest teaching union in the world. We have a commitment to high standards of education and to a society which offers young people the best opportunities in education and training as well as social and cultural development.

Chapter 2

Q1. Do you have any comments on the definition of "decisions of a strategic nature"?

In 2.18 it is recognised that strategic decisions can impact on operational matters within schools. The examples provided of strategic decisions, particularly the setting of education budgets, the size and construct (and location which we suggest could be added) of the school estate, and decisions about specialist provision may all affect pupils.

In relation to the 'content of any guidance issued' it might be helpful to provide examples, e.g. school excursions, other activities and clubs, school dress codes and the non-charging for materials for courses and music tuition. We are unclear what 'commissioning of services' would entail in the education sector.

We wonder if the Review of Governance might impact on this Guidance, given that it is likely to impact on strategic decision making.

Q2. Do you have any comments on the definition of "due regard"?

'Due regard' is not clear. It is open to subjective interpretation. The fact that it states 'they will have to attach a degree of weight to this matter and balance it against countervailing factors appropriately' adds to the potential lack of consistency across councils. It is, of course, necessary to operate within financial thresholds. Given budgetary constraints, it is difficult to see how much change

can occur, however much 'regard' is paid to the legislation. In the current financial climate, some authorities may find it more difficult than others to both reduce inequalities and provide opportunities for all to progress.

It might be helpful to say that decisions linked to this legislation must be recorded in writing.

Q3. Do you have any comments on the definition of 'inequalities of outcome'?

The definition of inequalities of outcome includes 'achievement' and this is welcomed. However, it would be useful if more could be included about achievements such as young people arriving at school on time, attending school, not being excluded, and remaining in school post-16 are personal achievements. Reference to the four CfE capacities also perhaps could be included in the narrative.

The Guidance's glossary definition of 'inequalities of outcome' and 2.23 say it describes 'a measurable difference in attainment and achievement.' The EIS recognises that there are existing useful measures in terms of educational outcomes which allow comparison across groups of learners; however, we would stress that there are other important aspects of the educational experience which are not currently measured, some of which are not measurable. We would suggest that 2.24 might be better before 2.23 as the re-ordering would highlight the broader context.

It could be useful to reference explicitly that attainment and achievement will have different parameters for children with additional support needs, including children with disabilities, than for children who do not have additional needs, and to reference the fact that there is no clear consensus on what 'attainment' means for those children.

In the current 2.23 the use of the word 'characteristics' could cause confusion as the word is usually understood now with reference to 'protected characteristics' as described in the Equality Act 2010. If the intention is to describe a child's relative affluence or poverty, then that should be made clearer.

As the EIS indicated in its initial response to the Bill, introducing duties will not in themselves secure the desired outcome. The provision of funding in relation to the Attainment Challenge has been supportive. However, not all authorities have benefitted from these monies. At a time of budgetary constraint, it is difficult to see how much progress can be made. Improvements in attainment, in achievement and in reducing inequalities of outcome require to be resourced appropriately.

In order for education to develop the 'personality, talents and mental and physical abilities of the child or young person to their fullest potential', authorities need to have in place sufficient staff in support services as well as all the qualified teachers that nursery, primary, secondary and special schools require.

Q4. Do you have any comments on the definition of "socio-economic disadvantage"?

We would suggest that disability should be included in 2.25 in the list of factors causing disadvantage as a significant minority (40%) of children with a disability live in poverty.¹

The EIS welcomes the recognition given in 2.26 to the fact that poverty can be experienced across all communities, not solely by those who are from disadvantaged communities.

It might be appropriate to include 'location' when describing disadvantage in 2.27. The further away a child lives from school, the more disadvantaged s/he might become as distance, or difficulty in accessing public transport, can prevent involvement in school activities and impact on health and wellbeing.

The EIS believes that consideration should be given in 2.27 to the disadvantage experienced by people from particular racial backgrounds who may suffer socio-economic disadvantage due to discrimination or prejudice.

Q5. Do you agree that education authorities should determine how they report? Would you find some form of template helpful?

Given that it states in the guidance that it is for individual education authorities to determine which processes require to be implemented in order to support them in fulfilling their 'due regard' duty, notwithstanding the processes found in 4.16 and the activities listed in 4.17 and the advice in 4.30, without a template there is the likelihood that there will be a huge variation in the reports, thereby making difficult meaningful evaluation on how well the duty is being fulfilled by education authorities. We would support the provision of a template to ensure all reports cover the same ground.

However, provision of a template is likely to require local authorities to change existing reporting mechanisms (of which there are plenty already) which is likely to place additional burdens on local authorities and to impact on workload, and create potential duplication and additional bureaucracy at school level. The EIS therefore supports the flexibility of approach outlined within this section of the Guidance, giving local authorities scope to take account of existing approaches and to avoid unnecessary duplication. Thereafter, it would be the responsibility of government to deploy the necessary resources at that level to do what is required to configure the data appropriately to facilitate analysis.

¹ Source: The Children's Society. <http://www.childrenssociety.org.uk/news-and-blogs/press-release/four-10-disabled-children-are-living-poverty>

Q6. Do you have any comments on the proposed planning period for the Scottish Ministers of 1 January to 31 December? Do you have any comments on how this proposed planning period timeframe will work with that proposed for education authorities (1 September to 31 August)?

(The first three lines in the introduction to this question may cause confusion). The relationship between the publication of a plan and the planning period is not made explicit enough, nor is it clear how a 'planning period' can be the 'period of implementation'. Perhaps there is a need to consider a change in wording (4.10) to incorporate the difference between consultation and preparation versus delivery?

An additional confusion is the fact that the first education authority plan is to be published on or after 1 August 2017 'but prior to commencement of their 12-month statutory planning period on 1 September.' Does this mean the August 2017 plan will not require to have all the elements required of future plans? Further clarification is required in respect of the meaning of the last sentence of 4.10.

It would be helpful if it was made clear that the 9-month time gap between the two planning periods is to allow education authorities time to consider the Scottish Ministers' plan.

While a School Improvement Plan may run from 1 September to 31 August, the planning process itself in schools begins in the previous academic session, usually once the budgets for schools have been communicated (March/April/May). It is not the understanding of the EIS that most are signed off in April/May (4.11) The SIP requires to match Working Time Agreements in schools. (4.35 recognises this). Working Time Agreements are determined usually in the last few weeks of an academic session. Given this aspect further consideration will need to be given as to when education authority plans are communicated to schools. 1 August is too late.

In 4.11 confusion is caused in the first three lines, as it suggests that education authorities are no longer to do development planning, when in fact the focus in this paragraph is timing.

Timelines need to reflect the reality for councils and for schools; council decisions will be determined by their budgets. Planning periods need to follow after their funding is known by all parties.

Q7. Do you find chapter 4 clear in relation to who it is aimed at and what its purpose is?

For the most part, yes; however there are some confusing elements. For example, while Headteachers are required as part of their current contractual duties to 'take overall responsibility for improvement planning and quality assurance', the wording on page 10, 1.12 may lead to confusion in relation to what will change for HTs as a result of the Act.

The duties as defined in the Act relate to education authorities. However, further wording on page 40 suggests duties have been delegated to HTs, but this is not a major change but linked more to nomenclature. It would be helpful if greater clarity was given to what is and isn't required now by HTs. In some areas of the country for many years they have produced a School Improvement Plan which has taken account of the authority's plan. It is not clear in 1.12 what is being delegated. The EIS would be concerned if delegation of a statutory power to schools was intended.

4.27 reminds education authorities that the legislation also refers to a number of other duties – the promotion of equal opportunities, parental involvement and the promotion of health. There may be value in issuing further guidance to support an integrated approach.

It would be useful to have the guidance for schools/HTs in a different section to that for education authorities.

Q8. Did you find the draft statutory guidance to be of assistance when read in the context of the relevant legal duties that will apply? Do you find it strikes a balance between offering flexibility and meaningful support? If not, how could it be improved?

We found 1.11 (page 10) unhelpful as the balance between what is required and what is discretionary is not clear.

The information provided at 1.12 about education authorities ensuring that all staff are supported through policies and training is crucial and should be emphasised. Training and support will be vital for staff to understand this legislation.

Q9. Do you have any other comments about the draft statutory guidance?

Chapter 2

The EIS has highlighted previously the need to have smaller class sizes - it is disappointing to find that this key aspect has not yet been realised at all stages of schooling. It would be one positive intervention. In 2.4 the Guidance highlights the need to support children and young people to become confident, responsible and effective learners; this is primarily achieved through the quality of relationships within schools. Positive relationships require time - they are more difficult to achieve for all learners when they are in larger classes.

The EIS supports the current focus on pupils who experience inequalities as result of socio-economic disadvantage. However, it is aware of other reasons for disadvantage and would be interested to know why (stated in 2.9) there are no plans to use the regulation to capture other groups of children experiencing inequalities of educational outcome. Gender, ethnic origin and family background are mentioned under 'Equity' in the Guidance's glossary but they are not considered further.

Chapter 3

We would suggest that 3.7 should reference a wide range of other agencies involved in providing education to enable young people to meet their full potential, e.g. Support for Learning teachers and assistants, occupational therapists, educational psychologists, school nurses, librarians, instrumental music teachers, and behaviour support teachers.

The EIS welcomes the fact that the Act states that an education authority must seek the views of the representatives of any trade union which appears to the authority to be representative of the teaching staff at schools managed by the authority. It is regrettable therefore that no reference is made in the first three pages of the Guidance to this aspect or later to the mechanism by which this consultation will occur. Nor is there any reference made in the Guidance to the requirement by Scottish Ministers to consult trade unions in relation to the National Improvement Framework.

Chapter 4

We welcome the reference to consultation to inform School Improvement Plans (SIPs), but would suggest that 'teachers employed in the school' should be the first group mentioned in the list on page 40. We also think it is important to mention that meaningful consultation takes time.

We are concerned about assumptions being made in 4.1, that a revised approach to planning and reporting **will** lead to the various outcomes suggested. It may, but it is not necessarily true that a new approach will lead to improved quality in the information available.

It is important that it be recognised that not all improvement should be seen to be dependent on the school, in acknowledgment of the wide range of factors beyond a school's control.

In 4.17, what is meant by 'other locally available assessment data'? There should not be any other local authority standardised assessment data if authorities implement the Scottish standardised assessments.

Also in 4.17, how is 'health and wellbeing statistical data' to be obtained? We are unclear what is meant by this, either in terms of what data this would cover and how it would be gathered.

We are also unclear what is meant by 'other collaborative methods' (21st bullet point, 4.17). We are not sure that 'pupil views on teaching and learning practice' is the most suitable wording for that section, and would suggest changing it to 'pupil views on the school experience'. As currently worded, this goes beyond normal teaching evaluation and self-evaluation, and needs clarification. Teachers, as a matter of course, seek evaluation of teaching and learning from pupils but this suggests something quite different.

It will be important for schools to have support materials and know about the opportunities for training in relation to the expectations relating to School Improvement Plans well in advance of determining the SIP. A concise version of

the Guidance or leaflets with key points to complement the longer document would be useful.

At 4.35 (page 53) it says "Headteachers may find it helpful to consider the relationship between SIP planning and Working Time Agreement processes". We believe that this wording should be strengthened - e.g. to "Headteachers **must...**". This is not optional or merely helpful; this is vital as Working Time Agreements are central to controlling teacher workload.

SIPs and Working Time Agreements should be created in tandem and are mostly completed at the end of the school year or, in some cases, early in the new session, when improvement priorities, for example derived from SQA data, are identified, and when budgets and staffing are known. All priorities identified within the SIP must be deliverable in terms of teachers' working time.

Part 2 of the SNCT handbook, appendix 2.1.8., refers to the relationship between School Improvement Planning and Working Time Agreements. Those provisions need to be reflected in this guidance.

Similarly, the phrasing Headteachers may wish to bear in mind the outputs from the Scottish Government's CfE Working Group on Tackling Bureaucracy' requires to be strengthened light of the advice issued to schools recently by Education Scotland and the Cabinet Secretary for Education and Skills, in respect of reducing unnecessary bureaucracy. It should not be left to the personal choice of Headteachers as to whether the advice should be followed or not.

We think that 4.40 should include teachers and support staff playing a central role in the life of a school.

It would be interesting to know what role the Chief Education Officer has in the education authority improvement planning process.

The Educational Institute of Scotland

Submission to Education and Skills Committee's

Pre-budget Review of the Performance of the Scottish Qualifications Authority

- 1 The Educational Institute of Scotland (EIS), Scotland's largest education union, welcomes the opportunity to provide a written submission to inform the Committee's pre-budget review of the performance of the Scottish Qualifications Authority (SQA).
- 2 The EIS recognises the role of the SQA as a significant partner in the implementation of Curriculum for Excellence, and in particular, the new qualifications for the senior phase which were to be inclusive, with qualifications from National 1 upwards, ensuring that those with additional support needs had recognition within the qualification system and that they had the possibility of coherent pathways for progression. SQA has developed, also, courses and certification, relevant to the Developing the Young Workforce agenda, which offer opportunities for a wider range of learners to gain qualifications.
- 3 The EIS also acknowledges the importance to the SQA, and to the standing of qualifications it offers, of quality assurance. Over the past year, SQA has continued to engage with stakeholders, the EIS included, and formally and informally with teachers. For example, the EIS notes the completion in May of this year of the SQA's extensive review of new qualifications, covering 51 subjects and based on 3500 teacher survey responses in addition to focus groups drawn from NQ subject groups, and feedback from implementation managers, and quality assurance of internal and external assessment.
- 4 Indeed, many of the SQA's own findings were consistent with those of EIS members' views in several respects: overwhelmingly, the teachers surveyed had found unit assessments to have worked badly in their subjects; more than half identified significant duplication across internal and external assessment; and around 40% believed SQA unit assessment materials to have been unfit for purpose. In this regard the EIS is of the view that some of the quality assurance approaches adopted by the SQA, for example the overly extensive unit verification regime, have contributed significantly to the excessive workload burden carried by schools and teachers and have led to a significant deterioration in the relationship between the profession and the SQA.

- 5 The EIS, having repeatedly raised such matters over the course of the previous two years, welcomed some of the outcomes emergent from related discussions within the Assessment and National Qualifications Review Group, that were designed to alleviate the burden of assessment on both students and teachers for this session: the application of thresholds for unit passes thereby reducing the need for reassessment, and the suspension of random unit verification. While welcome, these changes announced in May of this year, did not go far enough in addressing the serious workload concerns of EIS members or their anxiety that the quality of the learning experience was being deeply compromised by over assessment of students in the senior phase.
- 6 The EIS would accept that other factors beyond the immediate locus of the SQA, senior school architecture and challenges around transition for the BGE to senior phase, for example, were contributory factors to the excessive assessment regime of the past few years, but we also have a clear view that SQA has been insufficiently sensitive to the pressures its qualification regime has placed on schools – pupils and teachers alike.
- 7 It is regrettable that it took industrial action by EIS members to secure a commitment from the Scottish Government that the SQA would address the nub of the issue with the elimination of mandatory unit assessments for National 5, Higher and Advanced Higher, commencing on a 3 year phased basis from August 2017. It is the view of the EIS, therefore, that the SQA's quality assurance mechanisms as applied to the development and operational delivery of the new qualifications certainly require to be sharper in their sensitivity to the needs of its main 'customer'- the Scottish education system, its learners and teachers.
- 8 Finally, regarding cost reduction within the SQA which has already occurred, the EIS has significant concerns about the SQA's over-reliance on technology to deliver efficiencies. Already our members have expressed anger and frustration about this practice both as a means of distributing materials related to senior phase courses and assessment to centres, and for the purposes of marking candidate scripts. In effect, though paper, postal and human resource savings have been made by SQA, the significant financial and bureaucratic burden of printing and photocopying has been transferred directly to schools and colleges, teachers/ lecturers and even to students.
- 9 In terms of alternative means of revenue raising, whilst the EIS is not opposed in principle to the SQA's international activity, we would reiterate caution about over-expansion in this area. The SQA's submission indicates almost a 500% increase in certifications outside Scotland since 2010- a critical period for the final development and implementation of new

qualifications in Scotland. Given the many issues that have befallen the senior phase in the intervening years, the efficacy of such a business strategy to meet the needs of Scotland's qualifications system is questionable. As stated in the 2015 submission to the Education and Culture Committee of the Scottish Parliament, the EIS believes 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.

10 Regarding the SQA's performance with regards to Equality, the EIS welcomes its engagement with relevant partners through the Equality and Inclusion Key Partners Group, of which the EIS is a member. The EIS has raised on a number of occasions within the Group and in other fora, concerns about the revised additional assessment arrangements for candidates with additional support needs in literacy. These arrangements resulted in 2014, in the withdrawal of human readers and scribes for candidates with additional support needs of this kind who were being presented for Literacy and therefore English qualifications at Nationals 1-4. Instead of human support, as was an option at Standard Grade for learners with similar difficulties, and continues to be an option for candidates being presented for English qualifications at N5, Higher and Advanced Higher, support by technological means is the substitute provision. The EIS has highlighted repeatedly the lack of consistency of approach to assessment arrangements across the suite of English qualifications and the apparent injustice that candidates who face equal barriers to success are unequally supported to achieve. A further dimension is added in light of the high correlation between the likelihood of incidence of additional support needs and socio-economic disadvantage.

11 Finally, in relation to the governance of the SQA, it is the view of the EIS, again as previously stated, that whilst a degree of independence is important to the operational standing of the organisation and its professional reputation, there is a case to be examined as to how it can be more responsive to the main voices within Scottish education, including the professional associations. The current arrangement of a Board appointed by Scottish Government offers no conduit for representative voices to be heard and the EIS regards this as a fundamental weakness in the governance arrangements.

The Educational Institute of Scotland
Submission to Education and Skills Committee's
Pre-budget Review of the Performance of Education Scotland

- 1 The Educational Institute of Scotland (EIS), Scotland's largest education union, welcomes the opportunity to provide a written submission to inform the Committee's pre-budget review of the performance of Education Scotland (ES).

- 2 As has been stated previously, the merging of HMIe and Learning Teaching Scotland in 2011 led to EIS concerns around the dual functions of the single organisation and its resultant capacity to provide effective support to schools in the interests of improvement. The EIS believes that a degree of tension remains around responsibility for inspections and curricular support being encompassed within the same body. Whilst the primary function of ES, as outlined within its own strategic objectives, remains reasonably well defined, and its activities understood, the EIS would express the view that the support function which ES inherited from LTS has been marginalised in significant ways.

- 3 This, coupled with the disappearance of local authority advisors and quality improvement staff, has created a void in terms of the support that is available to schools and teachers in their delivery of the curriculum- an issue which the EIS believes should be addressed within the Governance Review. Given the evident lack of capacity in a number of local authorities around pedagogical leadership and support, there is a discussion to be held around the capacity of Education Scotland to support individual or regional clusters of schools in this key area.

- 4 This is particularly pertinent in light of the recent additional demands placed on Education Scotland since the introduction of the National Improvement Framework (NIF), at a time of shrinkage of staffing resources. The EIS is concerned, for example, at the significant reduction in the size and capacity of Education Scotland's Rights, Support and Wellbeing Team which has been delivering essential support to practitioners: training in restorative approaches; developing nurturing principles for secondary schools; working with a number of local authorities on behaviour-linked matters and on GIRFEC. Key members of the team employed on a seconded basis were returned to local authorities while others were reassigned to focus on NIF.

- 5 A further 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. For example, guidance on de-cluttering of the curriculum within the Broad General Education (BGE) has been long-awaited; also, learning and teaching resources and assessment materials with exemplars to support the delivery of the new qualifications have frequently been made available too late and have often been of questionable quality.
- 6 The EIS remains of the view 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, fell short in providing the level of guidance and exemplification that teachers required to enable more streamlined approaches to internal assessment and it continues to give mixed messages in relation to qualification delivery and senior phase curriculum architecture, as evident in the advice issued in May of this year following discussions within the Assessment and National Qualifications Review Group.
- 7 Furthermore, in spite of being a signatory of the Tackling Bureaucracy Reports (2013 and 2015) and having a key role in promoting their recommendations, Education Scotland had to provide further advice aimed at reducing teacher workload at the beginning of the school session under the direction of the Cabinet Secretary for Education and Skills. Indeed, only months before, ES itself had issued direction to schools on moderation and assessment within the BGE, the timing and content of which did not take proper account of the cycle or reality of School Improvement Planning or Working Time Agreements.
- 8 In several respects, therefore, the EIS believes that Education Scotland's strategy and systems require to be more finely tuned to the needs of schools and colleges, teachers and lecturers.
- 9 The EIS continues to have concerns, also, over the increasingly politicised role of Education Scotland within Scottish education. With the role of the Inspectorate having been brought closer to government, questions remain about the independence of the inspection process and its relationship to government policy, and have emerged more recently regarding the capacity of Education Scotland to influence government policy through evidence-based advice. Importantly, in the discussions within the various groups that have been set up since the publication of the National Improvement Framework, particularly those that have focused on the introduction of

standardised assessments and the publication of attainment data as a means of closing the attainment gap, ES has been reticent to challenge the misconceptions and/ or politically motivated approaches of civil servants and ministers who have little knowledge of, or expertise in, education philosophy, or in learning and teaching pedagogy. Little or no evidence, either of the benefits or disadvantages of standardised assessment and the publication of attainment data in terms of raising attainment and improving equity, was brought to the table to inform thinking. Even the simple fact that employees of Education Scotland were reclassified in 2011 as civil servants is indicative of the centralisation which has occurred, with no discernible gain to Scottish education as a result: rather than function as an organisation that is objective and independent of the political slants and motivations of government, Education Scotland appears, publicly at least, to be politically compliant.

- 10 In addition, the EIS would again highlight tensions between the different purposes of inspection: as an accountability tool and as a support mechanism for driving improvement. The EIS would reiterate the view that inspection statistics might suggest the need for a more strongly supportive approach to the work of Education Scotland with individual schools and school communities, and possibly the abandonment of formal inspection altogether, following the lead of Finland (one of the highest performing education systems in the world), in favour of a model designed solely to provide support to teachers and educational establishments.
- 11 Regarding school inspections, the EIS would acknowledge the progressive changes over the recent past period of HMIE seeking to promote self-evaluation at establishment level as the dominant tool in quality assurance. Feedback from EIS Representatives in establishments which have been inspected, however, continues to provide a variable picture. While some EIS Representatives report that members find the inspection process supportive, others- a minority but not in insignificant numbers- express negative views on behalf of members. These centre on confusion around the process of inspection; the lack of opportunity for genuine professional dialogue between teachers and the members of the inspectorate teams; excessive workload and stress that inspection generates for teachers and senior managers; long delays between the inspection having taken place and the final report being published; and overall, the erosion of staff morale by the process.
- 12 The EIS acknowledges the efforts of Education Scotland to address some of these matters within its ongoing review of inspection, including the recent try-outs of the various inspection models but continues to believe that an altogether more effective and efficacious model would be to shift the

balance of inspection activity towards local councils around their responsibilities as education authorities. A further matter which the EIS believes requires consideration is the additional demands on the capacity of inspection teams generated by NIF (this, of course, also has implications for schools staff). Finally in this regard, the EIS view is that the underlying principles and value of the inspection regime, and the extent to which these are aligned with the aims and values of CfE, require close consideration also.

13 The EIS recognises and values the commitment of Education Scotland to partnership working. The EIS has been invited to work with ES in a number of areas, for example, on Guidance for School/ Employer partnerships as part of the work on Developing the Young Workforce agenda; within the Equality and Diversity Network Group; and in the development of the recently issued Benchmarks for Literacy and Numeracy.

14 Such a partnership approach is evident, also, in some aspect of Education Scotland's efforts to quality assure its effectiveness in terms of the support that it provides to the stakeholders within the education system. For example, it meets biannually with the EIS with regards to strategic matters and more often to discuss inspection feedback from EIS members, and seeks the views of stakeholders via formal structures such as the External Reference Group on review of inspection processes.

15 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. For example, ES for has worked collaboratively with the EIS most recently in delivering Tackling Bureaucracy workshops to practitioners and in supporting EIS Learning Representatives and HT and DHT members to become familiar with the new HGIOS 4 self-evaluation tool. Such partnership working is continues to be valued and appreciated by EIS members.

The Educational Institute of Scotland
**Summary of the work of EIS to date on National Standardised
Assessment**

Curriculum for Excellence continues to be a priority for the Committee. The work of the Committee since the 2015 AGM has focused on issues related to the new qualifications and wider assessment matters.

These wider matters have included the introduction of National Improvement Framework (NIF) and the new standardised national assessments.

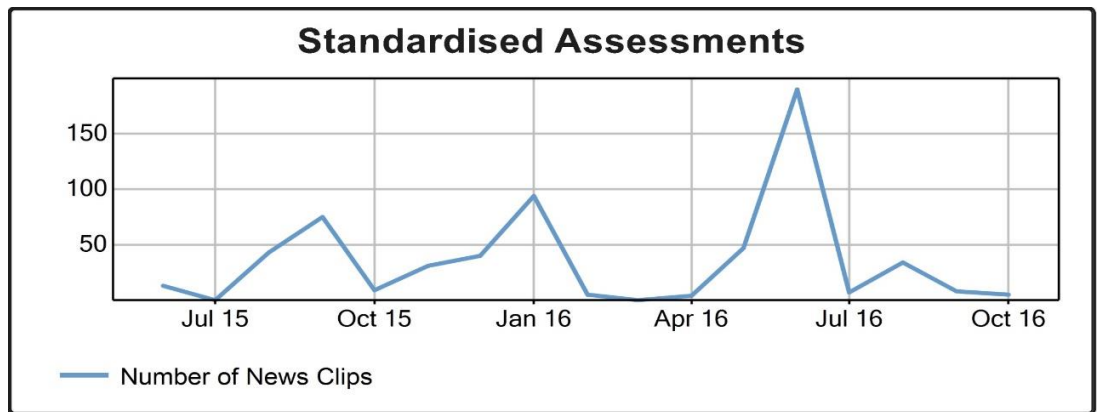
Below is a summary of the work done to date by the Education Committee and the wider EIS, to develop an EIS position in relation to NIF developments, and to challenge and reshape in a range of ways, the position of Scottish Government on those aspects of the proposals around national standardised assessment that have appeared to run counter to EIS policy on assessment.

Eternal engagement

- EIS representation on several key groups provided an opportunity to have the EIS view incorporated into the development of the thinking around NIF: CfE Management Board, NIF Strategic Board, Assessment Design Group, Dashboard Design Group, and the NIF Quarterly Update for Professional Associations.
- EIS bi-annual meetings with Education Scotland have included discussion of NIF and standardised assessment.
- EIS representation on the AGASL group at which the suitability of national assessments for children with certain additional support needs was raised and civil servants questioned on rationale, including that related to publication of levels data.
- EIS response to Education and Culture Committee Consultation on proposed stage 2 amendment to the Education Bill: National Improvement Framework, November 2015.
- EIS Oral Evidence to the Scottish Parliament Education and Culture Committee on the National Improvement Framework –November 2015.
- Attendance at Conferences focused on assessment:

AEA Conference, November 2015
ICSE Conference, January 2016

- Raised with education spokespeople of political parties at respective scheduled meetings.
- EIS position reflected in chapter contributed by the Assistant Secretary to Poverty in Scotland, 2016.
- EIS position reflected in presentation and contribution to panel discussion at launch of the above hosted by Open University and attended by a wide variety of interested organisations, March 2016.
- EIS Written Evidence to the Scottish Parliament Education and Skills Committee on the challenges remaining within CfE, October 2016.
- EIS Oral Evidence to the Scottish Parliament Education and Skills Committee on the challenges remaining within CfE, October 2016.
- Question on use of standardised assessment to DFM by Education Convener at EIS HT & DHT conference, October 2016.
- EIS press releases:
 - EIS Executive Re-Affirms Opposition to National Testing, September 2015
 - First Minister's Announcement on Standardised Test, September 2015
 - Raising Attainment, a Shared Goal but national Tests not the Answer October, 2015
 - EIS Raises National Testing Concerns in Evidence to Parliament, November 2015
 - EIS Offers Qualified Welcome to NIF Announcement, January 2016
 - Standardised Assessment won't Close Gap or Overcome Poverty, June 2016
 - EIS AGM: General Secretary urges Teachers to stand together to reject Excessive Assessment Burden, June 2016
 - Government Commitment to Education Welcome – but challenges remain, September 2016
- External press coverage - all stories that mention standardised assessments and EIS



September 2015 – 75 Stories (Nicola Sturgeon puts education at the heart of legislative programme and our response to FMQs.)

January 2016 – 94 stories (Qualifications set for scrutiny amid teacher industrial action threat)

May 2016 – 47 stories (Standardised school assessments will not add to workload)

June 2016 – 190 stories (John Swinney at the AGM, Larry’s AGM address and EIS motions mentioning Standardised Assessments)

August 2016 – 34 stories (John Swinney streamlined guidance on workload)

- Various television interviews

Member engagement

- EIS Briefing Paper - An interim response to discussions concerning the establishment of a National Improvement Framework for Scottish Education, September 2015

- SEJ coverage of the issues:

October 2015, No Return to National Testing, the EIS view on the National Improvement Framework

October 2015, National Testing is not the Answer, Professor Terry Wrigley

December 2015, National Improvement Framework - Education Secretary Angela Constance. The EIS View, EIS Education Committee Convener, Susan Quinn.

October 2016, Welcome Clarity on National Assessments

October 2016, Assessment in Scotland: In Search of Social Justice, Louise Hayward Professor of Educational Assessment and Innovation, University of Glasgow

- Survey and analysis of Local Association Secretaries in response to the use of national standardised testing for all pupils in P1, P4, P7 and S3. Final report included in AGM papers 2016.
 - Organisation of an Education and Equality Conference at which standardised assessment was a key theme, March 2016. Report distributed to all who registered and all conference participants.
 - Interim advice note on the National Improvement Framework issued in May 2016 to EIS Members, School Representatives and Local Association Secretaries.
 - Reissue of the above advice note, October Reps Bulletin.
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The Educational Institute of Scotland

EIS Advice on Education Scotland Statement on CfE and Benchmarks

Introduction

In August 2016, in recognition of the excessive workload and bureaucracy associated with the delivery of Curriculum for Excellence, the burdensome amount of support material and guidance, and the reported need for greater clarity around achievement of CfE levels, the Chief Inspector of Education published a statement on CfE (Curriculum for Excellence: A Statement for Practitioners from HM Chief Inspector of Education) accompanied by Benchmarks for Literacy and English, and Numeracy.

This correspondence was coupled with a letter to all teachers from the Cabinet Secretary for Education and Skills who expressed determination to tackle 'workload, confusion and duplication'.

The EIS welcomes the key messages within the statement which strongly echo the recommendations of the Tackling Bureaucracy reports, and which give clear direction to teachers that excessive paperwork and electronic form-filling that lead to unproductive workload are not acceptable and, indeed, should be challenged.

This advice note is intended to support EIS members to act collectively in applying the key messages from the most recent Education Scotland statement within their establishments, in order that what has previously been little more than rhetoric becomes a reality, and excessive workload associated with planning, teaching and assessment is genuinely reduced.

Planning Learning, Teaching and Assessment Using the Experiences and Outcomes: Key messages

The EIS welcomes the emphasis on curriculum de-cluttering within this section of the statement. While many of the initiatives that have found their way into the curriculum in recent years are well-intentioned, for example 1+2 Modern Languages and STEM, they have generated additional work for teachers and placed additional strain on an already overcrowded curriculum.

With regards to planning processes, it is the view of the EIS that those which are multi-levelled- strategic, monthly and daily- are hugely demanding of time, do not support the delivery of high quality learning and teaching, and are not based on professional trust. Neither are they required by Education Scotland for inspection purposes.

Education Scotland advice is that teachers **should not and should not be asked to:**

- Write rigid, overly lengthy and detailed forward plans
- Plan coverage of every Experience and Outcome

- Spend large amounts of time completing daily/ weekly plans and evaluations
- Deliver too many learning activities within a given time period
- Deliver Interdisciplinary Learning activities which do not allow for genuine depth and application of learning

The statement goes so far as to say:

'All planning must focus directly on enhancing the learner journey. When asked to complete paperwork which does not directly relate to improving the learner journey, challenge this with your colleagues.'

The Cabinet Secretary's letter echoes this.

'I hope it (the statement) will help you to make judgments about what needs to be done and what does not. It is perhaps best summed up by the comments of one teacher to me: "Don't do anything unless it is relevant to the learner's journey".'

Advice for EIS School Reps and Members

The EIS agrees that overly-bureaucratic practice should be challenged and encourages EIS members to do this collectively.

With this in mind, it is advisable for EIS members to consider and discuss at Branch meetings, the extent to which planning processes in their establishments are in line with Education Scotland direction, taking account of the good practice in relation to planning outlined in the statement and echoing the Tackling Bureaucracy Reports. Planning should be proportionate, include the level of detail that will best support pupil learning and professional dialogue, and should be realistic in terms of the number of learning activities. Daily plans should be viewed as working notes, mainly for the use of class teachers.

Where members in a school are being asked to do any of things listed as unacceptable by Education Scotland with regards to planning, the matter should be raised by the EIS School Representative on behalf of members with the Headteacher with the aim of reaching satisfactory agreement.

Members are reminded that all aspects of planning should:

- be accounted for within the school's Working Time Agreement
- be designed and agreed on a collegiate basis (as indicated in the statement)
- be consistent with any LNCT agreements/ policies on planning (copies of these can be obtained from Local Association Secretaries)
- strongly incorporate professional dialogue (with time made available for this)
- directly relate to enhancing the learning experience (as indicated in the statement).

In the event of there being no satisfactory agreement, the School Representative should contact the Local Association Secretary for advice.

Where an individual is asked to carry out a task in a way which is contrary to the Education Scotland advice, she or he should engage in relevant professional discussion with the line manager and seek advice as necessary from the School Representative in the first instance, or the Local Association Secretary.

Planning Learning, Teaching and Assessment Using the Benchmarks

The purpose of the Benchmarks in Literacy and English, and Numeracy, according to Education Scotland, is to set out clear statements of what children and young people need to learn to achieve the next level of the curriculum. The benchmarks streamline and embed a wide range of existing guidance- significant aspects of learning, progression frameworks and annotated exemplification- to support teachers' professional judgment for each curriculum level.

The Benchmarks describe the standards that children and young people need to meet to achieve a level and are grouped together to support holistic assessment rather than assessment of individual Experiences and Outcomes.

The Benchmarks should be used to help monitor progress towards achievement of a level and to support overall professional judgement of when a learner has achieved a curriculum level. They support professional dialogue, moderation and monitoring of progress in learning.

Education Scotland states that evidence of progress and achievement will come from:

- observing day-to-day learning within, and outwith, the classroom
- coursework, including tests.
- learning conversations.
- planned periodic holistic assessments.
- information from standardised assessments.

Achievement of a level is based on evidence and on overall professional judgement of the extent to which the learner has:

- achieved a breadth of learning across the knowledge, understanding and skills as set out in the Experiences and Outcomes for the level;
- responded consistently well to the level of challenge set out in the experiences and outcomes for the level and has moved forward to learning at the next level in some aspects;
- demonstrated application of what they have learned in new and unfamiliar situations.

It is not necessary for learners to demonstrate evidence of every aspect of learning within the Benchmarks before moving on to the next level. However, it is important that to ensure that there are no major gaps in children's and young people's learning, for example with respect to the relevant organisers in each curriculum area.

The EIS concurs with the view that the primary purpose of assessment is to support learning and that teacher judgment must be at the heart of what should be an holistic process. Formative assessment based on teacher professional judgement should be the central approach until pupils reach the senior phase and are at the stage of sitting qualifications as set by external bodies. Teacher professionalism and autonomy in determining how and when to assess learners in the best interests of future progress are of key importance.

Education Scotland advice is that teachers **should not and should not be asked to:**

- Spend time on assessment activities which do not help identify next steps in learning
- Over-assess learners or duplicate assessment
- Gather evidence of every aspect of learning within the Benchmarks before moving on to the next level
- Track progress using the terms 'developing, consolidating, secure'
- Gather large portfolios of assessment evidence
- Track and record progress against individual Experiences and Outcomes
- Spend too much time collecting a wide range of evidence for moderation purposes
- Write lengthy reports for parents containing extraneous detail.

Advice for EIS School Reps and Members

Again, in light of these directions, EIS members should discuss current approaches to assessment and reporting within their establishment, taking account of the good practice described in the statement.

In the event of current practice within the school breaching the advice of Education Scotland, the matter should be raised by the School Representative on behalf of members with the Headteacher, with the aim of agreeing satisfactory policies on assessment, moderation and reporting.

All aspects of assessment, moderation, tracking, monitoring and reporting should:

- be accounted for within the school's Working Time Agreement
- be designed and agreed on a collegiate basis (as indicated in the statement)
- be consistent with the relevant LNCT agreements/ agreed policy (copies can be obtained from Local Association Secretaries).

In the event of there being no satisfactory agreement, the School Representative should contact the Local Association Secretary.

Where an individual is asked to carry out an assessment-related task or approach in a way which is contrary to the Education Scotland advice, she or he should engage in relevant professional discussion with the line manager and seek advice as necessary from the School Representative in the first instance, or the Local Association Secretary.

The Educational Institute of Scotland

Further Comments from the EIS on the Recommendations from the Independent Review on the Death of Bailey Gwynne (Annex D, 1 to 16)

General

- While many of the recommendations are made for a particular council and/or school, consideration should be given as to whether all schools and councils across Scotland should be advised to consider the recommendations and, where their current practice does not reflect them, respond as necessary, working in partnership with the teacher unions in local negotiating committees as appropriate.
- We recognise it is important that no school is complacent but there is a need too to keep the possible risk in perspective and not create a climate of fear.
- The EIS would wish there to be regular progress reports given to the recognised trade unions on the implementation of the recommendations.
- The initial press release from our General Secretary is attached for information.

Recommendations

Weapons

- 1 It seems appropriate to advise the parents/carers of S1 pupils about school rules, including expectations regarding weapons. Such information also should be provided to any pupils who arrive new to a school later in their school career.

The EIS would suggest that communication with parents on this requirement would best be done during events linked to supporting transition from primary to secondary, bearing in mind that some parents and their children will be anxious about this new stage in schooling.

In all such communication, a careful balance requires to be struck between making clear the expectations and minimising alarm.

- 2 Pupil forums and pupil councils might be able develop ways which enable all pupils to share with teachers their knowledge of weapons being carried but it must be recognised that peer allegiance can be strong as can fear of the consequences of being perceived as being disloyal. The trust between pupils and teachers needs to be strong to overcome these obstacles. Relationships with adults in the school need to be positive, whether this is with teachers or with support staff.

Pastoral care staff or register teachers are important figures in the development of a supportive and inclusive school community. Unfortunately, due to the way the secondary curriculum has been organised to deliver CfE in many schools, pupils no longer have a register teacher they see on a daily basis in some schools; in others they have no register teacher. This reduces the opportunities for sharing information.

Additionally management restructuring in secondary schools has reduced the number of guidance teachers in some authorities, thereby increasing the caseload for those who remain in post. This means general contact with all pupils in a 'house' or year group has been cut; this can prevent trust being established and makes it less likely that pupils will share knowledge with pastoral care staff.

- 3 This should be current practice.
- 4 It is appropriate to record every incident. However, exactly what should be recorded and how needs to be considered. Further consideration also should be given in relation to what should be recorded in terms of 'an allegation' – it is possible that an allegation may be unfounded or malicious.
- 5 There is merit in ensuring all schools are aware of what should be done should offensive weapons be found in schools. The involvement of community police officers in the development of the policy should be considered.
- 6 It may be helpful to remind all Headteachers of the current law. The EIS would not regard it as wise for searches to be carried out without the presence of a second member of staff.
- 7 Any search and confiscation policy should be developed in line with the current law. The EIS continues to have concerns regarding the health and safety of Headteachers and other staff who are expected to search for and confiscate weapons from pupils.
- 8 This is a recommendation which requires clarification. It suggests a risk assessment is all that is required once it is known someone has carried an offensive weapon into school. Specialised support is likely to be required for any pupil who has ever brought a weapon into school.

If anyone is known or suspected to be carrying any offensive weapon in a school, and consent has not been given to conduct a search, the police should be called immediately and a means found by which to isolate the individual before the police arrive.

If someone is suspected of carrying a weapon the protocol in 7 above may assist. Where pupils are known by senior staff and pupils feel a valued part of the school community, judgements by staff on what to do and on what the risks are in respect of individuals will be easier to determine. However, it will be essential to provide training in this type of risk assessment to senior school staff.

- 9 Perhaps it would be appropriate to involve S3 as well- the developmental gap would be too wide otherwise.
- 10 The EIS knows that the Ben Kinsella Trust educates children of all ages of the consequences of knife crime and the devastating effect that it has on families. It provides free resources to schools in England. The EIS assumes the recommendation arises from an evaluation of the impact of the resources in England.
- 11 The EIS is opposed to any change in the law in relation to searching pupils. Any change would alter relationships within schools; and would suggest there was a major problem with knife carrying amongst Scotland's youth, when in fact there has been a reduction in knife crime. It is also the view of the EIS that such a change in the law would exacerbate the health and safety risk for teachers, albeit that overall the incidence of knife crime in schools is low.
- 12 The EIS wishes all places of work and learning to be safe and free from violence or the threat of violence.

Bullying

- 1 We view action around this recommendation to be closely linked to recommendation 14. The EIS recognises RespectMe's experience in this area. It is important that schools' policies reflect the Children and Young People (Scotland) Act 2014.

However, schools may not have planned to make such changes in their current School Improvement Plans and therefore change this session may not be possible unless other aspects of planned work are removed. These recommendations should be discussed with the LNCT in Aberdeen and thereafter at school level with all school staff and trade union representatives.
 - 2 It is not clear what is meant by 'a senior teacher' (promoted but to what level?). A range of postholders may deal with bullying in secondary schools. Time will be required for any postholder to agree outcomes with parents – and with the pupil. If a new post is to be created, this recommendation should be discussed with the LNC T in Aberdeen.
 - 3 While it is useful to test business continuity plans, the scenario suggested might be distressing for those who were involved last year and could be considered insensitive.
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The Educational Institute of Scotland

EIS Response to Scottish Government Consultation A Blueprint for 2020: The Expansion of Early Learning and Childcare in Scotland

1. *How do we ensure children are fully supported at the transition stages throughout their early-learner journey? What support should be provided to ensure that the ELC workforce and teachers have the skills, knowledge and capacity to support transitions?*

As reiterated within the findings of independent research by The Child's Curriculum Group, led by Professor Aline-Wendy Dunlop of the University of Strathclyde, 'Sustaining the Ambition: The Contribution of GTCS-Registered Teachers in Early Years', qualified teachers are central to supporting transitions for early learners.

Indeed, the research identified supporting transitions as one of the key contributions that nursery teachers make to the early-learner journey, as a consequence of the pedagogical expertise that they possess, and of their knowledge and understanding of additional support needs.

The nursery teacher's knowledge of early learning and child development, and of the Early and First Levels of CfE, facilitates a seamless transition from home to nursery, and from nursery to primary school for all children, in line with Curriculum for Excellence (CfE) ambitions for a seamless 3-18 learner journey. In addition, understanding of transitions is particularly key to supporting vulnerable children who tend to experience a greater number of transitions, therefore the particular skill that qualified teachers have in this regard, is particularly required in managing these in the interests of short and long term positive outcomes.

To ensure that all children benefit from the expertise of qualified teachers at key points of transition, the EIS would urge the Scottish Government to act to address the decline in the numbers of such teachers in nursery, and by legislating to ensure equal and meaningful access to a teacher for all nursery children across and within local authorities. Scotland has seen a 39% decrease in the number of nursery teachers over a ten year period, offset against only a 4% drop in the nursery intake. The research also highlights the following:

- Nationally 25.7% of nursery children aged 3-5 have no access to a teacher;
- The current average nursery teacher to child ratio is 1:94;
- 50% of local authorities state that children do not have equal access to a teacher;
- Only 12 of 32 local authorities continue to employ full-time teachers in each of their Early Years establishments.

Related to the urgent need for the reinstatement of qualified teachers firmly within the Early Years workforce, is the difficulty of ensuring that initial teacher education (ITE) students are equipped with high quality learning experiences when they undertake nursery placements. At present, many are unable to access the benefits of mentorship by qualified teachers because they are simply not there in the

numbers required to provide this element of ITE as relevant to Early Years. In effect, the skills and knowledge to support transitions are not being shared on the scale required at present because of the decline in nursery teacher numbers.

For the current workforce including teachers, time for collaboration- planning and discussion with colleagues who form the Early Years team, and access to ongoing high quality professional learning, are key to ensuring that all have the necessary skills, knowledge and capacity to support transitions.

A strongly collegiate approach, with time made available within teachers' Working Time Agreements to support this, is crucial to the success of Early Years in achieving positive outcomes for Scotland's early learners. In contexts where transitions are across establishments and/ or sectors, particular consideration requires to be given to how meaningful communication and information-sharing between schools and the Early Years teams, be they local authority, private or third sector, will be resourced.

Furthermore, the EIS would raise concerns about dwindling numbers of support assistants and specialist professionals such as Educational Psychologists whose input and expertise are crucial in supporting children with additional needs at key points of transition.

2. *What support is required to ensure that the ELC workforce have the skills, knowledge and capacity to deliver high quality provision for two year olds? How can the ELC sector best meet the specific learning, developmental and environmental needs of two year olds? What approach should be taken on the transition for these children when they turn three?*

For teachers whose expertise is with children belonging to the 3-18 age group and with the 3-18 curriculum, access to relevant professional learning may be required to support transitions.

The EIS would also reiterate the point made in the final paragraph in response to Question 1 with regards to supporting transitions for the youngest CfE learners.

3. *How can the qualification routes and career paths that are open to early learning and childcare practitioners be developed to ensure that the ELC sector is seen as an attractive long-term career route?*

The EIS is of the view that there requires to be improvements in the conditions of all members of the Early Years workforce. High quality pre-school provision is characterised by healthy child to adult ratios; staff who are highly trained and qualified, who have access to career-long professional learning, and who are appropriately remunerated; and close regulation of modes of delivery. Adequate investment to ensure that ELC delivery in Scotland, is characterised by these elements, as in other high-performing European education systems, is fundamental to enhancing the status and value in public perception of this sector.

Recognition should be given to the leadership role that is informally undertaken by nursery teachers. The 'Sustaining the Ambition' research found that nursery teachers provide leadership and mentoring for other staff in their setting, as indicated by teachers themselves and by local authorities. Demonstrating best

practice, supporting staff planning, advising staff regarding the specific needs of children, modelling new approaches to adult-child interaction; ensuring consistency in the assessment of children's progress; ensuring the relevance and robustness of evidence used to underpin assessments; and supporting staff to respond effectively to children with additional needs.

Much of the work currently being undertaken by unpromoted nursery teachers is closely comparable to that which is itemised within the remits of promoted post-holders in the primary and secondary sectors. The reduction in the number of promoted posts within the primary sector generally; the tendency for promoted posts to be located in the primary rather than the nursery; and the disappearance of the legal requirement in 2003 for nursery heads to be qualified teachers, have meant that teachers whose interests may lie in Early Years would be discouraged from such a career pathway because of the absence of a clear promoted post structure.

Additionally, the EIS would be interested in proposals designed to enhance the quality of the ITE experience as related to Early Years placements.

4. How can we increase the diversity of the ELC workforce, in particular increasing the gender balance in the sector?

Scottish education has much to do to address gender imbalance within the teacher workforce generally. Primary teachers are overwhelmingly- more than 90%-female while two thirds of the secondary teacher workforce is now female.

Erosion of the pay, conditions, and status of the profession over time are contributing factors to this gender demographic and to the issue of teacher shortage more generally.

In responding to this, the Scottish Government requires to develop a strategy with accompanying resources that will address all factors that are combining to create teacher shortage and gender imbalance. This strategy should tackle issues of pay, conditions, status and gender-stereotyping in the various contexts where it presents itself- in the home, at school, college and university, and in the employment market. Significant attitudinal change is required within society as a whole to counteract the myth that caring, nurturing roles, including those with children, are the domain of women, and to counteract the culture that undervalues such work in terms of pay and status.

Equally, the strategy should address the issue of chronic under-representation of black and minority ethnic people within the teaching profession as a whole, and worse still within senior promoted posts, specifically.

Children and families should see the diversity of their communities in terms of gender, and race and ethnicity in particular, fully reflected in the whole education workforce, in the interests of enhanced educational and social justice outcomes.

5. How can payment of the Living Wage and wider Fair Work practices be encouraged across the ELC sector?

It is the view of the EIS that the payment of poverty wages by any employer is wholly unacceptable and more so where employers are seeking access to public funds to support their businesses. The EIS holds such a position both as a trade

union which objects to the exploitation of fellow trade unionists in any sector, and as a professional association whose members witness the impact of poverty, largely as a consequence of low income from employment, on children's education on a daily basis in the classroom.

As a minimum, therefore, while EU law prevents mandatory payment of the Living Wage as a public procurement requirement, the EIS would expect stringent adherence by the Scottish Government and local authorities to the principles of the Statutory Guidance on the Selection of Tenderers and Award of Contracts - Addressing Fair Work Practices, including the Living Wage, as a key means of realising the aims of the Working Together recommendations.

The trade union movement in Scotland will maintain its key role in advocating for the Living Wage as a minimum for all employees in all sectors, including ELC, and for work practices that are underpinned by the principles of effective voice, security, opportunity, respect and fulfilment.

6. What actions should be taken to support increased access to outdoor learning, exercise and play?

Research conducted by the EIS in 2010 found that across Scotland, public nursery provision offers a higher proportion of provision which has access to an outdoor play area (90.2% as opposed to 76.5% in the private sector and 70.6% in the voluntary sector).

As Children in Scotland pointed out in a media release of 24/08/10, research published in *Children in Europe* magazine demonstrated that private sector provision does not require to meet the outdoor space standards required of public provision:

outdoor space standards in services for young children vary widely across Europe, with some countries, including the Republic of Ireland, France and Germany, having no national requirements specified. Although Scotland does have a requirement for local authority nursery schools and classes for 3-4-year-olds to provide an area of 9.3m² per child – less than the size of the average bedroom – other services need only provide 'adequate and appropriate space' for the activities being undertaken.

This clearly highlights that in this regard, also, local authority provision offers a higher quality learning experience to nursery children.

In addition to availability of physical space within the grounds of a nursery establishment, adequate resourcing in terms of outdoor equipment and toys is essential, as is quality training for Early Years staff, including teachers, in delivering outdoor learning, exercise and play. If nurseries are to be encouraged to take outdoor learning beyond their own immediate play areas, additional funding of transport costs may be required, depending on the locations selected.

Healthy adult to staff ratios to ensure that outdoor learning experiences are of the highest quality, including for children with additional support needs, are, of course, essential.

Consideration should also be given to how families on low incomes can be supported financially to ensure that their children have the necessary shoes and clothing for any outdoor activity.

7. *How could accountability arrangements for early learning and childcare be improved?*

Nurseries and teachers are held to account by a number of bodies – local authorities as the employers; parents and pupils as consumers; HMIe and Care Inspectorate inspections; quality assurance regimes; line management; the GTCS and Professional Update; self-evaluation, politicians and the media.

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

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

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

8. *What factors must be considered in delivering flexible ELC provision, while continuing to ensure a high quality service? To what extent could funded ELC support parents and carers with non-standard working hours, such as working shifts and weekends?*

The primary concerns of the EIS in the discussions around early education and childcare expansion are quality of provision and protection of the conditions of teachers who are employed within the sector.

While the EIS understands the government's employability agenda with regards to childcare provision, the EIS prioritises quality over quantity and flexibility of hours of entitlement, quality being of particular importance to children whose families face socio-economic disadvantage.

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 but must be family-friendly to them as workers, also. Teachers' terms and conditions, of course, are a matter for the Scottish Negotiation Committee for Teachers (SNCT) in any case. However, practice in some local authority nurseries has demonstrated that it would be possible to offer a service that includes wrap-around childcare serving employability interests, and meaningful access to a teacher serving educational

interests, without compromising the terms and conditions of teachers as agreed by the SNCT.

9. *How can we ensure fair and sustainable funding for all providers offering the ELC entitlement?*

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, the funding of which should be ring-fenced to local authorities.

It is our belief that local authorities are best placed to deliver the education service, including that for pre-school children, both in terms of ensuring quality and equity of experience for learners, and in terms, from the perspective of teachers, of adherence to national conditions of service agreements.

This view is substantiated by evidence from Education Scotland inspections to suggest that best practice occurs within local authority run nursery establishments in which children have regular and meaningful interactions with qualified teachers who are expert in early education.

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

10. *What more can we do to promote and support the involvement of childminders in the entitlement to ELC? What are the barriers, if any, to becoming a childminder? How can we ensure quality while preserving the unique value of home-based care?*

The EIS view of how ELC should be delivered is outlined in answer to Question 9 above.

Within such a framework, there may be scope to explore the possibility of childminders being employed by local authorities as in other countries, with their terms and conditions negotiated collectively on a national basis.

11. *How do we ensure that the voice of children and their families is heard as we plan this expansion?*

Through direct engagement with a widely representative group of parents and their children, perhaps in local nursery settings where both parents and children feel comfortable. The expertise of nursery staff would be useful in informing the design of such engagement sessions but care should be taken by Scottish Government not to offload responsibility for such consultation to the Early Years workforce.

12. *How can we ensure equality of access for all children? What barriers do children with disabilities and additional support needs currently face in accessing early learning and childcare? What further action is required to address these barriers?*

Consideration should be given to potential barriers that families might face in accessing their childcare entitlements.

Families living in poverty may experience difficulty in meeting costs associated with travel potentially on a greater number of occasions to the child's nursery establishment, in affording to dress children appropriately for activities over an increased number of days, and in covering the costs of food and snacks for a greater number of hours.

Families living in rural communities face challenges in accessing nursery entitlements through a combination of geography and cost of travel. The expansion of nursery education in rural schools should therefore be seen as a priority, maximising access for all children in such communities and reducing the demand for private provision and community-led ELC. The inclusion of nursery provision within primary schools is a particularly effective strategy in remote and rural areas as it not only provides a much needed service but may also support the viability of some remote and rural schools.

Parents with literacy difficulties may be less likely to understand and access their entitlements. Frontline public service workers in Health, Social Work and Education will require time to engage with such parents, which should be accounted for fully within their respective contractual arrangements.

Where families are newly arrived in Scotland, or where English is an additional language, entitlements may be under-utilised. Again, frontline public service workers will require time as above and additional specialist bi-lingual support in many cases, to help families overcome such barriers.

Children with disabilities and additional support needs face a range of barriers from lack of suitable transport, to unsuitability of nursery premises, to inadequate provision of additional specialist support from suitably trained staff. In the same way as the school sector suffers from insufficient numbers of specialist teachers, support assistants and other specialist professionals who contribute to the education of children with additional needs, so too does the nursery sector.

The EIS would again raise the particular issue of declining numbers of specialist ASN teachers within the context of discussions around teacher shortage and the need for a fully comprehensive recruitment strategy; and the issue of cuts to support staff numbers and increasing difficulty of access to speech and language therapists and educational psychologists, for example, within the context of the impact of cuts to local authority budgets on the delivery of all elements of the education service.

With this in mind, the EIS would again reiterate the call for a national minimum national staffing standard, to include nursery settings. Within that standard, issues of additionality should be considered, e.g. deprivation, additional support needs, English as an Additional Language, rurality, guaranteed time for promoted members of staff.

13. How can we support higher take-up rates amongst eligible two year olds, and other groups less likely to access entitlement?

Please see the response to question 12.

14. How can more social enterprises, and third sector providers, be encouraged to enter the early learning and childcare sector?

As stated in response to Question 9, the EIS believes that education, including Early Years, should be a universal public service, free to all at the point of access, the funding of which should be ring-fenced to local authorities.

It is our belief that local authorities, properly funded, are best placed to deliver the education service, including that for all pre-school children, both in terms of ensuring quality and equity of experience for learners, and in terms, from the perspective of teachers, of adherence to national conditions of service agreements.

This view is substantiated by evidence from Education Scotland inspections to suggest that best practice occurs within local authority run nursery establishments in which children have regular and meaningful interactions with qualified teachers who are expert in early education.

15. How can the governance arrangements support more community-led ELC provision particularly in remote and rural areas?

To reiterate the response provided to the same question in the EIS submission on the Governance Review of Scottish Education, what is needed is appropriate levels of funding to ensure that the commitment to childcare provision and early learning is met.

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

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

16. How can the broader system for promoting, accessing, and registering for a place in an ELC setting be improved? Please give examples of any innovative and accessible systems currently in place?

The EIS has nothing further to add to the suggestions made in response to Question 12 for supporting access to entitlements other than that the views of a diverse range of parents should be sought, perhaps as part of the discussion as suggested in response to Question 11.

17. Do parents and carers face any barriers in accessing support with the costs of ELC provision (beyond the funded entitlement)? What more can we do to ensure additional hours are affordable?

The EIS has nothing further to add to that suggested in the final paragraph of the response to Question 6 and paragraphs 2 and 3 of the response to Question 12.

18. How can ELC providers, particularly private and third sector providers, be encouraged to extend capacity?

The EIS would wish to see local authorities adequately funded to extend capacity in the ways and for the reasons outlined elsewhere in this response.

19. What funding model would best support our vision for high quality and flexible ELC provision, which is accessible and affordable for all?

To echo previous responses within this submission, the EIS believes that nursery education should be universally free for all at the point of use, delivered by local authorities with ring-fenced education funding.

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

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

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

20. If it were possible for aspects of the entitlement to be phased in ahead of the full roll out by 2020, how should this be implemented?

It is the view of the EIS that significant work remains to be done by the Scottish Government to strike the correct balance of quality and quantity of provision within the current 600 hours entitlement, and that efforts should be made to consolidate progress in this regard rather than towards early roll out of the extended entitlement. The EIS would recommend that evaluation of the first phase of expansion should be carefully evaluated and the pilots of the second phase of expansion conducted and analysed, to inform future progress.

The Educational Institute of Scotland

Submission to Education and Skills Committee on CfE Governance

- 1 The Educational Institute of Scotland (EIS) welcomes this opportunity to give evidence to the Education and Skills Committee of the Scottish Parliament on the decision-making processes around Curriculum for Excellence. As Scotland's largest education union, representing over 55,000 members, the EIS has been involved, constructively yet critically, in the development and implementation of CfE for over a decade and has been a partner member of the CfE Management Board for most of that time.
- 2 The Committee's review is timely. It has been the considered view of the EIS for the past period that the CfE Board has reached the end of its natural lifespan and that consideration should be given to a fresh governance / partnership forum more suited to taking Scottish Education forward. (Current CFE Board meetings tend to have large agendas and limited time with the result that rigorous discourse and interrogation of issues can be challenging.)
- 3 In our submission to Scottish Government's Review of Educational Governance, the EIS highlighted a social partnership approach as being one of Scottish Education's greatest strengths. In this regard, the CfE Management Board, particularly in its earlier days, epitomised the notion of contested dialogue leading to broad consensus. Although the EIS was invited to join the Board only after some critical decisions had been made around CfE (for example the less-than-secure articulation of experiences and outcomes), we certainly welcomed the opportunity to comment on and shape, to a degree, subsequent publications such as the Building the Curriculum series.
- 4 It would be fair to say that during what was largely a development stage there was a genuine dialogue around CfE developments, informed not only by input from the professional associations but also by high level input from other bodies such as Learning and Teaching Scotland, HMIE, ADES and the SQA. Ideas were contested and critical challenge was the norm.
- 5 Whilst civil servants chaired meetings, there was a sense of attempting to distil strong policy advice for Government rather than seeking to implement already agreed policy (beyond the broad parameters set).

- 6 The only “vote” which we can recall happening was around the timetable for the introduction of the new qualifications where the EIS moved, unsuccessfully, for a year’s delay to be instigated to allow schools to assimilate the proposed changes. It remains our view that such a delay would have avoided many of the problems which subsequently developed around the new qualifications.
- 7 Over time the Board expanded as SG sought to involve agencies which were involved in the broader ambitions of CfE (beyond schools). Whilst this was understandable it also served to reduce the efficacy of the Board in terms of detailed work-streams; for example, a Qualifications sub group had to be set up to look at the design of the new qualifications rather than the expanded Board attempting to work through the detail. This wasn’t necessarily problematic, but it did mark something of a change as to how the Board operated.
- 8 The creation of the Implementation Group also marked a significant change in the Board’s operations, although this wasn’t perhaps anticipated at the time.
- 9 The Implementation Group was designed as a vehicle to coordinate delivery of the CfE programme rather than its development. It was pitched as an operational approach across the various agencies charged with progressing work streams focussed on implementation, rather than the broader design and conceptual issues which the Board had been concerned with.
- 10 The EIS was content not to be part of the group as we regarded the Board as the appropriate forum for any concerns we wished to raise (also, we already had programmed bilateral discussions with the various agencies where specific issues could be raised).
- 11 Although the Implementation Group reported as a body to the MB, it is the view of the EIS that some of the inter agency challenge which used to inform Board discussions now seemed to take place within the Implementation Group, to the detriment of the Board’s function.
- 12 The merger of LTS and HMIE into the single body of Education Scotland had had a similar impact, reducing two voices to one. The EIS articulated in our Governance Review submission, the view that this merger has not been as successful as might have been wished for.

- 13 Ultimately, of course, the CfE MB only ever had power to recommend courses of action to the appropriate Education Minister. The EIS has always been clear that final decision making authority lay with Scottish Government and indeed has always sought, through bilateral engagement, to influence directly policy decisions by Ministers

- 14 This political dimension has sharpened over the past few years. It is worth noting that in response to EIS concerns about increasing bureaucracy around CFE the then Education Minister, Michael Russell, announced the setting up of a ministerial-led working group which produced the very useful Tackling Bureaucracy report. Although technically signed off by the CfE MB, this was in reality a separate project. The fact that it was chaired by Dr Allen, who was then Schools Minister, gave it a significance beyond simply being another CfE MB publication.

- 15 The EIS was acutely aware of this when, following a consultative ballot of our members on industrial action around NQ workload, we sought from the then Cabinet Secretary for Education, Angela Constance, agreement for a proposed Qualification Review Group to be led by a minister rather than either a civil servant or educational figure. Initially this was again Dr Allan but following the Scottish elections is now the DFM.

- 16 The fact that the Tackling Bureaucracy Group, which produced two reports and the initial NQ Review Group, chaired by Ken Muir, which also produced two "Reflections" reports, all had to be taken outside of the MB is instructive.

- 17 The failure to make any significant progress on the first NQ review led to a situation where the EIS eventually had to ballot for and commence industrial action short of strike, which ended only when agreement had been secured around the removal of mandatory unit assessments at National 5 and Higher. The reason for that failure, in our view, was the inability of civil servants to broker agreement between the SQA and Education Scotland around the changes required, due in part to neither organisation wishing to be seen as culpable for any of the problems being faced in schools.

- 18 In that sense the work of the National Qualifications Review Group has benefited considerably from the hands-on approach of the DFM who has chaired all the meetings since taking post. Given that Education has moved so centre stage in terms of Scottish politics, political clarity around policy implementation is to be welcomed.

- 19 The National Qualification Review Group has work to complete, especially around National 4 and the interface between BGE and the Senior phase, but beyond that there is a need to consider a post CfE implementation period, where the benefits of CfE can be properly harvested. How this is managed may be dictated in part by responses to the Governance Review; from an EIS perspective we would continue to support a partnership approach across Scottish Education.
- 20 The EIS would argue that there is a continuing need for robust fora to facilitate appropriate pedagogical challenge to, and interrogation of, policy development, based on practical insight and knowledge as to how schools operate. We don't believe that this is necessarily a role which can be filled by the Learning Directorate, nor indeed by any single agency. It remains imperative, however, that policy development and implementation are both underpinned by evidence and research.
- 21 We believe, however, that the professional associations need to be participants in any future arrangements. It is worth noting that in high achieving education systems like Singapore and Finland, the teacher Unions are strong players offering both challenge and professional expertise to policy development. As the world's oldest professional association for teachers, the EIS has pedagogical insight and practical experience which can contribute significantly to the further development of Scotland's education system.
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The Educational Institute of Scotland

EIS Response to the Education and Skills Committee question:

“What should personal and social education sessions be about?”

The Educational Institute of Scotland (EIS), Scotland’s largest education union, welcomes the opportunity to respond to the Committee on the above question.

It is the view of the EIS that personal and social education (PSE) should be firmly aligned to Curriculum for Excellence (CfE) principles and practice in the following ways.

Firstly, PSE lessons should be designed in such a way as to enable children and young people to develop in the four capacities of CfE in preparation for becoming fully responsible citizens, effective contributors, confident individuals and successful learners. Curriculum content should reflect this purpose, in age and stage appropriate ways, with critical thinking approaches embedded in the learning activities.

With regards to specific curriculum content, current EIS policy does not favour prescription. Precise content and the method of delivery of the curriculum, in the spirit of CfE, should be a matter for teacher professional judgement.

The EIS view is that teachers, as well-trained, reflective professionals who work collegiately with their colleagues, and in partnership with parents and the wider community, are well placed to respond to the learning needs of their pupils and students whom they know well, in ways that will ensure relevance of curricular content and therefore the engagement of learners with it. Those primary teachers who have been trained in PSE as part of their Initial Teacher Education, or those in the secondary sector whose particular experience is in pastoral care, or those in either sector whose knowledge and skills are in a specific area of PSE, are best-placed to deliver such learning.

In addition, the EIS is clear that, broadly speaking, the curriculum, including for PSE, must address equality matters and, indeed embody a commitment to equality, as the CfE framework does. PSE lessons are a key way, in combination with others, in which to equip children and young people with the knowledge and skills to challenge racism, religious-based prejudice, homophobia, transphobia, sexism and misogyny, and negative attitudes towards disability, including mental ill-health.

Accompanying this should be learning about rights and responsibilities to enable children and young people to understand theirs and others’ entitlements, balanced with an understanding of theirs and others’ responsibilities, and of how to exercise these appropriately.

In addition, the EIS view is that PSE is a key area of the curriculum through which to develop aspects of children’s and young people’s learning and development within Health and Wellbeing- both physical and emotional, including in relation to sex and relationships education (SRE).

The EIS regards SRE as being crucial to the ensuring the health and wellbeing of children and young people. Doubtless, it is essential in supporting them to develop positive, informed attitudes in relation to their own sexual and emotional health and wellbeing, and in helping them to develop positive, healthy relationships with others. Without such education, children and young people are at greater risk of sexually transmitted infection, teenage pregnancy, sexual and domestic violence, and of sexual harassment, for example.

Good practice in terms of PSE delivery would also include coverage of and progression in learning about, the processes of participation and democracy, with the aim of supporting the development of children's and young people's political literacy. Linked to learning about the world of work, the EIS would wish to see included, most definitely though not exclusively before young people embark on work experience placements, learning about rights at work and the role of trade unions in promoting and protecting such rights, and of health and safety in the workplace.

The Educational Institute of Scotland
EIS submission to the Scottish Parliament
Education and Skills Committee
Additional Support Needs in School Education

The EIS welcomes the opportunity to comment on ASN provision in schools. We have serious concerns about ASN provision in Scotland at present. The EIS wishes to highlight three key issues in this submission: the impact of cuts to ASN provision, teacher morale, and attainment narratives.

We note the wide range of circumstances from which additional support needs can stem. A child is said to have 'additional support needs' if they need more, or different, support to what is normally provided in school to children of the same age. Children can need support for many reasons, including being a young parent or carer, experiencing abuse or neglect, having English as an additional language, or having long-term learning difficulties or disabilities.

The impact of cuts to ASN provision

Cuts to school budgets, and to teacher numbers, which despite protection for the past two years have declined quite significantly overall since 2007, are very problematic. So too is the decline in support staff numbers. Teacher census data tells us that the number of support staff in primary schools in some roles (e.g. Behaviour Support) has declined since 2010, (a 57% reduction), and the number of ASN assistants in 2016, while similar now to the 2010 figure, has declined by 730 (FTE) since 2013, when it peaked.

The number of teachers with additional support for learning as their main subject fell by 166 between 2007 and 2016, a fall of 5.4%. The reduction since 2009, when the number of such teachers peaked, is starker – a fall of 14.8%. ASN teacher numbers also fell in 16 out of Scotland's 32 local authorities over the period 2007 to 2016.

Teachers with additional support needs for learning as their main subject

2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
3,062	3,301	3,402	3,363	3,258	3,249	3,157	2,963	2,936	2,896

Source: Parliamentary Question (S5W-05579) i.

The data on changes to support staffing levels is as follows:

Support staff in primary schools (FTE)	2016	2015	2014	2013	2012	2011	2010
Additional support needs auxiliary or care assistant	3,096	3,016	3,396	3,826	3,458	3,091	3,091
Behaviour Support	19	25	33	27	38	45	45

Source: Teacher census, <http://www.gov.scot/Topics/Statistics/Browse/School-Education/PubTeacherCensus>

In secondary schools, although there are similar numbers of Behaviour Support staff now as in previous years, and slightly more than in the years 2013-2015, there is a huge reduction in ASN staff compared with the situation in 2011. There are now 374 FTE fewer support posts than in 2011 - a reduction of 20%. This has had a huge impact on teacher workload.

Support staff in secondary schools (FTE)	2016	2015	2014	2013	2012	2011
Additional support needs auxiliary or care assistant	1,485	1,606	1,545	1,716	1,800	1,859
Behaviour Support	112	96	86	92	115	117

This is particularly concerning in a context where the range of learners' needs in the classroom is becoming ever wider, with the presumption of mainstreaming (which the EIS supports in principle) meaning that schools now have learners with a very wide range of support needs, including (but not limited to) sensory impairment, autism spectrum disorders, physical disabilities, experience of the care system, and emotional and behavioural issues. However, there is less resource to meet those growing and very diverse needs. Some schools no longer have any one to one support for pupils with additional support needs, or have no specialist services. Some EIS ASN Network members have described the current approach as "mainstreaming on the cheap".

Data from the Scottish Government confirms that the number of pupils with additional support needs has vastly increased. In 2016, 170,329 pupils (24.9% of all pupils), were identified as having additional support needs and 95% spent at least some of their time in mainstream classes. In 2011, the overall number was 98,523. The increase over those five years is 73%. It is hard to see how it is possible to 'Get it Right for Every Child' when so many children now have identified needs, and schools are operating within austerity budgets.

We are also concerned about the lack of resources for professional development and training, which ASN teachers wish to undertake so that they can better meet pupils' changing needs. Schools lack funding for CPD courses or to cover the cost

of supply staff to enable release from the classroom of teachers wishing to undertake relevant professional learning.

The cuts in staffing resources also mean that ASN teachers have busier workloads and less time to complete incident reports, which can mean under-reporting of violent incidents. We also have concerns about the reduction in educational psychological services. The number of educational psychologists practising in Scotland fell by a tenth in the three years from 2012 to 2015. There were 370 trained educational psychologists practising in Scottish local authorities in 2015 - 10% fewer than the 411 practising in 2012. These staff provide valuable support to children with additional needs and can be of assistance to teachers in meeting children's diverse needs.

Cuts to English as an Additional Language services are also of concern.ⁱⁱ As a consequence of the lack of availability of financial resources, EIS members are reporting that the additional support for learning needs of many pupils are simply not being met sufficiently to facilitate their progress either in terms of their curricular achievements or their health and wellbeing. As one might expect, this issue is particularly acute in areas of the country where there have been significantly high levels of migration of families for whom English is an additional language.

Teacher morale

Members have reported that the current climate is very challenging and having a serious impact on their morale. ASN teachers have large workloads and have reported that they feel unable to meet pupils' needs as they would wish to. There is also an under-valuing of ASN teachers' skills and experiences, and we have anecdotal evidence that ASN staff are often used as supply, especially as the cover crisis worsens.

Many ASN teachers report feeling under-valued or not fully supported by senior management. For example, when violent incidents have occurred, ASN teachers have been told that "it's part of the job". We have further concerns about ASN roles becoming de-professionalised and assumptions being made that this is work that any teacher can do.

Our members working with children with additional support needs report that their daily work can be very rewarding, but it is also difficult and stressful. ASN teachers can experience serious violence and disruption from pupils, including being bitten, spat on, scratched and grabbed. Many colleagues report behaviour management concerns as their biggest difficulty, and don't feel safe at work.

Our members also report concern about large class sizes, and their impact on teachers' ability to meet all learners' needs, which further depletes morale. EIS policy is that no class should exceed 20 pupils, while a range of circumstances might justify smaller groups (e.g. composite classes, classes featuring pupils with additional needs). We regret the Scottish Government's failure thus far to meet its target of reducing class sizes. In fact, average class sizes continue to edge upwards. Evidence clearly indicates that smaller class sizes are better for pupils, and have a significant impact on the quality of the learning experience, the ability

of teachers to respond to the needs of individual pupils and on achievement and attainment. Given the Scottish Government commitment to tackling the attainment gap, the trend of rising class sizes is an issue that must be tackled through greater investment in a greater number of qualified teachers, including teachers with a specialism in additional support needs.

Attainment narratives

We would also wish to note that the current debate about attainment in Scottish schools, which has had a focus on achievement of CfE levels, SQA exam results and standardised assessment data, has not visibly taken account of the types of achievement that matter to pupils with additional needs, or even engaged with what achievement means in this context. The Delivery Plan for Excellence and Equity in Education contained very little content on this. This narrowing of the debate around what achievement means is concerning for EIS members working with learners with additional support needs. We also hope to see further elucidation of the connections between poverty and ASN. For example, children with disabilities are more likely to live in poverty. In 2014/15, 27% of households in Scotland with a disabled child were in poverty, compared with 18% of those without.ⁱⁱⁱ. The attainment debate, and all pedagogical developments in Scotland, should take account of this.

- i. <http://www.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S5W-05579>
- ii. <http://www.eis.org.uk/public.asp?id=2835>
- iii. <http://www.gov.scot/Publications/2017/02/5028/1>

The Educational Institute of Scotland

EIS Submission to Consultation on a Strategy for Education & Training - SCIENCE, TECHNOLOGY, ENGINEERING & MATHEMATICS

1. Do you agree with the definition provided of STEM for the purposes of this Strategy?

Yes No

The EIS agrees with the definition though would highlight the need for care when using the term to acknowledge the diversity of the discrete disciplines that it encompasses.

2. Do you think the aims of this Strategy and the four priority themes are the right ones to address the challenges identified?

Yes No

The EIS view is that the aims of the strategy are broadly set in the right direction though would suggest that there should be additional elements covered within the statement of aims and would question how success will be measured.

Although identified as priority, equity should be central to the aims of the strategy given its relationship to the education and employment sectors, and the need for the alignment of Scottish Government policy aims.

The EIS would also recommend that the strategy should not simply address the 'uptake' of further STEM study and training for the purposes of 'gaining' employment. This, by implication, focuses on learners and employees while being silent on the responsibility of employers to promote STEM careers, to recruit and retain a wholly diverse workforce, and to ensure equality in terms of career progression and pay. The gender pay gap remains at 14.9% in Scotland and, while the number of female STEM graduates is improving, recruitment, progression and retention rates within these careers continue to lag.

There are also issues that STEM employers require to address with regards to socio-economic and ethnic backgrounds. Research conducted recently by the London School of Economics and University College London highlights significant under-representation of individuals from working class backgrounds in STEM professions such as medicine and a sizeable pay gap of £10,218, between workers from more and less affluent backgrounds. Within information technology the pay gap sits at £4,736. The research identified that such pay gaps were in part caused by differences in educational background though even when professionals had the

same educational attainment, role and experience, those from poorer families were paid an average of £2,242 less. The study also found that employees from black and minority ethnic professionals, except those of Chinese heritage, earned less than similar white colleagues. While the EIS acknowledges the important relationship between STEM education, employability and the economy, we believe that greater emphasis within the statement of aims should be placed on the importance of STEM education for all children and young people who increasingly, as national and global citizens, require to make judgements about and participate in democratic processes, around such matters as climate change and GMOs. Further, over-emphasis of STEM education in a purely functional or instrumental light risks devaluing the many more intangible, but very real and important benefits, that everyone can gain from a greater appreciation of the breadth and depth of STEM.

Finally in terms of the strategy aims, the EIS would wish to see reflected in their terms a commitment to the sustainability of the strategy.

The priorities listed would require some adjustment in light of the above comments. In addition, the term 'excellence', although used widely now in reference to the Scottish Government's ambitions for education, is not defined. The EIS does not consider excellence in education to amount simply to high-ranking in international league tables of attainment data.

With regards to the priority to inspire young people and adults in STEM, while it is right to endeavour to do so, this intent must be rooted firmly in the understanding that individuals will be equally, if not more, inspired by other areas of learning. In the interests of personalisation and choice within and relevance of, learning to young people we would caution against over-zealous promotion of STEM among impressionable children and young people, to the detriment of a liberal education.

3. Are these success criteria right?

Yes No

The general focus of the success criteria is agreeable; however it is our view that they lack specificity.

How will young people's experiences of STEM education be monitored? What additional resources will be made available to ensure that all children experience relevant and engaging STEM education? How will relevance and engagement be judged? The criteria do not specify.

How will the understanding of STEM by all young people and their families be ensured? Again, how will this engagement of all young people and their families be achieved?

While the EIS welcomes the emphasis on improved gender balance across STEM qualifications the criteria do not indicate how much improvement will equal success.

Overall, it is the view of the EIS that the criteria require to be more precise.

4. Do you think the scope of the Strategy is right? Tell us if you think it should exclude something or include anything else. For example, should it include training and development that employers provide for their workforce?

The EIS broadly agrees with the scope of the Strategy and welcomes the acknowledgement of the importance of lifelong learning within it.

With this in mind, the EIS would support the inclusion of training and development provided by employers within the Strategy and would suggest that a further dimension should be extension of the partnership approach that exists between several employers and trade unions in delivering training and professional learning, and between the Scottish Government and the STUC through Scottish Union Learning.

The EIS is also of the view that there requires to be evaluation of the often highly costly training and professional learning that is delivered to teachers and lecturers by external private providers.

5. Give us your views on whether you think the actions already underway across the sectors on STEM fit well with the Strategy and will contribute positively to it.

Our view is that the actions already underway are useful in supporting the Strategy but that there are many of them, with no clear co-ordination. Both of these factors make it difficult for STEM teachers and lecturers to access the full range of initiatives that may be on offer. Lack of co-ordination and coherence makes engagement onerously time-consuming and often prohibitively so.

6. Tell us about activity currently ongoing – either included in this document or not – that you think could be adapted or stopped and why.

Please see answer to Question 5.

7. Do you agree with the principles set out for implementation?

Yes No

The principles place purely functional value on STEM education, and by implication, on education generally, with its worth expressed solely in relation to the economy. Education has great value beyond this for the intellectual development and the well-being of individuals, communities and society.

The second of the principles listed reads as though there is intention to cut funding for STEM initiatives. The EIS is resolutely opposed to cuts to education. Our view is that to raise attainment for all and to make the education system more equitable, more, not less, funding is required. If the ambition to enhance STEM education is genuine, it requires to be properly funded (and not at the expense of other areas of the curriculum).

The final principle listed is vague. It would be helpful to include detail of the performance indicators against which delivery of the Strategy will be compared.

8. What else should Government do to ensure a more coherent approach and maximise impact?

The EIS view is that the document in its current form is aspirational in tone. To maximise the potential for impact, we recommend the inclusion of SMART targets: specific, measurable, attainable, realistic and timely; as well as the identification of the resources necessary to deliver the aims.

9. Overall, do you think this Strategy is clear and action focused? Do you think that the actions that we propose to take nationally will achieve the aims and intended outcomes?

The Strategy is not clear or focused enough, in our view. As outlined in a previous answer, the document in its current form is aspirational in tone. To maximise the potential for impact, we recommend the inclusion of SMART targets: specific, measurable, attainable, realistic and timely; as well as the identification of the resources necessary to deliver the aims.

With regards to the Priority Themes and Associated Actions around Excellence we would make the following points:

With regards to teacher recruitment in STEM subjects, while the EIS acknowledges the need to consider alternative approaches, we would stress that none of these should involve compromise of standards, either through reduction of entry requirements or dilution of the quality of ITE to facilitate fast-tracked entry to the profession.

The EIS welcomes the commitment to developing a programme of career-long professional learning for practitioners based on greater professional collaboration. We are keen to know how this will be resourced to enable teachers and lecturers to engage in such professional learning.

Similarly, we welcome the intention to encourage Masters level learning and would reiterate the view that this should be fully funded by Scottish Government and/ or local authorities, with equality of access to such learning across the profession.

The publication of STEM Benchmarks is likely to be problematic and the Benchmarks open to excessively bureaucratic application in schools unless accompanied by very strong good practice advice and careful, rigorous monitoring of their use thereafter. The EIS is also very concerned about the number of Benchmarks that primary teachers will be required to work with if they are published for all curricular areas, including STEM. They are likely to be unwieldy and therefore demanding of time that would be better spent on the teaching and assessment of children within STEM and other subjects. This will be true albeit to a lesser extent for teachers of Sciences and Technologies in the secondary sector.

Regarding the intention to deliver the Making Maths Count recommendations, the EIS would stress the need for funding to be made available for this on a sustainable basis.

In respect of the Digital Schools Programme, the EIS would caution around additional demands in terms of workload being placed on schools- any testing of innovative approaches would require to be resourced in terms of staffing. We would also reiterate concerns around schools' ICT infrastructure, in terms of availability/ accessibility of hardware and on the effectiveness of software.

Enabling S4, S5 and S6 pupils to undertake high quality STEM work-based pathways is to be welcomed though there are a number of considerations that require to be taken on board. Issues remain around the coherence of the senior phase and the profession requires adequate time to address these. The issue of parity of esteem between academic and vocational pathways remains live and cannot be singularly addressed by schools and colleges; the perceptions of parents, employers and wider society in relation to the status and pay attributable to different occupations are key. Schools require to have staffing allocations that enable meaningful partnerships with employers. Geography and locale play a part in the kinds of partnerships that can be established between schools and employers, making lack of equity in terms of young people's experiences an issue. Rurality is an issue for young people living in several parts of Scotland in terms of their access to education, therefore the provision of free transport would be a necessity to ensure equity of access to work-based pathways across Scotland. While partnership with employers could be useful in enhancing young people's learning experiences, there must be careful vetting of the values, work practices

and business behaviour of all employers who may be involved in such partnerships, to ensure that they are ethically sound.

Finally, with regards to supporting the Energy Skills Partnership to increase skills development and knowledge of college lecturers, the EIS would underline the need for stability and security of employment in order that the benefits of such professional learning can be maximised.

10. Will this Strategy improve equity of outcomes? If not, tell us what else it should include, in particular for women and girls and other groups of people – disabled people, care leavers and minority ethnic communities.

Yes No

In terms of addressing the greatest educational inequality of outcome- that between the most and least affluent children and young people in Scotland- the Strategy does not go far enough.

As with all areas of the curriculum, to address the comparatively lower achievement of relatively poorer children, and indeed to improve the quality of the learning experience and the educational achievement of all, most effectively and decisively, requires significant additional investment in education. Smaller class sizes, capped at a maximum of 20 across the primary and secondary sectors is essential. Currently primary teachers are endeavouring to teach practical science to children in classes of up to 33; secondary teachers responding to the individual needs of up to 33 children in Maths in S1 and S2, and up to 30 in the senior phase. These are not class sizes that will enable every single child or young person to be inspired or enthused by STEM and to achieve their potential.

Class size reduction at all stages and in all subjects, including STEM, would support high quality collaborative learning, for the benefit of all children and young people, and particularly those who face disadvantage caused by deprivation. The increased adoption of such collaborative approaches enabled by smaller classes, would, as early findings from research supported by the Institute of Physics and others seem to indicate, have the potential to make STEM learning more attractive, and less intimidating to girls.

Significantly in its references to equity gaps, the Strategy is silent on additional support for learning. The correlation between poverty and incidence of additional support need, including disability, is highly significant. To enhance the engagement and improve the outcomes of poorer children and young people in STEM, some of who have disabilities, additional investment in additional support needs provision is essential. The EIS is clear that there needs to be reversal of the cuts to ASN provision that there have been in recent years.

Investment in equipment and practical resources are also key to this agenda: ensuring that all schools have adequate funding for the specialist equipment,

materials and resources that are crucial to delivering high quality practical learning and teaching across the range of STEM subjects. For example, secondary science subjects have seen cuts of 25%-35% to their budgets for equipment and resources in recent years, making the purchase of 'big ticket' items of equipment, and even the replacement of old broken equipment difficult if not impossible. In addition, departments are struggling to buy consumables such as chemicals, batteries and bulbs, as budgets have to be spent on basics such as jotters, pencils and printing costs. Such shortage of funds has a huge impact on the amount of pupil practical activity that can be done with teachers having to resort to demonstration, the use of video and simulation which they are clear does not adequately meet the needs of learners.

A particularly damaging cut has been to the level of specialist technical support available to support practical work in STEM. Schools have seen drastic reductions in the number of technicians working to support STEM, and the hours for which they are employed: in some cases, technicians are having to work in several schools; in others technicians have been transferred to sessional contracts, meaning that maintenance and development work that would have taken place over school holidays cannot now be done. It would be instructive for the Scottish Government to undertake a comparison between the level of technical support that private schools provide to support STEM education, and that available to teachers and students in the state sector.

11. What could schools, colleges, universities, community learning and development, the voluntary sector, science engagement providers and museums do to support the areas for action?

With additional resources as outlined in previous answers, schools would be well placed to support the various areas for action, without detriment to other areas of the curriculum or to learners whose interests and talents lie in curricular areas other than STEM- in Social Subjects and the Arts, for example.

Colleges, in addition to improving the conditions of employment of their lecturer staff, should examine how significant cuts to the number of part-time courses being offered has impacted on access to STEM study for female and disabled learners in particular.

12. What could professional organisations and bodies and third sector organisations do to support the areas for action? This includes, in particular, the General Teaching Council for Scotland, the CLD Standards Council, the teaching unions and representatives and the Learned Societies.

The EIS will continue to engage with Scottish Government and local authorities around the resourcing of education, including STEM; with Education Scotland and

SQA on relevant learning and teaching resources and qualifications respectively; and with GTCS and initial teacher education institutions around training for and entry to the profession, of STEM graduates.

13. What more could science centres and festivals do to complement and enhance STEM formal education, to inspire scientists of the future, and to ensure their activities support those of the Scottish Government and its agencies?

Cost of access to the science centres is prohibitive for many families. Entry fees for the Glasgow Science Centre are listed below by way of example. Science centres, if they are to be fully inclusive, must consider how cost barriers can be removed for children, young people and adults suffering deprivation.

Science Mall*

Adult

£11.00

Science Mall*

Child / Concession

£9.00

Planetarium Add On

Adult / Child / Concession

£3.00

IMAX Documentary Add On

Adult / Child / Concession

£2.50

Glasgow Tower Add On*

Adult/Child/Concession

£3.50

Glasgow Tower only*

Adult/Child/Concession

£6.50

Planetarium Only*

Adult/Concession

Applies to the last show of the day only.

Suitable for visitors aged 7+ only.

£5.50

Science Passport

12 months free entry to Science Mall

Adult

£27.00

Science Passport

12 months free entry to Science Mall

Child / Concession

£21.00

Science festivals are commonly scheduled to take place during school holidays. Many parents within poorer families, in addition to facing cost barriers, are in insecure, low paid employment in which holiday entitlements often fall short of school holiday allocations.

Greater care should be taken, therefore, to align the timings of festivals with school terms, avoiding exam diets, in order to maximise access for all children and young people in Scotland.

Science centres and science festivals must continue to work to ensure that they provide a service to all sectors of society, and a key target of their work must be greater engagement with those living in rural areas or from socio-economically disadvantaged groups.

14. Should this Strategy identify more actions for particular sectors, for example in relation to workplace and work-based training and development? Please make suggestions on what these actions could be.

In addition to the suggestions made with regards to further action by employers to provide work-place training and development, in the interests of the Fair Work agenda, the EIS believes that more could be done by STEM employers to recruit workers from under-represented groups - women, minority ethnic and disabled people, and those from working class backgrounds - by providing training in unconscious bias to those involved in recruitment processes. Careful equality monitoring should be in place with regards to recruitment processes. Employers could work together with trade unions on this.

The same is true for equality monitoring and analysis of data on access to training, and on retention and career progression. Data should be used to inform policy and practice - for example around flexible working and reasonable adjustments for

women and disabled workers respectively, and on accessibility and suitability to the needs of all of training offered. Again, trade union representatives, particularly Equality Reps, could assist in this. This is particularly crucial if the STEM sector is to prevent the continuing loss of female talent as a consequence of workplace cultures, pay gaps and practices that are unfavourable to women.

Employers could also establish, as may progressive employers do, mentoring programmes and bespoke training for under-represented groups, in the interests of developing and maximising the talents of all.

Finally, employers could demonstrate clear commitment to equality and diversity by providing training for all employees in this area, with regular refreshes, and public display of materials that reinforce the organisation's commitment to a fully inclusive ethos, and non-discriminatory policies and practice.

15. Tell us what you think about this Improvement Framework. How can we best ensure uptake of this Framework in early years learning settings, schools and clusters?

Excessive teacher workload and widespread teacher and supply teacher shortages must be uniformly addressed in order for schools and clusters to push forward with the terms of the Framework.

The EIS would not, for example, support the appointment of a named person for STEM within an establishment without the individual being given additional time in which to carry out the role. Remuneration for promoted staff may also be an issue. Scottish teachers are currently among the most class-contacted in the world, meaning that they have less time to spend on innovation and collaboration with colleagues in areas such as STEM.

While the EIS welcomes the emphasis on professional learning, as previously stated, with inadequate numbers of teachers and supply teachers, it is difficult to see how teachers will be afforded time out of the classroom to devote to this.

In terms of enhancing knowledge of careers in STEM, cuts to the careers service will make this challenging.

A further significant challenge to the uptake of this Framework is, as previously mentioned, the huge reduction in the number of technician support staff which has had a detrimental impact thus far on teachers' ability to organise practical learning activities in Science and Technology. With cuts to this service of around 40% in recent years, much equipment remains in a state of disrepair and teachers can no longer rely on technicians to the same extent to prepare chemicals and electrical equipment, for example, for practical experiments. Not only does this curb innovation in learning and teaching but makes the role of school technician an unattractive career option.

The EIS, while acknowledging the importance of STEM education and its value to the economy, is clear on the need to be mindful that the primary curriculum

requires to be de-cluttered- there are currently too many initiatives underway and streamlining is required. In streamlining and giving emphasis to STEM skills, care must be taken that STEM does not dominate the curriculum in such a way as to prevent skills exploration and acquisition in other important curricular areas. Equal value must be attributed to the interests and skills of all children in all areas.

Also with regards to equity, diversity and equality, there should be explicit reference to the need to ensure that teaching materials at all stages reflect the role that women and minority ethnic people have played in the world of science and technology, which has been largely under-played within or omitted from lessons, text books and other resources. Teaching materials therefore require to be equality-audited and updated where necessary in this regard if the subjects are to be genuinely inclusive in their reach.

16. Tell us what you think of our proposal for developing a model of collaboration between schools, colleges, universities and employers. How should we now take this forward?

The EIS favours collaboration among education professionals and has repeatedly advocated for time to be made available for this within teachers' and lecturers' working time. Models of collaboration such as the LUMA centres in Finland are made possible by having teachers employed in such numbers that cover is available and sufficient time is created for collaboration within the working week, in addition to the time required for delivering lessons and the associated preparation and correction.

In terms of collaboration with employers, please see comments in response to Question 9.

17. Tell us what you think of our proposals for a Scottish STEM ambassador network. How should we now take that forward?

The EIS would question why another additional ambassador network is being established.

We would also emphasise the same need for ethics monitoring of members of the ambassador network as with employer partnerships.

Again, schools and teachers will require time to access and engage meaningfully with the network.

18. What other groups, organisations or people need to be involved in delivery of this strategy?

Employers in the terms previously indicated.

Science funding bodies such as the Science and Technologies Facilities Council.

19. Tell us about what you are doing in your organisation, establishment or community that supports the aims and priorities of this Strategy.

The EIS as an affiliate of the STUC works with other trade unions to promote workplace equality and diversity.

As a professional association, we have undertaken several pieces of work on gender inequality and gender stereotyping; and have campaigned for some time on the impact of poverty on education. In all of this work, we have engaged with partner organisations and our own members.

20. What could employers do to attract and retain more diverse STEM talent?

Suggestions for this have been included in the answers above. To develop robust pro-equality recruitment and retention practices, employers should seek the expertise of trade unions in this area and fully involve representatives in shaping all relevant policy and practice.

The Educational Institute of Scotland

Religious Observance in Schools (RO): Scottish Government consultation on changes to the guidance

Background to this consultation

The Scottish Government Learning Directorate contacted the EIS in November 2016 to intimate its intention to consult us on a revision to its guidance on Religious Observance (RO) in schools. The guidance in question is from 22 February 2011, and takes the format of a letter to Directors of Education/Headteachers, from the Scottish Government, headed 'Curriculum for Excellence – Provision of Religious Observation in Schools'.

The current consultation arose from a campaign by the Humanist Society Scotland (HSS). In September 2016, HSS served a petition for Judicial Review on Scottish Ministers to challenge certain aspects of the Scottish Government's position on RO. The petition was since narrowed in scope, with the remaining point relating to a request that the Scottish Government's guidance on RO make clear mention of children's rights in any decisions about withdrawing from RO.

In correspondence with HSS in June this year, the Scottish Government confirmed the current policy and guidance position. This letter restated the position regarding the legal right for parents to withdraw children, and added that: *"many schools will find it helpful and sensible to include young people in any discussions about opting out, ensuring their wishes are aired. This seems especially relevant as young people become older and take more responsibility for their own learning."*

The Scottish Government then agreed to seek to reflect the substance of this additional commentary in a revised version of the RO guidance letter. It announced that it would hold a consultation on a revision to the 2011 guidance, in particular to make clear mention of the role of children and young people in decisions about their education, specifically in relation to any decisions about withdrawing from RO.

In February 2017, the Education Committee noted that the EIS had received a further letter from the Learning Directorate to ask for our views on revisions to the Scottish Government's guidance on Religious Observance. That letter noted that:

- this is **not** a review of the legislative provisions underpinning the provision of Religious Observance in schools
- this does **not** mark a shift in Scottish Government policy
- the proposed revisions to the guidance serve two purposes, namely:

1. To ensure that readers are clear that young people should be involved in decisions about RO in their education;
2. To bring references and language up-to-date and provide additional clarity where it is thought that this is needed.

Comments on proposed revisions to the guidance letter were sought by 24 February 2017. Our submitted comments are at Annex A of this paper.

Current EIS position on Religious Observance

The EIS Council, at its meeting of 30 September 2016, carried a motion on RO, as follows:

"That this Council resolve that the EIS should publicly support the right of 16-18 year old pupils in Scottish schools to decide for themselves whether or not to participate in religious observance in schools."

It is therefore EIS policy that we support the right of 16-18 year old pupils to opt in or out of Religious Observance.

However, in addition, our policy in terms of younger pupils was elaborated in our response to a 2003 consultation on RO, in which we said, *"the right of pupils at a suitable point in their development (probably around the age of 12) to withdraw themselves from RO must be recognised"*.

This 2003 consultation response is our most substantive comment on RO provisions and as such represents the best statement of our current policy, when read alongside the 2016 Council motion above. The key messages of the 2003 paper were that:

- We consider that it will be necessary to consider the legal status of RO, as the statutory requirement is based on earlier legislation dating back to the period when the government assumed direct responsibility for the provision of universal elementary education while continuing to recognise in various ways the role of the major Christian denominations in education (and in one case the role of the Jewish faith).
- The issue of religious observance must be considered in the context of an inclusive society whose citizens are participants in a wide range of cultural traditions, which are not themselves static; many of these citizens are adherents of one of many different faiths; many others are adherents of no faith.
- The definition of religious observance through legislation and the restriction of any development through the requirement to carry out a poll of local electors, are no longer appropriate within an inclusive multi-ethnic and multicultural society such as Scotland in the early years of the 21st century.
- We agree that the aim of religious observance is to 'promote the spiritual development of all the members of the school community' but with the caveat that for some members of a school community there may be a

tension between spiritual development and the expression and celebration of shared values.

- We think that the frequency of primary and secondary pupils being given an opportunity to participate in religious observance is a matter to be determined by the school community taking into consideration the ethos of the school, the views of staff, the views of parents and, where appropriate, the views of pupils.
- The right of parents to withdraw their children from religious observance in schools must be maintained in any future arrangements; in addition, the right of pupils at a suitable point in their development (probably around the age of 12) to withdraw themselves from religious observance must be recognised.
- The right of school staff (teachers and support staff) to withdraw from religious observance, whether on a particular occasion because of the nature of the event, or from all religious observance because of their philosophical and ethical views, must be recognised. These rights should not be constrained by practical issues of supervision or accommodation.
- To give schools the maximum opportunity for provision of religious observance, they need adequate physical space; time set aside within the school day; support from the school community; and commitment from the senior management team.
- The legislation limits inclusiveness.
- We believe that the term 'Religious Observance' may be off-putting to some people and encourages a continuation of the confusion between Religious Observance and Worship.
- Many may have difficulty with the term 'Spiritual Development' which has different meanings for different groups of people. The stress should be on honestly finding and developing personal values; in this context, the avoidance of the word 'religious' may permit a more inclusive approach.
- The issue of shared values will require schools and the educational establishment to determine what these values are. The difficulty of this task should not be underestimated if facile answers are to be avoided.
- We believe that all members of the school community should have the opportunity, time and space for silence and reflection, reflecting on a focus, which will allow them to develop themselves.

A 2014 AGM motion requesting that the EIS *"support moves to replace the legal requirement for schools to provide Religious Observance with Time for Reflection"* was remitted for consideration by the Executive, which agreed in January 2015 to ask the Education Committee to update existing EIS policy on RO. The proposed updated policy will be brought to a future Education Committee for discussion in due course.

EIS comments on proposed revisions to the Scottish Government guidance on Religious Observance

February 2017

The EIS welcomes the opportunity to comment on proposed revisions to the guidance on religious observance (henceforth RO).

We note that there are five proposed revisions to the guidance, and that these broadly concern:

1. Setting the guidance in an updated context
2. Clarity about the definition of RO and about the equal validity of 'Time for Reflection'
3. The importance of schools communicating effectively about RO plans
4. Clarity about the relevance of young people's views in any discussion about withdrawal from RO
5. Re-numbering, formatting and nomenclature updates.

Our views on each proposed revision are below. In addition, we wish to make a number of general comments and observations, focusing in particular on recognising that many people have no faith/belief; frequency of religious observation; facilities; and staff right to withdraw.

Comments on proposed revisions

Proposed revision 1

We support this change. It is important and helpful for teachers using this guidance to have quick links to related guidance, as many teachers lack time or IT resources to easily find reference documents. (We note that the link in the current draft to CfE briefing paper 16 is not correct, due to changes to the Education Scotland website; and that there is no link provided re: the 2012 regulations. Likewise, links should be provided to the policies on RME in non-denominational schools, and on Religious Education in Catholic schools.)

Proposed revision 2

We support the change to this text, as the broadening out of terminology to convey a more inclusive approach, in which schools are enabled to select the most appropriate term for their provision of RO, is welcome.

We also welcome the proposal to make this section more prominent, as setting out definitions at the outset is helpful. However, we would suggest that the wording be changed slightly, to "...all aspects are equally relevant when the terminology 'Time for Reflection', **or equivalent**, is used". This should consolidate that the intention is to enable schools to define RO in ways which are meaningful to their contexts and communities.

Proposed revision 3

We support this change. It is helpful to have clarification that RO should be subject to the same kind of communication that pertains to other aspects of school provision. Communication about RO is particularly important given that parents have a right to withdraw pupils from this; and that young people may increasingly wish to withdraw themselves. People cannot exercise rights they are unaware of holding. Good communication also enables good planning, which is vital in a climate whereby teachers have heavy workloads and multiple competing demands.

Proposed revision 4

We support this change, to an extent, but believe it could be strengthened. It is vital for schools to take a participative, consultative approach to RO which is compliant with human rights approaches. Clearly stating that children should be included in discussions about aspects of their school experience is sensible, but insufficient. We would wish to see the wording of this statement strengthened.

EIS policy is to support the right of pupils in Scottish schools at a suitable point in their development to decide for themselves whether or not to participate in religious observance in schools. This capacity to decide to withdraw may be present from around the age of 12, and certainly by the age of 16-18. We also acknowledge that younger pupils in certain circumstances may wish to exercise this right, and that this right must be recognised.

We note that the UNCRC stated in 2016 that pupils should be able to independently exercise the right to withdraw from RO, in its concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland. The UNCRC did not limit this right to pupils of any particular age. It was critical of the situation in England where only 6th form pupils have the right to withdraw. We note that the Scottish Government has obligations under Articles 12 and 14 of the UNCRC and the Children and Young People Act (2014), and we are not convinced that paragraph 20 as proposed is fully compliant with those obligations.

We would wish to stress that in making suitable alternative arrangements, cognisance should be taken of teachers' Working Time Agreements; for example, teachers in the primary sector in particular should not be asked to surrender designated non-class committed time to supervise/ provide alternative activities for pupils who have chosen to withdraw from RO.

Proposed revision 5

These are sensible changes. We particularly welcome the aspects which reflect a more inclusive approach (e.g. the changed heading to 'Diversity', and the use of

'Faith/Belief Representatives' rather than 'Chaplains and other Faith Group Leaders').

Other general comments

Inclusion of people with no religion

We note that the guidance says in paragraph 8 ('Diversity') that Scotland has many faith and belief traditions. It does not say that it also has many people who have no faith or religious belief. We note that a recent Scottish Social Attitudes survey (2016) found that 52% of the population of Scotland said that they are not religious, compared with 40% in 1999. This figure may well be higher for children of school age, as the National Centre for Social Research says that "each generation of Scots has been less likely to identify with a religion".

We would expect the guidance therefore to make reference to people with no religious belief, at various points, e.g. in paragraph 8 and paragraph 11.

We also suggest that more explicit mention could be made of the increasing diversity of Scottish society, which has welcomed nearly 4,000 refugee children and over 1,500 asylum seeking children in the past two years, as well as economic migrants from a wide range of countries. Scotland is becoming a more ethnically diverse country, and with that diversity comes a host of religious views and beliefs, which has significant implications for providing inclusive RO.

We believe that faith and belief perspectives from many diverse traditions should be equally valued in Scottish schools.

Frequency of religious observance

We do not agree that the guidance needs to specify the number of times that RO should be provided. This is unduly prescriptive. We think that the frequency of primary and secondary pupils being given an opportunity to participate in religious observance is a matter to be determined by the school community, taking into consideration the ethos of the school, the views of staff, the views of parents and, where appropriate, the views of pupils.

Equality Act

We think that the guidance should mention the Equality Act 2010, as an important piece of context. This is the primary legislation which pertains to discrimination on the grounds of religion or belief in the UK, and as such should be referenced in the guidance.

Facilities

We agree with the recommendation at paragraph 25 that appropriate facilities need to be provided for RO, but we are not aware of any new-builds or refurbishment projects where this aspect has been considered, except for denominational schools. Indeed, in some new schools, which have moved towards open plan layouts, it may be more challenging now to provide the opportunity, time and space for silence and reflection. If the Scottish Government genuinely

intends to encourage participation and diversity then the provision of adequate facilities needs closer attention.

To give schools the maximum opportunity for provision of religious observance, they need adequate physical space, which takes account of the needs of different faith groups in its design; but beyond that, schools also need time set aside within the school day; support from the school community; and commitment from the senior management team.

Terminology

We are not convinced by the term 'spiritual development'. For some members of a school community there may be a tension between 'spiritual development' and the expression and celebration of shared values. We would prefer a broader, more inclusive term to be used, e.g. Spiritual, Moral, Social and Cultural development. Many issues can be raised during RO/Time for Reflection, including moral issues and community issues, and it would be wise to avoid conflating these moral/cultural issues with faith-based spirituality.

Rights of staff

We believe that the guidance should contain explicit mention of the right of staff to withdraw from RO. The right of school staff (teachers and support staff) to withdraw from religious observance, whether on a specific occasion because of the nature of the event, or from all religious observance because of their philosophical and ethical views, must be recognised. These rights should not be constrained by practical issues of supervision or accommodation. In the current climate, in which teacher shortages are creating serious difficulties in schools, with many of our members describing the current situation as a 'cover crisis', this is particularly important to state in very clear terms. It would be unacceptable for members to be obliged to take part in RO because of practical issues. This also related to the right of staff not to take on additional duties of supervising children who have withdrawn from RO, unless this is negotiated as part of a Working Time Agreement.

Concluding paragraph

We welcome the inclusion of reference to self-evaluation and of the School Improvement Plan, and of the need to take account of the views of staff, parents, pupils and partners, in the concluding remarks in paragraph 29. These are sensible changes which reflect the consultative, reflective, approach taken by schools in developing their provision.

Legal basis for RO

We consider that whilst updated guidance is useful in the short-term, in the longer term it will be necessary for the Scottish Government to consider the legal status of RO. The statutory requirement is based on earlier legislation dating back to the period when the government assumed direct responsibility for the provision of universal elementary education while continuing to recognise in various ways the

role of the major Christian denominations in education (and in one case the role of the Jewish faith). We question whether RO still needs statutory underpinning.

The Educational Institute of Scotland

EIS Response to Consultation on Proposed Changes to GTCS Council Election Scheme and Process.

Do you have any comments on how we could improve awareness and understanding of voting (as compared to registration) categories?

It may be helpful to include in all materials explaining the process, a table that indicates for each registration category, the appropriate voting category. Clarificatory information on the relationship between registration, employment and voting would also be helpful, for example, for teachers working in special education and within external services.

Do you think there is anything else we could do to attract more interest in our election process?

Many teachers are unclear about the role of the GTCS, how it functions or the part played by Committees of Council. Engagement and enhanced communication with registrants around this, in a variety of forms, would perhaps stimulate greater interest and willingness to participate in the organisation and therefore the Council election process.

GTCS does not currently operate rigorous equality monitoring processes. If it did gather equality-related data, including that relative to its election processes, then it would be better equipped to make intelligence-led adaptations or additions to communication and engagement practices that might be more inclusive of, or indeed targeted at, certain groups of registrants.

Do you agree that anyone currently registered, in any voting category should be permitted to propose or second a nomination as outlined under (i) in the consultation information document?

Yes, the EIS view is that anyone currently registered in any voting category should be permitted to propose or second nominations.

That said, a matter that may require clarification is the relationship between the employment status of nominees, proposers and seconders, and the nominations process. Not all who are registered are currently employed as teachers

In addition, we consider there to be potential advantage and disadvantage in the removal of the requirement for five supporters. While this change may make the nomination process less onerous for those seeking election, it may render the process less representative.

Do you agree that the nomination process be moved online?

Not entirely.

Do you have any comments regarding the proposed change to online nominations?

The EIS is not convinced that conducting the nomination process solely online, while being less expensive to deliver, will have the desired effect of increasing engagement in the process.

In practical terms, an online nominations process requires access to the necessary technology by all and reliability of the relevant IT systems. Potentially there are issues around equality of access to the process related to geography and reliability of internet access; the extent to which registrants are IT literate; and to the access that all registrants have to IT facilities and the internet both in the workplace and at home.

In light of this, a better approach might be to run both systems in parallel for a time and then evaluate.

Do you think that any of the changes we are proposing will have an impact on any group of people in terms of the protected characteristics (i.e. age, disability, gender reassignment, pregnancy/maternity, race, religion or belief, sex, sexual orientation and marriage/civil partnership)?

In response to the recent Fitness to Teach consultation, the EIS recommended the introduction of equality monitoring covering all protected groups. As previously stated, it would be good practice to conduct an Equality Impact Assessment on the impact of the proposed changes on those sharing the above protected characteristics.

Only by gathering and analysing robust equality data can an organisation genuinely evaluate the impact of its policy, practice and processes on those who share protected characteristics. Although not a public body and not required by law to do so, the GTCS is a body which acts in the public interest, whose membership is largely employed within the public sector, and which would therefore do well to adopt good practice in equality monitoring.

In particular, the EIS would be interested to view data relating to the levels of engagement with GTCS elections of registrants who are from Black, Asian and other minority ethnic backgrounds, this being a group who are under-represented within the profession as a whole and significantly under-represented within leadership roles.

With regards to the move to solely online nominations and voting, GTCS should be aware of the implications of the digital divide as it relates to age.

In the interests of promoting genuine equality, justice and fairness within GTCS procedures, the EIS would urge robust equality data collection, monitoring and analysis, including that which relates to Council elections.

The Educational Institute of Scotland
EIS Response to Consultation on draft Head Teacher and Training
Standards (Scotland) Regulations

Consultation Questions

There is no obligation to respond to all questions and you are free to submit further comments as you wish. The questions are to help guide respondents.

Question 1

Do you agree with the scope and exemptions of the Regulations?

For the most part, yes. However, the EIS would question why headteachers in the independent sector are exempt from the regulations while teachers within independent schools will be required to demonstrate that they have met the GTCS standard for registration in the relatively near future. There seems to be a contradiction here.

Question 2

Do the exemptions allow for appropriate flexibility in relation to the staffing of schools?

Yes.

Question 3

Is the 24 month maximum limit for the duration of temporary appointments to the role of Head Teacher (where a person does not have the Standard for Headship) an appropriate limit and does it allow education authorities and grant aided schools sufficient flexibility?

Yes.

Question 4

Is the coming into force date of 1 August 2019 reasonable both for employers and aspirant Head Teachers?

The EIS would suggest, given the uncertainty in terms of the outcomes of the Governance Review of Education, and in the context of the current headteacher recruitment issues and general teacher shortage, that this deadline be extended to at least August 2020.

Question 5

Are there any other comments you would like to add regarding this consultation?

The EIS view is that the availability of this headship qualifications will not, in itself, incentivise people to seek to become headteachers.

Our senior manager members highlight the workload of headteachers and deposes as a significant issue, particularly in the context of teacher shortage. Many headteachers and deposes, in the absence of supply teachers, are teaching classes during what would otherwise be time set aside for management duties. They are clear that, in order for the learning associated with gaining the headship qualification to be overtaken, adequate protected time is required. Without this being available the likelihood of uptake of the course will be diminished and the drop-out rate high.

Within the context section of the document, there is no reference to the significant under-representation of women in headteacher posts within the Secondary sector. While there has been a gradually improving picture in recent years, still only 41% of Secondary headteachers are women yet they are 63% of the whole Secondary teacher workforce.

Similarly, there is no reference to the stark under-representation of Black and Minority Ethnic (BME) people within senior management posts, and specifically headteacher roles within the profession. BME teachers comprise 1% and 1.7% of the Primary and Secondary teacher workforce respectively, yet hold headteacher posts in such small numbers that they do not appear within Scottish Government school census data for either sector.

Such under-representation both of women and of BME people within headteacher posts and the underlying reasons for this, must be a matter for consideration in any analysis of the challenges around headteacher recruitment. The ADES report referenced in the context section makes no mention of this.

Also with regards to the context section of the document, the EIS would wish to highlight that many of our headteacher members are unhappy with the Scottish Government intention to confer more of the responsibility that currently sits with education authorities onto headteachers. To put it simply, the workload of headteachers can be increased no further. In light of this, the EIS would wish there to be further elaboration on what is meant by 'all the support necessary' on page 5. Finally, in terms of additional decision-making responsibilities, the EIS is disappointed that there is no explicit reference whatsoever within the consultation document to such decisions being taken at school level on a collegiate basis, involving teachers within the school or the learning community.

The Educational Institute of Scotland

Instrumental Music Teachers: National Qualifications in Music

The 2016 AGM passed the following resolution:

"That this AGM instruct Council to recognise the importance of Instrumental Music Teachers in delivering National Qualifications in Music and to campaign for instrumental music to be regarded as part of the core curriculum."

The Instrumental Music Teachers (IMT) Network discussed this resolution at its meeting of 8 September 2016.

It agreed that in order to take forward this resolution, it would be necessary to devise a campaign rationale and strategy. A first step would be to undertake a survey of EIS IMT members, to ascertain in detail the role played by IMTs in delivering NQs in Music, and to gather information about the value of instrumental music, in order to support the development of a campaign rationale.

Survey of IMT members

A survey was drafted and the draft discussed by the IMT Network at its meeting of 18 January 2017. It was agreed that, subject to some amendments being made, and approval received from the General Secretary, the survey could be issued in early February, with a closing date in March. The survey was sent to 383 IMT members on 7 February 2017. It was issued primarily through the online survey tool, surveymonkey, but paper copies were also made available.

In total, 125 IMT members completed the survey. This is a response rate of 33%, which is an excellent response rate for an online survey, and higher than was anticipated. In addition, there was a good response from across Scotland, with members with 25 local authorities taking part, and from a range of disciplines and sectors. Also, respondents made a wide range of remarks in the open comment fields, which gives a good body of evidence to work with in taking the issues raised in the resolution forward.

IMT role in delivering NQs

Members indicated in high numbers that they play a role in delivering NQs in Music, through various activities. There was significant consensus about some aspects, e.g. 94% of IMYTS said that they source and research materials, 94% said that they rehearse with or accompany learners in exams, and 90% said that they have a role in advising on a performance programme (see table of survey results below). Members also made a wide range of comments about other ways in which they contribute to NQs, including "recording performances for assessment bank/evidence"; "producing learning materials tailored to individual pupils needs that cannot be bought (e.g. coloured pages for dyslexic pupils, larger print for

visually impaired pupils etc.)”; and “directly deliver 60% of many SQA learners' entire SQA music awards (through preparing their performances on two elements of practical music requirement).”

IMT members’ role in delivering NQs in Music

Deliver instrumental tuition	99%
Nurture young learners by providing musical opportunities	95%
Ensure continuous practical examination assessment is undertaken	79%
Source and research materials	94%
Produce & maintain learners’ timetables	87%
Produce an individual forward plan for each learner	69%
Provide a weekly/regular update to progress diaries for each learner	82%
Rehearse with or accompany learners in rehearsals and exam performances	94%
Compose / arrange/ transpose music, including backing tracks, for use during lessons, performances, and practical examinations	85%
Liaise with learners' classroom music teacher(s) and parents, regarding learners’ progress, attendance & behaviour	97%
In partnership with the classroom music teacher, ensure that relevant materials link up with classroom projects to enhance the CfE framework	68%
Advise on listening / viewing materials and reinforce classroom concepts on listening	84%
In partnership with learners’ classroom music teachers, agree on a performance programme, in line with SQA guidelines	90%

Instrumental Music as core curriculum

Members were also asked a question to contribute to devising a campaign rationale for the inclusion of instrumental music in the core curriculum. The question was,

"In your view, how does attending Instrumental Music lessons contribute to raising learners' attainment?"

Members contributed a wide range of responses, such as:

- "Instrumental music enhances self-confidence, good social skills. It creates self-motivation, discipline and many other life skills."
- "Learners gain enhanced levels of concentration and self-discipline, as well as gaining access to wider opportunities which further teamwork and cooperation with others."
- "Instrumental music supports all elements of CofE in today's curriculum as a result, attainment for pupils receiving instrumental lessons is raised due to the significant developmental benefits of learning to play a musical instrument. Furthermore, the benefits to other non-instrumental pupils in schools are far reaching."
- "There is now a growing body of evidence that learning to play a musical instrument or sing aids and improves learning in both numeracy and literacy. Learning also improves cognitive ability, social skills and a big impact on the health and wellbeing of the pupil or young person. Through performance opportunities, pupils and young people develop their own self confidence whilst at the same time develop their understanding on setting targets and working to set timeframes."
- "Besides the numerous studies worldwide showing the links between instrumental music lessons and academic attainment, I see the evidence on a daily basis of pupils gaining confidence and growing in self-esteem."

Emerging issues

Further, members were asked,

"Are there any emerging issues in your Local Authority relating to Instrumental Music Teaching that you think it would be useful for the EIS IMT Network to be aware of?",

and a wide range of remarks were shared, which will help to assist in developing the IMT Network's focus as it moves forward with this resolution.

Next steps

The IMT network will consider the survey findings in depth at its meeting of 25 April 2017, and will make recommendations as to next steps thereafter.

The Educational Institute of Scotland

Pupil Equity Funding (PEF)

Interim Advice to EIS Local Association Secretaries and School Representatives

This interim advice paper comprises the key details from the Scottish Government's Draft National Operating Guidance on the Pupil Equity Fund, published in February 2017, with accompanying EIS advice.

The Scottish Government has indicated that the National Operating Guidance will be finalised at the end of March 2017, following which the EIS will finalise its advice on PEF for Local Association Secretaries and School Reps.

What is PEF?

- Announced 1st February 2017, PEF is additional funding allocated by the Scottish Government, directly to schools, and targeted at closing the poverty related attainment gap.
- Part of the Scottish Attainment Challenge programme from 2017-18
- Forms part of the £750m Attainment Scotland Fund.
- PEF draft national guidance issued to help schools plan how they will most effectively invest their PEF allocation.
- Local authorities will issue complementary guidance about how the funding will operate locally.

How much is it and how will it be allocated?

- £1200 per child in Primary 1 to S3 eligible and registered for free school meals.
- Funding allocation will be calculated using the most recent Healthy Living Survey and Pupil Census data relating to free school meal entitlement in Primary, Secondary and Special schools. (This method will be kept under review as efforts are made to improve the quality of data used to identify children living in households affected by poverty.)
- Funding for 2017-18 will be paid directly to local authorities via a ring-fenced grant.
- Individual school allocations will be clearly identified by Scottish Government.

How can PEF be used and who will decide how it is spent?

- Should be focused on activities and interventions designed to realise improvements in literacy, numeracy and health and wellbeing.
- Although allocated on the basis of FME, Scottish Government has indicated that Headteachers have discretion to make decisions about which children and young people will be included in any intervention focused on equity.
- Family learning and transitions are areas that might be the focus of additional interventions.
- An online framework 'Interventions for Equity' has been developed which provides examples of relevant interventions though not an exhaustive list.
- Interventions should be considered within the school improvement planning cycle.

EIS Advice

Initial Scottish Government press releases stated that the additional funds would be 'spent at the discretion of teachers and school leaders to close the poverty related attainment gap in their schools'. This message was echoed during various Headteacher briefing events.

Subsequent draft guidance has stated that Headteachers can work at an individual school and local community level, or collegiately in wider school clusters and beyond at local authority level to address common interests.

The EIS expectation is that Headteachers will work collegiately at school, school cluster and at local authority level.

Teachers at local level must be involved in identifying the children and young people in the school who are affected by poverty; their needs with regards to literacy, numeracy and health and wellbeing; and in decision-making around the nature and scope of the interventions designed to address these needs, taking account of school Working Time Agreements.

Consideration should be given within such discussion as to how targeted support for individuals and groups of children can be achieved without stigmatisation of the children and young people whose progress is affected by poverty.

Time must be factored in to WTAs to allow for all such collegiate discussion to take place.

Key Principles of Scottish Government Guidance

- Headteachers must have access to the full amount of the allocated PEF.

- PEF must enable schools to deliver activities, interventions or resources which are clearly additional to those which were already planned.

EIS Advice

Under no circumstances should PEF be allocated in such a way as to enable savings from other budget streams to be made.

Any incidence of this at school or school cluster level should be reported to the Local Association Secretary immediately.

- Headteachers should work in partnership with each other, and their local authority, to agree the use of the funding. Schools must take account of the statutory responsibilities of the authority to deliver educational improvement, secure best value, and the authority's role as employer. Local Guidance will set out more detail on how this will operate.

EIS Advice

The EIS view is that teachers both within and across establishments must be involved in collegiate decision-making with regards to how the funding is spent. This is in the spirit of the Scottish Government's original announcement of the funding and subsequent briefings to Headteachers.

- Operation of PEF should articulate as closely to existing planning and reporting procedures as possible – e.g. through School Improvement Planning and Standards and Qualities reports.

EIS Advice

The EIS is clear that there is no room within the system for additional layers of bureaucracy and that both teachers and Headteachers require protection from additional workload that may emanate from the management of PEF at school level.

Administration of funding streams should be possible within existing local authority mechanisms, thereby minimising additional administrative burdens for schools/

- Parents and carers, children and young people and other key stakeholders should be involved in the planning process.

EIS Advice

Time for meaningful engagement with parents and carers, children and young people must have allocation of time from the WTA.

- Funding must provide targeted support for children and young people affected by poverty to achieve their full potential. Although the Pupil Equity Funding is allocated on the basis of free school meal eligibility, Headteachers can use their professional judgement to bring additional children in to the targeted interventions.

EIS Advice

As mentioned previously, the EIS view is that teachers' professional judgement is also key to this decision-making. Decisions about which children will be supported by interventions must be made collegiately.

- Headteachers must base their use of the funding on a clear contextual analysis which identifies the poverty related attainment gap in their schools and plans must be grounded in evidence of what is known to be effective at raising attainment for children affected by poverty.
- Schools must have plans in place at the outset to evaluate the impact of the funding.

EIS Advice

Headteachers and teachers may require professional learning in data gathering and analysis to enable clear, contextual analysis of the poverty-related achievement gap and evidence-based evaluation of what interventions are effective in reducing it.

Equalities

Evidence shows that some children and young people from equalities groups are disproportionately affected by deprivation and can therefore face significant additional barriers to learning. Education authorities have responsibilities to actively address inequality. In this context, headteachers should promote equity by taking into account equality groups when planning support and interventions. Funding should not be used in ways that stigmatise children and young people or their parents.

EIS advice

Teachers at school and cluster level should be involved in discussions around which children and young people should be the focus of additional interventions and on how their needs in relation to literacy, numeracy and health and wellbeing can best be met. In doing so, the following should be kept in mind.

Many children and young people share characteristics that are protected by the Equality Act (2010). The protected characteristics for the schools provisions of the Act are: *disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.*

The single public sector equality duty requires public authorities to have 'due regard' to the need to:

- ***Advance equality of opportunity between those who share protected characteristics and those who do not***
- **Eliminate discrimination, harassment and victimization of those who share protected characteristics**

- **Foster good relations between those who share protected characteristics and those who do not.**

Having 'due regard' to the need to advance equality of opportunity is defined further in the Equality Act 2010 as having due regard to the need *to remove or minimise disadvantage; take steps to meet different needs; and encourage participation when it is disproportionately low.*

Examples of ways in which children and young people from protected groups may be disproportionately affected by deprivation are young people with additional support needs arising from a disability being 40% more likely to be living in poverty than their non-disabled peers; and children from immigrant communities whose parents are more likely to be living on low income and who have English as an additional language.

For schools, having 'due regard' means, in particular:

When making a decision or taking an action a school must assess whether it may have implications for people with particular protected characteristics.

It should consider equality implications before and at the time that it develops policy and takes decisions; not as an afterthought, and it needs to keep them under review.

The equality duty has to be integrated into the carrying out of a school's functions. The analysis necessary to comply with the duty should be carried out rigorously and with an open mind – it is not a question of just ticking boxes.

Schools need to do this themselves and cannot delegate responsibility for carrying out the duty to anyone else.

Partnerships

Parents and the local community are a valuable source of support and partnership. In many contexts schools may be able to achieve the best possible outcomes for children and young people by working with a range of bodies such as parent groups; parent councils; other local authority services; third sector organisations (including youth work, family learning organisations); other educational sectors; and/or centres of expertise. Understanding the needs of children and young people should help to identify appropriate areas for collaboration.

EIS Advice

Time will be required for teachers to engage in partnership working with external bodies. Such time must be accommodated within the parameters of the 35 hour working week.

Staffing

Where schools identify the need to recruit additional staff for an appropriate intervention or activity, they should work closely with the Local Authority (as the employer) to ensure that the job remits and specifications are clearly tied to the aims of the intervention. Headteachers need to take full account of local HR policies and procedures. Any teachers recruited will be excluded from the authority's contribution to any national teacher numbers and / or ratio commitment.

EIS Advice

Teachers at school level must be involved in discussions as to how PEF is spent, including in instances where additional staff are to be employed. *In instances where additional teachers will be employed, the terms and conditions of such employment must be fully adherent to teachers' conditions of service as agreed by the SNCT.*

The EIS is clear that the principle of additionality applies here, also. Where a member of staff is awarded additional management time to carry out duties associated with PEF interventions and initiatives, this must be at no detriment to school staffing levels and must not result in additional workload for other members of staff in the school.

Discussion on new roles, remits and the mechanisms for deployment should be had at the LNCT and School Reps are asked to advise their Local Association Secretary of all proposals involving additional staffing.

Procurement

Purchase of resources, equipment or services must comply with existing local authority procurement procedures. This will be particularly important when buying ICT resources (see below) or, for example, services from third sector partners. Schools should liaise with their relevant local authority finance partners to ensure compliance with procurement policies and legislation.

ICT

The Pupil Equity Funding can be used to procure digital technologies, including hardware and software, when its allocation and use is particularly focused on supporting children and young people affected by poverty to achieve their full potential. The Scottish Government provides access to a range of national procurement frameworks for the purchase of digital technology products and devices, including a range of desktops, laptops and tablets. The frameworks offer a direct route to market and significant savings against RRP.

To prevent issues arising with compatibility and connectivity, schools seeking to purchase digital technology should do so in close consultation with the IT Department at their local authority.

We know that simply providing more technology does not result in improved outcomes for learners. Therefore, any deployment of technology in an educational setting should be undertaken in line with the objectives of the

national Digital Learning and Teaching Strategy 3.
www.gov.scot/Publications/2016/09/9494

Support

There is a package of support available to assist schools in planning how to use their Pupil Equity Funding. This includes:

A framework of evidenced and proven educational interventions and strategies to help tackle the poverty related attainment gap. The framework can be used by all partners and should help to inform the decisions schools make. The structure and content will be dynamic and will continue to evolve as an integral part of the National Improvement Hub, where a wide range of improvement, self-evaluation and research materials are available and where practice exemplars can be shared. Other research summaries and intervention examples will be incorporated as these become available.

This suite of materials will be developed further in the coming months as the Scottish Government works with the Education Endowment Foundation to develop a Scottish specific version of their Teaching and Learning toolkit.

A series of regional events aimed at school leaders which will take place in February 2017. Scottish Government will support locally organised events where possible.

Attainment Advisors who will be able to provide advice on a regional basis.

A dedicated Scottish Attainment Challenge community on Glow where all educators can have online discussions, ask questions, post responses, exchange ideas, access additional resource materials and share examples of practice. In addition, this secure community will be used to host regular discussions about the interventions and strategies being developed through the Pupil Equity Funding.

Access to collaboration and communication tools on Glow including Yammer, Sharepoint, Blogs and Glow TV. These tools provide great opportunities for joint working and for sharing materials across all involved in the Scottish Attainment Challenge, with the ability to control visibility where required.

School Improvement Planning guidance. This will be provided through the National Improvement Framework.

Local authorities will also offer their own packages of support for schools to help them plan how to use the funding effectively.

EIS Advice

Time must be made available within WTAs for engagement with any support packages provided by the local authority.

Outcomes, impact and measurement

At a school level, it is essential that teachers continue to make best use of the data they have access to locally to understand which children and young people would benefit from targeted support and to monitor and track learners' progress

over time. Further guidance on the BGE assessment model was issued in November 2016.

<https://education.gov.scot/improvement/Pages/Interventions-for-Equity-framework.aspx> 5 <https://education.gov.scot/improvement/curriculum-for-excellence-benchmarks>

EIS Advice

Teachers should continue to use make use of a wide range of assessment data relating to pupil progress.

CfE Benchmarks for English and Literacy, and Maths and Numeracy must not be used as the basis for a bureaucratic, auditing approach to BGE learning, teaching and assessment. Indeed, where schools have their own framework for supporting teacher professional judgement of learners' achievement of CfE levels, and are confident that their framework delivers at least the same function as the Benchmarks, they are not required to use Benchmarks within their daily practice.

Accountability and reporting

The Headteacher will be accountable to their local authority for the use of Pupil Equity Funding within their school. To ensure transparency, schools will be expected to incorporate details of their Pupil Equity Funding plans into existing reporting processes to their Parent Council and Forum, including in their School Improvement Plans and Standards and Quality Reports. These reports should be publicly available so that parents can understand what is happening in their school. The arrangements for publication will be confirmed by your local authority.

School inspection and other review processes will be used where necessary to ensure schools use their funding appropriately. The 'How Good Is Our School? 4' includes an evaluation on the six-point scale of the school's success in raising attainment and achievement and ways in which they can demonstrate improvements to equity for all learners. In addition, the operation, use and effectiveness of the Pupil Equity Funding at closing the poverty related attainment gap at a local authority level will feed into other existing quality assurance processes, such as Audit Scotland's Shared Risk Assessment.

EIS Advice

The views of teachers must be reflected in the evaluations of how effective any interventions funded by PEF have been in reducing poverty-related attainment gaps.

The requisite time for evaluation and reporting of the impact of PEF funding must be allocated within WTAs.

Unspent funds

Where schools are unable to spend their full allocation during the financial year, any underspent grant may be carried forward to the next financial year though it

would be expected that it would normally be spent within the school year. Schools will need to liaise closely with their local authority to agree arrangements for carrying forward Pupil Equity Funding, which should be considered separately from other funding within the devolved school management budget.

EIS Advice

Each school should have a committee whose role it is to discuss and agree how funding allocations are spent. Elected staff representatives should have a meaningful voice on such committees. Where they do exist, such committees must operate on a collegiate basis and comprise of both teacher and school management representation.

School finance committees must be kept fully and accurately informed of spending and carrying forward of PEF.

Members in schools which have no such committee should raise the matter with the Headteacher with a view to one being established. Advice should be sought as necessary from the Local Association Secretary.

To summarise:

The advice above indicates a number of areas where additional time may be needed to assist the PEF process and School Reps should seek advice from their Local Association Secretaries on this and on any other contractual matter as necessary.

Posts funded through PEF should be agreed through LNCT mechanisms and will come under SNCT conditions of service. The job-sizing of promoted posts will follow SNCT rules and locally agreed protocols.

If any proposal appears to breach either national or local agreements, or if you or colleagues have concerns over workload implications from any proposal, please contact your Local Association Secretary.

The Educational Institute of Scotland
SQA Assessment Changes
to N5, Higher and Advanced Higher

Background

Following successful industrial action by EIS members in response to assessment-related workload in the senior phase, mandatory unit assessments are being removed from N5, Higher and Advanced Higher Qualifications on a phased basis from August 2017.

The removal of unit assessment has significant implications for senior phase curriculum architecture and timetabling. This was flagged up to Education Scotland and Scottish Government by the EIS at the point at which the agreement around the removal of unit assessments was reached and repeatedly thereafter.

The Assessment and Qualifications Review Group has now, on March 31st, issued advice on the changes to local authorities, schools and teachers. This EIS advice, initially published on the website, has now been updated with new sections highlighted in boxes, as in this document.

The EIS has a clear view that these decisions should have been made much earlier in the session and communicated to schools timeously. It is over 6 months since agreement was reached on the removal of units and the implications of those changes have been known since last September. It would seem that the simple lesson from the introduction of the new qualifications, that schools (parent, pupils and staff) need time to adjust to changes has yet to be learned.

Frequently Asked Questions

What changes have been/ will be made to the assessment of National 4 Qualifications?

None at present.

Assessment arrangements remain the same- mandatory internal unit assessment plus the Added Value Unit (AVU).

Discussion is underway within the NQ Review Group about the possibility of introducing a level of differentiation to the N4 award and an element of external marking. The EIS will be pushing for any changes to be made in time for session 2018-19.

What about N4 verification?

Random verification of the AVU continues.

Verification of other N4 units is on the following basis:

- **Where centres are new to delivery within a qualification group as a whole. This means centres entering candidates for either a new course in a qualification group for which they have never previously entered candidates for any course, or in qualification groups where no verification activity has taken place since the inception of the new qualifications.**
- Where the **initial outcome of verification within a qualification group was not accepted in 2015/16**, centres will be eligible for selection for unit verification. Also included are centres who received **'not accepted' within a qualification group in an earlier session (2013/14 or 2014/15), but have not been not verified since.** Where centres are eligible for selection under the 'not accepted' criteria, they may be selected for **any course within the qualification group - often for a different subject than verified previously.**

Why hasn't there been a decision to introduce an exam to the N4 qualification?

The National Qualification Review Group has discussed this possibility.

The view of Scottish Government and others, has been that introduction of an exam is not necessarily the best means by which to address the issue of the perceived lack of parity of esteem between the N4 and N5 qualifications. There is broad agreement around the need for N4 to be differentiated in some way, for example, by a pass threshold and a 'pass plus' grade, but the potential mechanism for this has not been agreed, as yet.

It has been agreed that more work needs to be done to support schools to consider alternative senior phase architecture, featuring more 2 year qualifications rather than year on year presentation from S4 through to S6, and introducing a wider range of pathways that will allow for greater accommodation of the needs of learners for whom National 5 courses are not appropriate at a given stage.

It is understood that work needs to be done, also, with parents and employers, to enhance their understanding of senior phase qualifications and curriculum architecture, and of the need to ensure that the skills, talents and achievements of all learners, are to be valued.

The NQ Group is aware of the evidence which shows that learners from poorer socio-economic backgrounds can be disadvantaged by external exams. For this reason, also, while it has been recognised that there are issues associated with presentation of whole cohorts at N4 or N5 in S4, EIS policy to date has not been in favour of formal examination at National 4.

Also, within the Qualifications Group there is little support for a 'mini' N5 approach to differentiation at N4, although there is general agreement around the need for something more than a threshold pass, in order to support better articulation with N5 where that is the pupil pathway. The strength of current N4 arrangements in terms of acting as a gateway to vocational or horizontal progression also needs to be protected.

What changes have been made to N5, Higher and Advanced Higher qualifications so far?

1) Introduction of thresholds to unit assessment marking for session 2016-17.

To ease the workload burden with regards to reassessment, the SQA introduced thresholds for Unit assessment for this session. This means that candidates are no longer required to pass every element of an assessment to pass the unit overall. Thresholds have been applied in three categories as follows:

Category 1: Maths and Sciences- application of a 60% threshold score to unit assessment tests in Maths; 50% threshold score to unit assessment tests in Sciences.

Category 2: Social Subjects, Business and Technical- application of a threshold to the number of assessment standards that candidates must meet to achieve each unit. SQA has, where appropriate, introduced for each unit, within each subject, a threshold for the number of assessment standards that all candidates must meet to achieve units. Details should be checked on a subject by subject basis.

Category 3: Performing and Expressive Arts, PE, Languages and English: application of a threshold judgement within each assessment standard.

These changes should have resulted in reduction in the amount of re-assessment undertaken and associated teacher workload, as 100% compliance is not required.

Full subject-specific details in relation to thresholds can be found on the relevant pages of the SQA website.

2) SQA has suspended random verification for this session for N5, Higher and Advanced Higher. These arrangements will remain in place for Higher in session 2017-18 and Advanced higher until session 2018-19.

This session unit verification will take place for N5, Higher and Advanced Higher only under the following circumstances:

- **Where centres are new to delivery within a qualification group as a whole. This means centres entering candidates for either a new course in a qualification group for which they have never previously**

entered candidates for any course, or in qualification groups where no verification activity has taken place since the inception of the new qualifications.

- Where the **initial outcome of verification within a qualification group was not accepted in 2015/16**, centres will be eligible for selection for unit verification. Also included are centres who received **'not accepted' within a qualification group in an earlier session (2013/14 or 2014/15), but have not been not verified since**. Where centres are eligible for selection under the 'not accepted' criteria, they may be selected for **any course within the qualification group - often for a different subject than verified previously**.

What other changes are being introduced to N5, Higher and Advanced Higher?

From August 2017, August 2018 and August 2019, units will no longer be part of the N5, Higher and Advanced Higher courses, respectively. (Titles within the "new" course descriptors are likely to broadly match those used in current documentation, but not as units.)

Freestanding units and accompanying assessment will exist but not as part of these courses, which will be entirely based on external exam and/ or coursework.

The SQA has now written to centres with details of the first swathe of changes on a subject by subject basis. With the removal of Unit assessments, in order to maintain the 'integrity, breadth and standards' of the National Courses, the SQA say, changes have resulted in one or more of the following for each subject:

- extension of the existing question paper
- extension/modification of the existing item of coursework
- a new question paper
- a new item of coursework

What are the immediate implications of the changes for senior phase options and timetabling?

In light of the significant differences between N4 and N5 course delivery and assessment, schools should be planning for classes that enable coherent pathways for students.

EIS advice, consistent with existing policy on bi-level and multi-level teaching, is that rather than seeking to run bi-level classes of N4 and N5 where pupils would face different assessment arrangements, and teachers would grapple with significant resultant workload, discrete classes should be the norm as far as possible in the interests of learning and teaching, and teachers' health and wellbeing. Extant EIS policy in relation to bi-level classes should be noted. It can

be accessed here: <http://www.eis.org.uk/images/education/Bi-Level%20and%20Multi-Stage%20Classes.pdf>

In particular, this extract from the policy is of key importance:

“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 and smaller class sizes.”

In schools where bi-level N4 and N5 composite classes are configured, in the context of advice from the NQ Review Group having been issued to schools so late, members should seek advice from the Local Association Secretary.

Free standing unit assessments will remain available at SCQF level 5 but centres will be advised to enter candidates for either a N5 course award (based on external assessment) or a series of unit awards – not both.

It will be essential make sure that candidates are enrolled for courses which best suit their prior learning and attainment at the point at which options are being considered.

The Deputy First Minister has taken the decision, however, that for an interim period only, while consideration is being given to possible differentiation of candidate performance at N4, in a very limited number of exceptional circumstances, the current mechanism of recognising positive achievement will be available. This is in circumstances where the view of the teacher and head teacher, in discussion with parents and the young person, is that it is in her/his best interests to be presented both for SCQF level 5 units and the N5 course award as a protection if they do not achieve 40% in the exam. Having passed N5 units and on successful completion of the N4 Added Value Unit, an N4 pass will be awarded. Presentation patterns will be reviewed at the end of each session by local authorities and Education Scotland.

The EIS is clear that in the interests of workload reduction for both for teachers and students, this must be an interim arrangement for session 2017-18 only and must only be used in a minority of cases. **Under no circumstances** should whole classes or large numbers of students within a year group be presented in this way. Should such presentation patterns emerge within an establishment, the Local Association Secretary should be informed.

Whilst the EIS recognises that some concern has been expressed about the general removal of the former RPA mechanism, the simple fact is that this extension of that arrangement will mean that some pupils, those on the cusp between N4 and N5, will face even more assessment than previously, as a result of the continued use of unit assessment. The EIS does not believe that this approach is likely to facilitate a positive learning experience for pupils and would advocate the use of a two year approach for pupils in this situation, utilising N4/SCQF level 5 units plus AVU in year one and progressing to a N5 course award in year 2.

Why should it not be possible to present all students both for units and the full course award?

To present for both would not bring about the reduction in assessment-related workload for pupils and teachers which was the aim of the recent EIS industrial action.

In fact, because of expansions to coursework and exams as a consequence of the removal of unit assessment within courses, to present students for both units and external assessment, would result in an overall increase in the amount of assessment that some students would undertake, this to the likely detriment of their wellbeing and that of teachers.

The SQA has indicated that from August 2017, N5 units will no longer exist. Instead, there will be SCQF level 5 units. In the short term, these will be the same in terms of content as they were at N5, but over time, their content is likely to diverge from that of the N5 course towards vocational learning. The same will be true of Higher units from 2018.

What about Recognising Positive Achievement(RPA) or 'fall-back' for candidates who fail the N5 exam?

The NQ Review Group has agreed the extension of the Grade D pass range at N5 to a 10% spread (i.e. 40-49 rather than 45-49) to provide a bigger safety net for candidates who may be at risk of failing the final exam. This move is intended to ensure that young people who do not perform as well as predicted in the course assessment, receive credit for the SCQF level of the qualification for which they were entered.

A Grade D award at N5 will be worth more SCQF points than are currently obtained by the successful completion of N5 units with the N4 Added Value Unit.

In effect, this is the new RPA mechanism.

The SQA is of the view that the current RPA, whilst intended to support aspirational presentation, has had the unintended consequence of inappropriate patterns of presentation, with young people being presented for course awards that do not reflect the level of their prior learning and achievement.

The Deputy First Minister has taken the decision, however, that for an interim period only, in a very limited number of exceptional circumstances, the current mechanism of RPA will be available. This mechanism will continue to exist while consideration is being given to possible differentiation of candidate performance at N4 and should only be used in circumstances where the view of the teacher and

head teacher, in discussion with parents and the young person, is that it is in her/his best interests to be presented both for SCQF level 5 units and the N5 course award as a protection if they do not achieve 40% in the exam. Having passed SCQF level 5 units and on successful completion of the N4 Added Value Unit, an N4 pass will be awarded. Presentation patterns will be reviewed at the end of each session by local authorities and Education Scotland.

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How are centres to encourage aspiration among students through presentation?

For students who intend to stay in school beyond S4, one timetable model which schools might consider is that students aim for the N5 qualification over 2 years, allowing time for depth and consolidation of learning within the subject, and opportunity to re-course at the beginning of S5 if necessary. Students could undertake SCQF level 5 units in S4 as part-preparation for the N5 course the following year.

In schools which continue to present students for qualifications annually, within N4 classes, pupils who plan to sit N5 in the following year could attempt some SCQF level 5 units, also. This might address concerns around N4 threshold passes being a poor preparation for N5 courses.

Whichever way the senior phase is designed, some learners may be presented for full courses in some subjects and free-standing units in other subjects.

Linked to the issue of encouraging aspiration is the esteem within which qualifications are held by teachers, pupils and parents. In the interests of social justice, a shared understanding is required of the need to recognise and value the

qualifications that all young people attain where these represent the best achievement that each is capable of at a given point in their learning.

Won't the changes to N5 assessment force early decisions about presentations?

Currently, many schools continue to present students for qualifications following Standard Grade patterns, making initial presentation decisions with their students around February of S2, midway through the Secondary phase of the BGE. Final presentation decisions are required by the SQA by March of S4.

Adjustments to senior phase curriculum architecture, in line with the original design intentions of CfE, would mean that initial presentation decisions would not be made until at least a year later- February of S3- when young people have had full opportunity to have their prior learning and achievement within the BGE assessed, recorded and considered.

The NQ Review Group has agreed that centres must provide an accurate indication of their presentation patterns by November.

Why has the SQA expanded course assessment?

SQA has stated that the removal of the unit assessment from courses, without adjustment to other elements of assessment, would represent a shrinkage in the assessment coverage of course content and erosion of the value of the qualifications.

The EIS is of the view that the SQA has gone too far in extending course assessment. The EIS had previously provided evidence to the NQ Review Group of significant duplication of assessment across units, coursework and the final exam. The SQA conceded that there was duplication. It is therefore concerning that the SQA has announced that there will be extension to coursework in 64% of N5 courses, extension or introduction of an exam in 88%, and both extended coursework and question paper in more than 50% of courses. The EIS will therefore look carefully at the detail that the further detail on assessment that the SQA will publish by the end of April 2017.

Won't lengthier exams have a negative impact on students?

The detail of the extended examination papers has not been published, as yet, by the SQA. Whilst it was expected that any course element previously covered only by unit assessment would migrate to either the external exam or coursework, the EIS is not convinced that the general extension by the SQA of the majority of exam papers is justified, especially given the previously identified duplication between unit assessment and external exams. This will require to be monitored and the relationship between the exam papers and the course content assessed. However, SQA insists that course content is not changing and the extended exams should not create any additional teaching burdens. Again, this will have to be evaluated.

In addition, the EIS is concerned that longer exams may be another source of stress for students, and detrimental to the wellbeing and, therefore, the performance of some students in the exams. Another factor to be considered is the performance of students who face socio-economic challenges in light of evidence that working class students perform less well in exams. This is therefore an aspect which will require to be monitored over time.

That said, however, young people were under significant pressure, with many suffering mental health problems, as a consequence of the heavy burden of internal assessment, particularly in S4, as reported by many EIS members, and confirmed by the SQA's own research in this area. This situation was unsustainable.

Will the changes to exams impact on teacher workload?

There has been no change to course content, therefore lengthier exams for students should not be a generator of workload for teachers. Particularly in light of the replacement of the appeals system, there is no need for the generation of candidate evidence that mirrors that which would be produced in the final exam. Existing unit assessments, internal assessments and prelim papers will still be valid for use as formative and summative assessment tools.

What consultation has there been by the SQA with teachers on these changes to assessment?

These changes have been designed with only limited consultation with teachers. Consultation has been with the SQA's National Qualification Support Teams. The SQA had stated that they would be unable to consult more widely on the detail of the changes if they were to manage to deliver the changes within an acceptable timescale.

EIS has expressed concern at the narrow focus of consultation around the changes, and at the scale of the overhaul of the qualifications that the SQA has planned, it being much more complex than simply removing unit assessments.

The EIS has also stressed repeatedly the need for SQA to get the changes right (including with regards to the balance of exam and coursework), to communicate the changes clearly to the profession, and to do so in good time.

SQA is now in the process of restructuring course materials without using existing units as organisers. This is a lengthier process than that which had been called for, which was simply the indication that unit assessments were no longer mandatory. The decision by the SQA to proceed in the way that it has, leaves schools, once again, facing a tight turnaround from existing arrangements.

SQA has indicated that further details of the changes to course assessment will be provided to teachers along with revised and streamlined course specification documents by the end of April, which, for many schools is at the very point at which new courses will begin.

This is clearly a matter of real concern for EIS members who will be delivering National 5 qualifications next session.

How can the necessary preparation for the new assessment arrangements be overtaken in time for the new session?

While the changes are to take effect from August 2017, the reality in schools is that senior timetables change any time from April onwards.

The EIS is clear that teachers should not be asked to work beyond their 35 contracted hours to deliver these changes.

Advice for Secondary members on SQA-related workload remains in force.

Members are advised to conduct time audits of all SQA activity in which they are engaged. Where calculations are that the time required to overtake, in this case, development work, cannot be accommodated within the 5 available hours for Collegiate Time within the Working Time Agreement per week, discussions with the management of the school should be sought.

Discussions should take place with a view to agreeing workload priorities and, where SQA-related development is judged to be a priority, to agreeing which other duties will be removed in order that SQA-related development can be addressed within the parameters of the 35-hour working week.

Any member who encounters difficulty in this regard should seek the advice of the School or College Branch representative, in the first instance.

What is the EIS nationally doing in response to members' concerns about the workload implications of the tight timescales in which the changes will be introduced?

EIS has raised and will continue to raise, these concerns with SQA, Scottish Government and local authorities, both directly and within the NQ Review Group and the CfE Management Board, with a view to ensuring that the changes are implemented within the terms of teachers' contractual hours, while minimising any negative impact on students' learning experience and achievement.

EIS Council has passed a Resolution calling for an additional Inset day as one way of addressing the tight timescale in which to make preparations for the changes.

What other issues related to the assessment changes will the EIS raise with SQA, Scottish Government and Education Scotland?

The need for progress with the removal of mandatory unit assessment from Higher to remain on-track within agreed timescales.

The possible need for additional staffing resources in order for the SQA to ensure that schools and colleges have what is needed from them sooner than currently projected will be raised with SQA and Scottish Government.

EIS will also press SQA on the need for early issue of new exemplar exam papers.

Subject-specific concerns will be brought to the attention of the SQA.

The need for funding of new subject course materials and text books, will be raised with Scottish Government and Local Authorities.

It is clear, also, that an early decision on changes to N4 needs to be made to ensure a sense of clarity and cohesion around the senior phase.

The Educational Institute of Scotland
HGIOS: Family Learning Quality Indicator

"That this AGM call on Council to issue advice to members on how the stated expectations of the Family Learning Quality Indicator found in 2.5 of HGIOS (4th edition) can be achieved within teachers' contractual hours."

Advice to EIS Members on Workload Implications of the HGIOS Family Learning Quality Indicator

Introduction

The following Resolution was adopted by the 2016 AGM:

"That this AGM call on Council to issue advice to members on how the stated expectations of the Family Learning Quality Indicator found in 2.5 of HGIOS (4th edition) can be achieved within teachers' contractual hours."

The following is advice for Local Association Secretaries and School Representatives to support them in addressing the potential workload demands arising from the expectations of schools related to the Family Learning Quality Indicator (QI) from the How Good is Our School 4th Edition, in use from August 2016.

Background

As stated in the HGIOS document, the Family Learning QI

'focuses on increasing the positive impact of working with families to improve learning and achievement. The emphasis is on schools working in partnership with others in the community to support families to secure better outcomes through programmes which enable them to improve literacy, numeracy and health and wellbeing.'

The Level 5 descriptors for the QI reference a range of activities that schools may be involved in across 3 key areas. These are outlined below.

Engaging Families in Learning

- Identification of families as having singular or multiple needs that are having an impact on their health and wellbeing, development and/or learning.
- Provision of regular opportunities for families to discuss their learning with staff and set appropriate targets for the next stages.
- Supporting families to plan opportunities for personal achievement with learning targets specific to the family as a whole and as individual learners, built on prior learning and reviewed and evaluated.

- Supporting parents and carers to actively and meaningfully engage in their children's learning and life at school.
- Working with parents and carers to reduce potential barriers to engagement, being responsive to the family circumstances such as families affected by imprisonment, English as an additional language and mental health issues.

Early intervention and prevention

- Use of available data, analysis and intelligence-gathering, along with partners to inform understanding of the community and individual family's needs and to ensure appropriate timely interventions.
- Staff awareness of the factors causing child poverty within the community.
- Working with parents and other agencies to help parents minimise the effect of poverty on their children.
- Identification and review of needs in consultation with families, partners and stakeholders.
- Informed understanding of local demographics that informs more targeted support when appropriate.
- Development and maintenance of strong partnership approaches aimed at provision of a robust service for families.
- Strong collaboration with colleagues from other sectors which supports referrals to and from services and enables tracking and builds trust.
- Consultation with families in a meaningful way when staff are looking at progression from their service.

Quality of family learning programmes

- Creation and delivery of stimulating, challenging, relevant and enjoyable family learning courses. Facilitating participation of families in designing and delivering content.
- Design of learning outcomes to support families through changes and choices.
- Consultation with families as a means of ensuring we are meeting their needs in relation to literacy, numeracy, health and wellbeing and wider family learning outcomes.
- Active promotion of lifelong learning, both in families, and individual learners.
- Recording and celebration of achievements and successes in family learning.

Education Scotland Inspections

Education Scotland has said that it recognises that in the context of current levels of resourcing in schools, this QI is largely aspirational.

Senior Education Scotland staff have acknowledged that for the expectations regarding Family Learning to be delivered within a school to the standard outlined above, significant additional resource would be required. For example, some schools are trialling some of the activities listed, using additional Attainment Challenge funding or through accessing additional Community Learning and Development resources.

There is no expectation currently from Education Scotland that all schools will be engaged in the full range of activities associated with this QI. Going forward, inspection activity will take account of individual school context and the direction of policy nationally.

EIS monitoring of inspection feedback from School Representatives has not suggested that there has been any deviation from this view reflected within inspection activity by Education Scotland staff.

Impact on Teachers' Workload

The listed activities associated with the Family Learning QI clearly have the potential to impact significantly on the workload of teachers. They outline what could amount to a sizeable extension to existing activity by schools in the area of family engagement.

That said, having sought information from Local Associations and Subject Specialist Networks, EIS Headquarters has received no concerns to date, related to workload generated by the Family Learning QI.

In most cases, responses indicated there has been no increased activity as a consequence of the inclusion of this QI in the 4th edition of HGIOS.

In one local authority, recruitment of a PT of Family Learning was underway.

Responses from Local Associations indicated that a degree of family learning and engagement activity pre-dates the QI. Examples include parental engagement classes being delivered by members of the SMT; parent workshops, information evenings and conferences being delivered voluntarily by teachers relevant to transitions, mental health and wellbeing, literacy and numeracy, and careers; a numeracy outreach programme delivered as an initiative by an interested teacher; and the running of sessions for parents on supporting their children through exams.

It would appear that Working Time Agreements have accommodated such activity or it has been carried out on a voluntary basis.

Working Time Agreements

Management of workload that may be generated by Family Learning activity should be within the existing framework and parameters of Working Time Agreements.

All non-voluntary activity in which teachers are engaged in schools must be reflected in the School Working Time Agreement, following full, collegiate discussion with staff and negotiation with the EIS School Representative as appropriate.

The 35 hours of teachers' contractual time is made up of:

A maximum of 22.5 hours committed to class contact time

A minimum of 1/3 of the teacher's actual class contact time for preparation and correction. (A minimum of 7.5 hours per week is personal to the teacher and is not available for collective work

Remaining time for collective activity, 5 hours per week, is used for collegiate activities including additional time for preparation and correction, parents meetings, staff meetings, preparation of reports, forwards planning, formal assessment, professional review and development, curriculum development, additional supervised pupils activity and Continuing Professional Development.

In addition to the Working Time Arrangements set out above, all teachers have a contractual requirement to undertake a maximum of 35 hours of Continuing Professional Development (CPD) per annum.

These arrangements apply to all of the activity captured within HGIOS 4, including Family Learning.

School Improvement Planning

Any new activity which a school has identified as a feature of its improvement activity must also be reflected in the School Improvement Plan (SIP).

The SIP offers some control over the pace of change within schools and the potential for staff within the school to ensure that the Plan can be implemented within the framework of the Working Time Agreement. Indeed, the SIP needs to be linked to school Working Time Agreements.

Additional time may be available for the implementation of the School Improvement Plan through Inset days and for some aspects of funded CPD arrangements. Teachers may also agree to use some of their own annual 35 hours of CPD time to take forward an element of the plan.

Any new activity related to the Family Learning QI must be identified, and realistically costed in terms of time and other resource requirements, and agreed on a collegiate basis in conjunction with the Working Time Agreement. In the event of there being no satisfactory agreement, the School Representative should contact the Local Association Secretary.

Where an individual EIS member is asked to carry out an activity that has not been accounted for within the Working Time Agreement and the SIP, she or he should engage in relevant professional discussion with the line manager, and seek advice as necessary from the School Representative in the first instance, or the Local Association Secretary.

Conclusion

This advice should be distributed to Local Association Secretaries and School Representatives.

The EIS nationally will continue to monitor the situation and would welcome any relevant information regarding workload-related developments around Family Learning.

The Educational Institute of Scotland

Closing the Attainment Gap

Introduction

The 2016 AGM adopted the following Resolution:

“That this AGM instruct Council to investigate and report on the ways in which education authorities will mitigate the demands on teachers to continually improve Scottish education and to close the attainment gap at a time of cuts to school budgets.”

The Resolution was passed to the Education Committee for action. It decided to send an FOI to all Directors of Education seeking information on the actions taken to ensure that all improvement and closing the attainment gap activity is managed within the terms of the 35-hour working week. 29 local authorities replied; Clackmannanshire, Dundee and Western Isles did not.

The Committee then sent the replies to the appropriate Local Association Secretaries seeking comment on the information provided by local authorities. Glasgow, Inverclyde, East Dunbartonshire, East Renfrewshire, and Perth and Kinross Local Associations provided responses.

Responses from Local Authorities

Replies from local authorities provided information on a range of measures which, it was stated, were being put into practice, to a greater or lesser extent by individual local authorities, to control teacher workload. Workload control measures cited were as follows:

- **Working Time Agreements:** collegiate working with trade unions to provide commentary to, guidance for, sample scrutiny of, joint-training of EIS members and Headteachers in, and ongoing monitoring of, Working Time Agreements (WTAs).

One local authority indicated that joint secretaries are soon to reach a Workload Control Agreement which details how any workload associated with the National Improvement Framework (NIF) and the Scottish Attainment Challenge will be managed to ensure that it does not exceed the 35 hours within the WTA.

Another local authority has established a Managing Teacher Workload Short-Life Working Group to address the potential workload implications of new developments.

- **School Improvement Plans (SIPs):** communication by local authorities to schools on the need to align SIPs with WTAs; guidance provided to schools on limiting the number of SIP priorities; training of Headteachers on SIPs and alignment to WTAs; alignment of the SIP and School Standards and Quality Report; streamlining of SIP and school self-evaluation documentation; avoidance of additional projects related to closing the attainment gap, this regarded to be the within the core business of learning

and teaching; prioritising of NIF aims within SIPS; development of curriculum guidance and planning frameworks.

- **Tackling Bureaucracy Working Group Recommendations:** agreements with teacher unions on how recommendations will be taken forward; establishment/ reconvening of Local Negotiating Committee for Teachers (LNCT) Tackling Bureaucracy (TB) Subgroups; tackling bureaucracy included in the remits of Quality Improvement Officers who advise HTs and schools on workload and bureaucracy control; standardised approaches to planning, assessment and reporting agreed with unions; poster created for distribution in schools as reminder of the TB Working Group recommendations; inclusion of TB in local authority CPD delivery; manageable ICT systems to simplify recording systems; all new authority documentation and processes checked for over-bureaucracy and feedback sought from schools following roll-out.
- **Liaison with Teacher Unions:** LNCT workload agreements; collegiate working within working groups whose focus is to progress the improvement agenda while taking due cognisance of teacher workload; formal and informal discussion and collaboration between trade unions and senior staff to address incidences of overly bureaucratic practice; joint working on national government policy implementation.
- **Streamlining of processes:** planning, self-evaluation and reporting templates provided to minimise the workload impact of overly burdensome paperwork; removal or modification of burdensome tracking approaches; streamlining of data input to avoid duplication.
- **Provision of guidance and support on improvement initiatives:** to avoid duplication of effort, working groups set up to provide support and appropriate documentation, for example, on Literacy, Numeracy, reporting and planning.
- **Teacher Workload Surveys:** surveys of the workload of teachers generally and of Primary Headteachers in particular.
- **Additional Advice to Schools:** briefings on workload control provided for HTs and DHTs at the appropriate meetings; SMTs reminded of the learning and teaching focus of forward planning meetings; HTs reminded of the importance of engaging all staff in discussions of any new initiatives.
- **Sharing of Good Practice:** pooling of resources and sharing of good practice across learning communities to avoid duplication.
- **Additional staffing:** additional staffing allocations within secondary school timetables to cover both supply and development work; use of Attainment Challenge Funding to appoint additional nursery workers, speech and language therapists, mental health and family support workers, and to create additional PT management time.

Replies from Local Association Secretaries

Replies received from five Local Associations confirmed the detail provided by their respective local authorities. The following additional points were raised:

Glasgow has an Attainment Challenge Strategy Group on which the EIS is represented by the Local Association Secretary who has frequently raised the issue of teacher workload during meetings of the Group.

Featuring in relevant discussion has been the tension between the additional demand for teachers in order to deliver the NIF priorities and the national shortage of qualified teachers.

This concern was echoed by the Local Association Secretary for Perth and Kinross who confirmed that the endeavour by the local authority to recruit additional staff, is undermined at times by teacher shortage.

Finally, it was reported by the East Dunbartonshire Local Association Secretary, and by other sources thereafter, that Headteachers were giving consideration to how allocations of the Pupil Equity Fund may be spent to close the gap.

Review by Education Scotland of Local Authorities' Actions to Tackle Unnecessary Bureaucracy and Undue Workload in Schools

In August 2016, directed by the Cabinet Secretary for Education, Education Scotland undertook a review of the demands placed on schools by local authorities in relation to the implementation of CfE. While not specifically focused on the workload potentially generated by the closing the attainment gap agenda, the review which had focused primarily on forward and curriculum planning, assessment, self-evaluation and improvement planning, tracking, monitoring and reporting and IT systems, uncovered some useful findings.

Education Scotland concluded that while

'all local authorities were committed strongly, in principle, to tackling bureaucracy and reducing unnecessary workload for their staff...the extent to which they are taking action to achieve this varies significantly.'

The review found that just under half of local authorities had been 'proactive' in reducing unnecessary workload. In a range of other authorities, while some steps had been taken to supply relevant guidance to schools and to create effective systems of support, more of such action was required and needed to be done to address poor practice. In a small number of authorities, there was insufficient evidence of steps having been taken to address the issue of teacher workload.

It could be reasonable to assume that the picture may be similar in relation to school-based activity associated with NIF and closing the attainment gap.

Conclusion

The vast majority of local authorities in Scotland provided detail of their activity aimed at mitigation of the demands on teacher workload potentially generated by the drive for improvement in schools and the goal of reducing the poverty-related attainment gap.

All Local Associations were provided with the information supplied by their local authorities; however only a small number of Local Associations confirmed the

veracity of the details provided. It is therefore not possible to conclude that the actions detailed by local authorities are having the desired practical impact in controlling teacher workload.

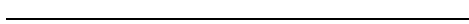
This view is further supported by the findings of the Education Scotland review of CfE-related workload and bureaucracy within local authorities, which judged the effectiveness of local authority actions to tackle workload to be variable across the county. In light of the outcomes of their engagement with local authorities around these issues, Education Scotland has committed to ongoing support at local and national level in recognition of the continuance of the workload issue.

The nature of the information supplied by local authorities suggests, as outlined in the Education Scotland report, that the issue of excessive teacher workload is widely recognised by them and that steps have been taken at authority level to address the issue to a greater or lesser extent across Scotland. The majority of local authorities expressed explicit commitment to ongoing joint-working with teacher trade unions on workload.

While this may be the case, the excessive workload of teachers continues to be a critical issue for the EIS both locally and nationally, and upon which vigorous campaigning and lobbying continues in all relevant fora, including those related to school improvement and closing the poverty-related attainment gap.

The 2016 AGM resolved to monitor the workload impact of NIF, and focus on this will continue as per the terms of the Resolution as NIF develops.

At establishment level, the WTA aligned to the SIP, remains the central means by which teacher workload is controlled.



The Educational Institute of Scotland

Consequences of Presumption to Mainstreaming/Current Inclusion Practices

The 2016 AGM passed the following resolutions relating to the presumption of mainstreaming and current inclusion practices:

(1)

"That this AGM call on Council to investigate and report on the consequences of Presumption to Mainstreaming in all sectors in terms of funding, resources, workload and impact on staff health and wellbeing.

Further, to use the information to campaign for an increase in resources, including staffing, to support all children with additional support needs and the full implications of the ASL Act (as amended 2004)."

(2)

"That this AGM call on Council to investigate and report on the consequences, as perceived by nursery, primary and secondary teachers, of current inclusion practices on the welfare and learning of the majority of children."

The EIS position on the presumption of mainstreaming

The EIS has argued the case for comprehensive education provided in nursery, primary and secondary schools serving their local communities. We have also recognised and valued the contribution made by special schools and units. We welcome the fact that, as pedagogy and technology develop, young people who in the past would have attended separate special schools or units are now able, with appropriate support, to attend their local primary or secondary school.

However, we have stated consistently in relation to meeting the needs of children with Additional Support for Learning (ASL) needs, that the success of ASL legislation and processes is dependent on the provision of adequate resources to meet the needs of each individual learner. We are greatly concerned by the under-resourcing of the commitment to include children with a range of sometimes complex needs in mainstream settings.

The consequences of the presumption of mainstreaming

The EIS Additional Support Needs and Headteachers Networks discussed these resolutions at meetings in the course of the session, and raised a number of issues.

Regarding the consequences of the presumption of mainstreaming in terms of funding, resources and staff wellbeing, and the need to campaign for increased resources, the Networks remarked on:

- the need for clarity that the main concern was the poor implementation of the principle of presumption of mainstreaming, which was currently being implemented "on the cheap", not the presumption in and of itself
- the need to be mindful of the fact that some authorities have no special schools and so there is always a presumption that children will be included in mainstream education
- reduction in the numbers of trained, qualified staff required to address specific additional needs, for example, educational psychologists and Community Learning and Development staff
- that when funding is reduced due to cuts, it is often activities outside of school, such as swimming, riding for the disabled etc., which are affected
- that in some authorities, requests for activities outside of school (e.g. swimming) always need to be costed, and are routinely refused, because of the grey area around what constitutes "adequate care"
- the fact that many schools now have no extra capacity and many classes are full, this having particular implications for children with physical, social and emotional difficulties
- increased bureaucracy associated with risk assessment of inclusion of children with physical disabilities or whose behaviour can be aggressive or violent
- the variation between authorities regarding spending on ASN issues
- the possible risks associated with further devolution of funding to Headteachers, as anticipated in the governance review, whereby meeting the needs of pupils with ASN might have different levels of priority in different schools
- the concern that the presumption is not being operated in a child-led way, but in a way that meets the needs of authorities
- the erosion that is perceived to have occurred re: the valuing of specialist provision, which is still required for some children.

Regarding the impact of current inclusion practices on the majority of children, Network members observed that:

- streaming of children by ability, which is still common in secondary, means there is less disruption in the senior phase
- in some schools there is a high level of disruption e.g. one class having to be evacuated four times in one day
- cuts have hugely affected inclusion practices
- in some authorities there are fewer people who can deal with a distressed child, e.g. in one authority, there are no Depute Headteachers, so this role now falls to the Headteacher
- class sizes increasing exacerbates any problems
- there is now no one-to-one support available in some schools due to cuts
- inclusion for its own sake doesn't work
- there is a potential impact on nurture programmes when children with complex needs are included in mainstream.

It was agreed to:

- continue to engage with ENABLE, whose survey to inform the 'Included in the Main?!' report had been distributed to EIS members, and may be a

useful source of evidence on the consequences of the current approach and current practices

- highlight ASN network members' concerns through various channels, including an SEJ article
- continue to raise these concerns through various fora including the Scottish Government's Advisory group on ASL (AGASL), on which the EIS is represented.

Evidence regarding funding, resources and staff wellbeing

In December 2016, Enable (a learning disability charity) launched a new report about what they described as the 'journey to inclusion', examining the experiences of educators, pupils and parents regarding inclusive education, 'Included in the Main?!'². Assistant Secretary Bradley and National Officer Kemp attended an event to mark the launch of this report.

The report concluded that most respondents from the education workforce had concerns about the way in which inclusion was operating in practice, and the lack of support for the workforce, with a resultant impact on their own morale and stress levels.

- Over 80% of survey respondents from the education workforce agreed with the statement "we are not getting it right for every child through the presumption that all children should be taught in a mainstream setting"
- Fewer than 12% of survey respondents from the education workforce felt satisfied that they can meet the educational and developmental needs of a child or young person who has a learning disability, dropping to 7% for class/subject teachers, 66% of whom said they need more support in the classroom to do so
- Less than 10% of survey respondents from the education workforce answered that they felt confident that a child or young person who has a learning disability was getting enough of their time and support.
- Two-thirds (66%) of class/subject teachers who responded told ENABLE: "I don't get enough support to meet the needs of children and young people in my classes who have learning disabilities"
- 98% of survey respondents from the education workforce felt that teacher training does not adequately prepare them for teaching young people who have learning disabilities
- 30% of education professionals felt there was not enough specific CPD for teaching young people who have learning disabilities

² <http://www.enable.org.uk/includedinthemain/Documents/Included%20in%20the%20Main%20-%202022%20Steps%20on%20the%20Journey%20to%20Inclusion.pdf>

- When asked: what is the personal impact on you if you feel that you do not get enough support to meet the needs of children and young people who have learning disabilities, 62% of class/subject teachers said they have experienced stress and professional anxiety. 71% also said they do not feel job satisfaction.

The report included 22 recommendations, many of which are relevant to EIS members, including:

- Recommendation 11: Scottish Government should urgently extend plans to gather evidence on 'initial teacher education programmes' coverage of literacy, numeracy and health and wellbeing to include coverage of additional support for learning needs within those measurements
- Recommendation 12: Modules on Disability inclusion, ASN strategies and Positive Behaviour Support should be incorporated into both Initial Teacher Education programmes, and the new Masters Qualification for Headship
- Recommendation 13: Scottish Government should commission new accredited CPD courses on: learning disability, Positive Behaviour Support and supporting families with disabled children. And monitor uptake by all education staff nationally as part of National Improvement Framework.
- Recommendation 15: Scottish Government and Local Authorities must renew and continue investment in the role the role of Additional Support for Learning Teachers, through the creation of an elevated post, and direct action to recruit and retain skilled staff into these positions.

During informal discussions with ENABLE staff at the launch event, Assistant Secretary Bradley and National Officer Kemp agreed to continue dialogue about the report findings and how the EIS could assist with taking forward areas of mutual concern, although noting that Enable's stance was to argue for policy and practice changes to occur within current investment levels rather than to argue for more resources, which is the EIS position.

Sectoral issues

Much of the evidence seen relates to inclusion with primary and secondary schools. Little is known about the impact of the presumption of mainstreaming in the nursery sector, and further consultation on this may be needed.

Campaigning for increased resources for supporting children with ASN

SEJ article

An SEJ article on areas of concern raised by ASN teachers was compiled with the assistance of several ASN network members, and included in the December 2016 edition. It was headed, 'Challenging Times for ASN Teachers – "mainstreaming on the cheap?"' and raised various issues including those of cuts and staff wellbeing.

BBC documentary

Later in December, Education Convener Susan Quinn took part in a BBC Scotland documentary, entitled 'Am I Included?', which aired on 21 December 2016, in which she highlighted the lack of resources and staffing for meeting the needs of children with Additional Support for Learning needs.

Media campaigning

In December 2016, the EIS issued a press release highlighting our concerns about under-resourcing of Additional Support for Learning provision, and the impact on staff wellbeing.³ In the press release, EIS General Secretary Larry Flanagan commented on members' concerns about the challenging climate in which they are working; cuts to teacher numbers; very high teacher workloads; the undervaluing of ASN teachers' skills and experience; the lack of support in reporting and dealing with pupils' aggressive and disruptive behaviour; the lack of equipment and resources which makes teachers' day to day work more difficult; cuts to specialist services; and the stress that this combination of factors can create.

The issues raised in this press release were covered by a range of media outlets throughout December 2016 and January 2017, including the BBC⁴, The National⁵, The Herald⁶, Kingdom FM⁷, and the Edinburgh Evening News⁸, as well as several other local newspapers and radio stations.

Raising with Scottish Parliament and Scottish Government

In addition to raising these issues through the media, the EIS also sought to influence policy through various fora. National Officer Kemp attended meetings of the Scottish Government's Advisory Group on ASL (AGASL) on three occasions throughout the year (7 September 2016, 7 December 2016, and 8 February 2017), and was invited to join a newly formed Advisory Group on the Guidance on the Presumption of Mainstreaming (AGGPOM), which has so far met once (on 30 January 2017). The Guidance on the Presumption of Mainstreaming is being refreshed (NB: this will not change the principle: the presumption will remain) and opportunities are being taken to identify areas of weakness in the current guidance and suggest alternatives.

At both AGASL and AGGPOM meetings, the EIS has raised its concerns about under-resourcing, a discourse focused on outcomes and attainment without sufficient attention being paid to inputs, and the impact on staff morale and

³ <http://www.eis.org.uk/public.asp?id=3509>

⁴ <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-38445858>

⁵ http://www.thenational.scot/news/14989381.Special_needs_inclusion_in_schools_under_threat_due_to_council_cuts/

⁶ http://www.heraldscotland.com/news/education/14989429.Councils_accused_over_mainstreaming_on_the Cheap/

⁷ <http://www.kingdomfm.co.uk/news/local-news/better-support-needed-for-asn-teachers/>

⁸ <http://www.edinburghnews.scotsman.com/news/education/teaching-vulnerable-kids-at-risk-from-budget-cuts-1-4326978>

wellbeing of working in such a climate. The issue of inputs to the system has been agreed as a future agenda item for AGASL.

In February 2017, the EIS submitted a written response to the Scottish Parliament, to inform the Education and Skills Committee's Inquiry into Additional Support Needs in School Education⁹, in which we raised concerns both about the impact of cuts and about the impact on teacher morale. EIS member Samreen Shah also gave oral evidence to the inquiry.

The Inquiry continues; the Committee considered these issues further as part of a work programme discussion held on 22 March 2017, and will publish its intentions shortly.

Raising in other conversations

In addition to the campaigning described above, the EIS also included comment on the under-resourcing of ASN in our June 2016 report to the Education Cabinet Secretary regarding reducing teacher workload, and in our April 2017 local government manifesto, 'Stand Up for Scottish Education'.

The manifesto includes a specific section on ASN issues, and calls for Scottish Councils to:

- Address the under-funding and lack of resources for ASN provision in schools
- Reverse the cuts in specialist ASN teaching numbers and pupil-support staff
- Resource mainstream inclusion so that vulnerable young people are properly supported.

The EIS has also made "better support for pupils with additional support needs, including deployment of more specialist staff", one of its five key asks during the local government election campaign.

Conclusion and recommendations

There is now a wealth of evidence about the impact of the poor implementation of the presumption of mainstreaming. It is clear that there is not sufficient funding or staff resource for supporting children with Additional Support for Learning needs, with consequent impacts on staff workload, morale and health and wellbeing, and impacts on the wider school community.

It is recommended that the EIS should use this evidence to continue to campaign for an increase in resources, including staffing, to support all children with additional support needs, including through:

- Raising during the local government election campaign period
- Raising in ongoing dialogue with government, both national and local, and in any dialogue with individual representatives e.g. MSPs or Party Spokespeople
- Seeking to influence outcomes from relevant groups including AGASL and AGGPOM
- Continuing dialogue with partnership organisations, including ENABLE

⁹ <http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/103397.aspx>

- Embedding ASN issues in any new work related to the content of Initial Teacher Education, and Career Long Professional Learning
 - Procuring independent research on learning support for pupils (as per the Council motion of November 2016).
-

The Educational Institute of Scotland

'Into Headship' Qualification

Introduction

The 2016 AGM adopted the following Resolution:

"That this AGM instruct Council to investigate and report on the potential effects of the requirement that all newly appointed Headteachers from session 2018/19 must have completed the 'Into Headship' qualification."

The Resolution was passed to the Education Committee for action, where it was decided to liaise with the Employment Relations Department on the issue of current Headteacher shortages and to consult the HT and DHT Network.

Background

The 2014 Education Act stipulated the requirement that all new Headteachers hold the 'Into Headship' qualification from session 2018/19. The Scottish Government announced in March 2016 that the qualification will be fully funded for the first three years, supporting up to 500 teachers to complete the course.

These developments have occurred against a backdrop of concerns raised in recent years and were reflected in the Scottish Government commissioned 'ADES Report on Headteacher Recruitment' (March 2016), about declining numbers of applications for Headteacher posts nationally, consequential increases in the numbers of multi-establishment Headteacher posts in rural areas and particular recruitment challenges in the denominational sector. Meanwhile the age profile of a sizeable portion of the Headteacher cohort in Scotland exceeds 55.

Findings

Views of the EIS HT and DHT Network

Reasons cited for the diminishing attractiveness of the Headteacher role by members of the EIS HT and DHT Network and echoed by the ADES report include:

- Excessive workload and the potentially detrimental impact on the health and wellbeing of Headteachers;
- Increased complexity and diversity of the role;
- Reductions in the numbers of support staff compounding difficulties related to workload;
- Salary erosion;
- Lack of opportunity for teachers to gain experience in promoted posts in preparation for headship as a consequence of reduction in the number of such posts and consequential flattening of structures;
- Variable degrees of support by local authorities for Headteachers both newly appointed and experienced.

Members of the HT and DHT Network were of the view that the mandatory nature of the 'Into Headship' qualification could be a further barrier to Headteacher recruitment.

The Network also suggested that there may be a further decline in the number of applicants for Headteacher posts when the requirement becomes mandatory, similar to that which occurred following the introduction of the Scottish Qualification for Headship.

The workload of Headteachers and Deputies was highlighted as a significant issue in Network discussions, particularly in the context of teacher shortage. Many Headteachers and Deputies, in the absence of supply teachers, are teaching classes during what would otherwise be time set aside for management duties. The EIS HT and DHT Network was clear that in order for the learning associated with gaining the headship qualification to be overtaken, adequate protected time is required. Without this being available, the likelihood of uptake of the course will be diminished and the drop-out rate high, with resultant implications for future Headteacher recruitment.

Network members were of the view that rather than make qualification a pre-requisite of appointment, a more effective means of incentivising and supporting prospective Headteachers would be to provide adequate levels of support to those newly appointed.

EIS Response to the Scottish Government Consultation on Draft Headteacher and Training Standards

In a recent response to the Scottish Government's consultation on the draft Headteacher and Training Standards, the EIS expressed the view also that the availability of this headship qualification will not in itself incentivise people to seek to become Headteachers.

In addition to the matter of Headteacher workload, the issue of under-representation of particular groups within the Headteacher cohort as shown in teacher census data, was highlighted as an essential factor for consideration with regards to addressing recruitment challenges.

Attention was drawn to the significant under-representation of women in Headteacher posts within the Secondary sector- around 41% of Secondary headteachers are women yet they are 67% of the whole workforce.

Similarly, the stark under-representation of Black and Minority Ethnic (BME) people within senior management, and specifically Headteacher, roles was underlined. BME teachers comprise 1% and 1.7% of the Primary and Secondary teacher workforce respectively, yet hold Headteacher posts in such small numbers that they do not appear within Scottish Government school census data for either sector.

Such under-representation both of women and of BME people within Headteacher posts and the underlying reasons for this, must be a matter for consideration in

any analysis of the challenges around Headteacher recruitment. The ADES report makes no mention of this.

A final issue highlighted in the consultation submission and which may become a factor in the future recruitment of Headteachers is the unhappiness of many of our Headteacher members with the Scottish Government intention to confer onto them more of the responsibility that currently sits with education authorities.

Conclusions and recommendations

While some concerns have been raised about its prospective introduction there is insufficient evidence on which to base firm conclusions about the potential impact of the requirement that all newly appointed Headteachers from session 2018/19 must have completed the 'Into Headship' qualification.

In light of current recruitment challenges, general teacher shortage and of the uncertainty around the outcomes of the Governance Review of Scottish education, the EIS has suggested that the introduction of the mandatory element of the qualification be delayed for two years.

Regardless of the Scottish Government response to this suggestion, it will be necessary for the EIS to continue to lobby around the issues that directly impact on Headteacher recruitment as outlined in this paper, with a view to healthier patterns of recruitment being achieved. It is also recommended that the EIS continues to monitor the impact of all related developments.

The EIS believes that leadership is vital at all levels within the profession and has consistently lobbied for the funding of Masters-level learning for all teachers.

In this context, the EIS welcomed the funding of the 'Into Headship Qualification' but continues to stress the need for the principle of equity to be fully reflected in the new arrangements, both in terms of equity of access to the qualification by prospective Headteachers from all local authorities, and in terms of extension of the commitment of the Scottish Government to support Masters-level learning pathways for all teachers.

The Educational Institute of Scotland

New National Standardised Assessments for Literacy and Numeracy

Introduction

The 2016 AGM adopted the following Resolutions:

“The AGM instruct Council to seek clarification on which teachers will have responsibility for administering the Literacy and Numeracy assessments in Secondary 3.”

“That this AGM instruct Council to investigate and report upon the potential workload impact on teachers, of the new national standardised assessments for Literacy and Numeracy for pupils in Primary 1, Primary 4, Primary 7 and secondary 3.”

The Resolutions were passed to the Education Committee for action. The Committee:

- Wrote to all local authorities requesting information about plans for implementation of the assessments for S3 pupils from August 2017;
- Wrote to the Scottish Government seeking information about the delivery of the Scottish National Standardised Assessment (SNSA) trials and to the five local authorities involved (Fife, Glasgow, South Lanarkshire, Stirling and Western Isles);
- Wrote to School Reps (45) and Headteacher members (19) in the schools in which trials were conducted, requesting feedback in relation to the practical implications of conducting the assessments, the staff involved and the workload impact.

S3 Literacy and Numeracy Assessments

Local Authority Responses

19 of the 32 local authorities replied to the letter seeking clarification on which secondary teachers would have responsibility for delivering the new Literacy and Numeracy standardised assessments. Replies were not received from Angus, Clackmannanshire, Dumfries and Galloway, East Ayrshire, Fife, Highland, North Ayrshire, North Lanarkshire, Orkney, South Lanarkshire, West Dunbartonshire, West Lothian or the Western Isles.

Of the 19 local authorities who did reply, 16 indicated that they were not in a position to provide clarification of which Secondary teachers would have responsibility for administering Literacy and Numeracy standardised assessments because they did not have enough detail on the assessments. Comments made repeatedly within responses were that there were ‘no details’,

that authorities were 'not aware of the requirements' and 'we have not given much thought to this at a strategic level'.

A few local authorities indicated that they intended to form a view once information from the trials had been shared.

Seven local authorities indicated their intention to discuss the administering of the new assessments within LNCTs once more detail was known: Dundee, Falkirk, Glasgow, Midlothian, Moray, Perth and Kinross and south Ayrshire.

Three local authorities supplied some clarification of which Secondary staff are likely to be involved in delivering the SNSAs.

Edinburgh indicated that a contact name for each school for the SNSAs had to be supplied- either the Headteacher's or the Business Manager's. The actual administration of the assessments will be done by English and Maths staff, with some support being provided by Learning support staff.

Scottish Borders stated that a depute head teacher in each school would have overall responsibility for the organisations and administration of SNSAs as this is determined by the timetable and the availability of IT suites. This response may suggest that this Authority envisages a whole cohort approach.

Stirling Council stated that although they awaited guidance on how SNSAs are to be delivered, they anticipated that English and Maths teachers would be involved in their delivery for S3 pupils.

National Standardised Assessment Trials

Following several attempts by the Education Department to acquire information from the Scottish Government on the details of the SNAS trials, confirmation was given of the authorities involved (by which time this detail had emerged from other sources) but not the schools.

Information was then sought from the five local authorities involved in the trials: the schools involved, the types of assessment being trialled in each, the Primary stages involved, and the teachers involved in trials of the assessments with S3 pupils. Replies were received from three- Glasgow, South Lanarkshire and Stirling.

South Lanarkshire indicated that Numeracy assessment trials were conducted by a DHT with support from a Maths Principal teacher.

The Local Association Secretaries for Glasgow and Stirling were later able to confirm that assessment trials in Secondary were delivered by English and Maths teachers.

Feedback was received from 7 Reps and 3 Headteacher members as follows:

In one Primary school, the assessments were administered by the DHT who withdrew children individually. This was reported to have been time consuming.

A Rep in another Primary school reported that a group of P7 pupils had been selected to sit the assessments, which were conducted by a P7 teacher who found the process straightforward. No workload issues were identified.

Two Secondary reps provided feedback for Literacy and Numeracy assessments trialled with S3.

In one school, English teachers administered the assessments and did not find the process 'too onerous'. Time was taken up with teachers familiarising themselves with the assessments before the pupils sat them- around one hour- and some time was needed to address issues with pupils logging-on to the assessments.

Another school trialled Numeracy assessments with the Rep reporting minimal workload impact for teachers. Maths teachers directed pupils to the log-in page and provided log-in details; thereafter pupils worked independently.

Three Reps reported that their schools had been identified to participate in the trials but that they did not go ahead for one of the following reasons in each case: a case made by the school and supported by the local authority around workload; notice of an HMIe inspection for the period in which trials were to run; change of arrangement by the Learning Directorate.

One Headteacher member reported that Primary 1 pupils struggled to use the computer mouse to respond to the questions and required adult assistance to respond to the questions that required the 'click and drag' function. It was not specified which adults assisted. (The two further Headteacher responses did not supply any further information.)

Workload Impact of National Standardised Assessments

Information gathered from a small number of members involved in administering the assessments during the initial trials phase, suggested that teacher workload was not significantly increased in all cases.

Reports suggest that where adequate ICT provision was in place, the trials generated little additional workload although some pupils did require assistance.

Where ICT provision was more restricted, the trials generated workload for teachers in terms of the logistics involved in organising ICT access for a whole class for a time period exceeding the duration of a single period within the timetable.

To gain a more full and accurate picture of the workload impact, more information would be required.

Conclusions and recommendations

At present, there is only very limited information from local authorities on how Scottish National Standardised Assessments will be administered; on the

workload implications of delivering full assessments rather than trials of sections of the assessments; or on which Secondary staff will have responsibility for the delivery of Literacy and Numeracy assessments for S3 pupils.

However, the information supplied by four local authorities and by a small number of Secondary Reps indicated that English and Maths teachers are likely to be tasked with this responsibility in Secondary.

In light of this, further clarification must be sought regarding this matter within LNCTs once further detail of SNSAs is known. Plans for implementation will have implications for Working Time Agreements for all teachers involved in the delivery of these assessments.

It is recommended that this paper is shared with Local Association Secretaries and that monitoring of the situation continues.

In the meantime, EIS policy on assessment remains unchanged and is attached as Appendix A to this paper.

Interim Advice Note on the National Improvement Framework for EIS Members, School Representatives and Local Association Secretaries

Introduction

The National Improvement Framework (NIF) was published in January 2016, aspects of which are of immediate significance to EIS members this term for two key reasons.

Firstly, data on CfE levels for Literacy and Numeracy based on teacher professional judgement will be collected for P1, P4, P7 and S3 from all schools by local authorities, on behalf of the Scottish Government, by the end of June 2016. Following a period of quality assurance by local authorities (the EIS is clear that this check should relate only to data-gathering processes and completion), this data will be submitted to the Scottish Government by August 31st 2016.

Secondly, the four key priorities that are laid out within the National Improvement Framework and the key drivers of improvement should feature in school improvement planning for Session 2016-17, guidance to this effect having been issued to schools recently by Education Scotland. The four key priorities are:

- Improvement in attainment, particularly in literacy and numeracy;
- Closing the attainment gap between the most and least disadvantaged children;
- Improvement in children and young people's health and wellbeing;
- Improvement in employability skills and sustained school leaver destinations for all young people.

6 areas of Scottish education, identified as key drivers of improvement are: School Leadership, Teacher Professionalism, Parental Engagement, Assessment of Children's Progress, School Improvement and Performance Information.

This, of course, has implications for School Improvement Planning discussions and Working Time Agreement negotiations.

This interim assessment advice is being issued by the Education Committee of the EIS in response to both of those factors exclusively- collection of CfE levels and improvement planning reflecting NIF priorities and drivers. It does not seek to address the wider implications of the NIF, many of which relate to the assessment of children's progress and the use of National Standardised Assessment which is proposed to be fully in use during Session 2017-18. More detailed policy advice in relation to assessment will follow next session following consideration by the Education Committee and EIS Council.

Background

The National Improvement Framework has been introduced to address the Scottish Government's priority to raise attainment and improve equity of educational outcome between Scotland's most and least deprived children and young people.

There will be an annual report in each of the 6 areas identified as key drivers above, the stated purpose of the report to inform next steps for improvement and to assist with the targeting of support and resources as necessary.

Assessment of children's progress has been at the forefront of discussions on NIF due to the controversial inclusion of plans to deploy national standardised assessments. The EIS challenged early drafts of the NIF which articulated an intention to test cohorts of young people across the country within a given assessment timetable and to have the results of these tests published school by school.

Having made strong representation around the educational arguments against such measures the EIS welcomes that the final version of NIF:

- recognises the importance and primacy of teacher professional judgement in the assessment of pupils;
- confirms CfE levels achieved based on teacher judgement, informed in part by the results of standardised assessment alongside other assessment evidence, as the basis for public information;
- indicates that standardised test scores will not be collected (other than on an anonymised sampling basis) nor published for P1, P4, P7 and S3;
- does not require that pupils be assessed at a specific point in the year;
- does not specify explicitly that all pupils must sit standardised assessments, recognising the primacy of pupil learning needs;
- is underpinned by the assumption that current standardised testing / assessment across the primary sector will be made redundant by the provision of national standardised assessments.

Design of the standardised assessments is still a work in progress and the tendering process has yet to begin. The assessments are due to be piloted post-Christmas 2016 and then to be available for session 2017/18. Given this timetable, details of how they will work in practice clearly are not yet fully known; however, the EIS will oppose any aspects of the final design that is found to be in conflict with EIS policy on assessment, the key elements of which are highlighted later in this document.

Teacher Professional Judgement Collection 2016

The EIS is clear that the collection of data for 2016 must be based on existing practice in schools and not be treated as an additional workload imposition which sits outside existing Working Time Agreements for 2015/16. If this means that there are some gaps, or inconsistencies, in the response to the request from Scottish Government for the data listed below, that simply needs to be the case. In effect, responses should report an honest reflection of where schools are at the moment. Members should not engage in additional assessment practices or reporting simply to appear to respond to the demands of the NIF. There has been an acceptance by Scottish Government, in various fora, that there will be a level of inconsistency across the data garnered from local authorities as this remains an early stage in the implementation of the NIF.

Pupil level data for each individual pupil will be collected from all local authority primary, secondary, special and grant-aided schools on:

- Numeracy
- Literacy- Reading (English)
- Literacy- Writing (English)
- Literacy- Listening and Talking (English)
-

For pupils based in Gaelic Medium Primary Schools, pupil level data will also be recorded for:

- Literacy - Literacy- Reading (Gaidhlig)
- Literacy- Writing (Gaidhlig)
- Literacy- Listening and Talking (Gaidhlig)

Relevant information will also be collected from standalone special schools/ units where pupils are working to achieve individual milestones even though these may be unrelated to CfE levels.

Forming Teacher Judgement

The EIS is of the firm view that teacher judgments should be based on a variety of assessment evidence gathered from a broad range of learning activities and experiences over the course of the time during which a pupil has been working within a Curriculum for Excellence level. The EIS believes that, in the process of teachers arriving at judgements of pupils' progress through CfE levels, no single piece or type of evidence should be used as the basis of assessment judgements.

EIS assessment policy clearly states the value of formative assessment, and regards it to be intrinsic to effective learning and teaching that is tailored to the needs of individual pupils.

EIS policy also recognises the value of summative assessment that is judiciously and appropriately used and questions the value and validity of externally created summative tests which are not aligned closely to pupil learning in the classroom. Information gathered from Local Associations by the Education Committee this session has shown that standardised tests/ assessments are being used in many local authorities across Scotland involving the presentation of whole cohorts of pupils, often at set points in the school session.

The EIS believes that the value and validity of standardised assessments is very much dependent on the purpose for which they are being used and on their relevance to pupil learning. Standardised tests which are diagnostic can provide additional information to support the progress of individual pupils and therefore can be helpful. EIS policy is opposed to the use of standardised tests/ assessments for the purposes of data-gathering to enable the setting or streaming of pupils by ability; school by school comparison; or the creation of accountability measures. The EIS believes that all assessment must genuinely support learning.

In summary the EIS view is that:

- no single piece or type of evidence should be used as the basis of overall assessment of pupil progress;
- assessment evidence should be derived from a wide range of learning experiences and activities;
- the body of assessment evidence leading to professional judgement of pupil progress should be gathered over the period of time at which a pupil is working at a CfE level;
- all assessment, both formative and summative, should be planned and conducted at a time and in a way that serves the best interests of pupils' individual learning.

Moderation

Existing EIS policy endorses the role of professional dialogue in the development of teacher judgement of pupils' progress, in line with the statement within Building the Curriculum 5 that:

'Professional dialogue is central to the creation of this shared understanding. Schools need to create space for sharing ideas among staff internally and for teachers to engage in various external discussions.'

As part of the package of support materials to be provided to schools ahead of the data-gathering exercise and in response to NIF, Education Scotland recently issued advice to schools on arriving at professional judgement of pupils' progress through CfE levels, entitled 'Achievement of a Level'.

While it is a useful document for schools in that it reiterates aspects of the original CfE assessment approach, it does not reflect fully the varying degrees to which schools and local authorities are engaged in, and have negotiated time committed to, the scale of moderation that is advised in the document.

It is the view of the EIS Education Committee that the approach to moderation outlined in the advice is aspirational, and that, in most cases, because of the significant investment of time demanded, it is highly unlikely that the range and depth of moderation activities described will have been overtaken by teachers.

It must be accepted in that case that the data which will be supplied on CfE levels this term is on the basis of the much more modest moderation activities for which time will have been made available within Working Time Agreements for Session 2015-16. It may indeed be the case that time for moderation will not have been assigned within some WTAs for Session 2015-16.

Implications for Workload

Given the mid-session publication date of the NIF and the subsequent advice from Education Scotland, Working Time Agreements for session 2015-16 do not take account of the full implications of either.

Regarding the collection of teacher judgement of CfE levels, the EIS is clear that the provision of such information by teachers to local authorities in the first instance, should not result in any increased workload. Appropriate data of this nature is likely already to have been recorded as part of an establishment's usual assessment and reporting procedures and so providing teacher professional judgement data should, in most cases, simply involve the appropriate transfer of data to local authorities. **It is for local authorities to cull the data from their existing arrangements and EIS members should resist additional duties in this regard.**

In the event of a dispute arising with regard to this area the school representative should raise the matter with the Local Association Secretary who should in turn raise it with the local authority.

Working Time Agreements for session 2015-16 are likely to have included time for moderation. In instances of any time allocated for moderation still being available, it could be used in some of the ways outlined in the Education Scotland advice. Where there is no remaining available time for moderation within the Working Time Agreement, members should bring to the attention of the school representative any attempts to introduce additional moderation activities by the management of the school with a view to a suitable resolution being negotiated. Again, in the event of this being unsuccessful, the matter should be raised with the Local Association Secretary.

Working Time Agreements for Session 2016-17 should reflect the priorities in the School Improvement Plan as they relate to NIF.

NIF and School Improvement Planning

The EIS is clear that school improvement plans (SIPs) must be realistic and deliverable within the parameters of Working Time Agreements. Taking account of the 4 key priorities highlighted in NIF, and the 6 drivers of improvement, in addition to local authority priorities and school priorities as identified through self-evaluation, is a significant challenge, but planning must be proportionate in relation to resources, most particularly the time available.

While the expectation is that SIPs should reflect the NIF, it is worth noting that Education Scotland has recognised that the extent to which individual schools take forward the individual NIF priorities, and work around the drivers of improvement, will be dependent on local circumstances. Education Scotland also recognises that SIPs must be balanced in light of the findings of the Tackling Bureaucracy Working Group and should be delivered within the collegiate hours available within Working Time Agreements.

Local Assessment Policy

In particular, EIS members and representatives should seek to be involved in and to influence discussions around the development of local authority and establishment-based assessment policy in light of publication of the NIF.

Although the details of how standardised assessments will operate are yet to be finalised, it is possible that some local authorities will make pre-emptive adaptations to existing policy on assessment. It is important that the EIS is

involved in any such policy review at LNCT and establishment level. In so doing, they should endeavour to ensure that EIS priorities in this area are taken account of and reflected within assessment policy at both levels.

Key principles of EIS policy on assessment

- Formative assessment based on teacher professional judgement should be the central approach until pupils reach the senior phase and are at the stage of sitting qualifications as set by external bodies.
- Confidence in and the reliability of teacher professional judgement should be developed through professional dialogue at all stages in the learning and teaching process.
- This must be supported by the provision of allocated time for meaningful moderation activities, including the planning of assessment and understanding of standards.
- Teacher professionalism and autonomy in determining how and when to assess learners are of key importance.
- Assessment methodology and the timing of assessment should be tailored to the particular learning needs of individual pupils.
- It is therefore unlikely to be appropriate for whole cohorts or classes of pupils to be assessed at the same time using the same assessment tool.
- Standardised tests/ assessments can be useful diagnostic tools but are of limited value to learning, teaching and assessment as a whole.
- The use of any kind of standardised tests/assessments in schools should therefore be limited.
- The use of standardised testing/ assessment for the purposes of data-gathering to enable the setting and streaming of pupils by ability, school to school comparison or the creation of accountability measures is not in the interests of learning and teaching.
- Where standardised tests/ assessments are in use, their results should not be treated as an exclusive measure of learners' progress and achievement.
- Assessment judgments should be based on a range of assessment conducted over the period of time at which a pupil has been working within a particular CfE level.
- This broad approach to assessment should be reflected in reporting to parents and carers, with information being fully contextualised- no single item of assessment data should be reported in isolation.
- At points of transition, time should be made available to teachers to share this assessment information to support future learning.

Taking account of the recent 'Achieving a Level' advice from Education Scotland, assessment policy should reflect a commitment to the provision of time for teachers to collaborate in the planning of learning and assessment; to observe

learning and assessment in process; and to evaluate outcomes collaboratively to ensure a shared understanding of, and reliable information gathered from, assessment to support further progress by learners. Such commitment should be reflected also in Working Time Agreements.

The policy should also reflect a commitment by the local authority to offer opportunities for professional learning for teachers in a range of assessment approaches and practices and to support moderation and understanding of standards through moderation within primary schools; among primary schools in a cluster; within and across departments in secondary schools; across secondary departments within a learning community; and across sectors.

Action

National

Nationally the EIS will continue to monitor the implementation of NIF and awaits with particular interest, the details of standardised assessment design and implementation. In the event of there being duplication of assessment across local and national approaches the EIS will expect new national standardised assessments to replace those in use currently within local authorities.

Local Associations

Local Association Secretaries/ LNCT Joint Secretaries should seek to review local policy on assessment within the broad general education (Early Years to S3) with the aim of ensuring that it accurately reflects the principles of CfE and EIS policy on assessment as outlined within this advice note.

In addition to those raised by NIF, issues around the Tackling Bureaucracy Report and the subsequent Follow-up Report should be considered. Of particular importance are the statements that assessment judgements should be based on evidence drawn mainly from day-to-day teaching and learning, and that schools should focus on assessing progress in Significant Aspects of Learning (SALs), rather than at the level of individual Experiences and Outcomes.

Revisiting original CfE documentation on assessment may also be helpful. For example, BtC5 states that 'Assessment activity should not dominate the learning process. Assessment must be proportionate and sustainable, and the demands it places on teachers' time should be carefully monitored.'

School Branches

EIS members in schools should ensure that the assessment policy of the school is consistent with that agreed at LNCT level and should endeavour to influence practice in line with EIS policy on assessment as outlined within this advice note.

Conclusion

In summary, the key points of advice in relation to Professional Judgment Collection and School Improvement Planning as part of the NIF are:

- The data being gathered should come from existing assessment practice and members are advised that there is no need to engage in additional assessment or reporting to meet the NIF requests.
 - Existing WTAs for 2015/16 pertain and members should resist any additional workload impositions.
 - In terms of School Improvement Planning and WTAs for 2016 / 17 realistic time allocations for activity related to the NIF require to be made.
 - Where specific concerns arise at a school level, the school representative should raise these with the Local Association Secretary for advice and/or further action.
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The Educational Institute of Scotland

Reduction in Educational Psychological Services

The 2016 AGM passed the following resolution:

"That this AGM instruct Council to investigate and report on the impact that the reduction in educational psychological services has had on children's access to the service."

The resolution was passed to Education Committee with input from Salaries. Education Committee at its meeting of June 2016 agreed to consult with both the Educational Psychologists' and ASN Networks in order to ascertain their views of the impact of the reduction in educational psychology services.

The Educational Psychologists' (E.P.) Network discussed the resolution at its meeting of 24 June 2016; and the ASN network discussed it at its meeting of 12 September 2016.

The E.P. Network could not offer any information on impact of children's access to the service. It observed that members' perspective is that the E.P. service is overstretched, under-staffed and over-worked, but that there is no evidence on the impact that has on access for children.

The ASN Network observed that:

- Some members perceive that the cuts have made no difference because children rarely saw educational psychologists anyway
- Their perception is that children's access to the service is perfunctory or non-existent; a 'bare minimum' model seems to be the norm
- There is wide variation in delivery across different authorities, e.g.
 - in some authorities (e.g. Argyll and Bute) educational psychologists can be used inappropriately e.g. for dyslexia diagnoses, where other services could better provide this, but in others (e.g. Scottish Borders) they are never used for diagnosis
 - some authorities (e.g. Falkirk) use E.P.s on a "consultative basis"
 - in one authority (East Renfrewshire) all children with additional support for learning needs are allocated an educational psychologist, and attend one review meeting per year plus additional meetings if needed
 - in some authorities (e.g. Aberdeen) the ASN teachers see a lot of the E.P.s and they are perceived to be very engaged and 'hands-on'
 - in some authorities (e.g. North Ayrshire) they appear to be mostly engaged with systems rather than child contact.
- Some areas are actively encouraging the training of teachers in programmes like 'Seasons for Growth', which perhaps blurs the lines regarding who is best placed to deliver therapeutic interventions, e.g. in Argyll and Bute the E.P. service pays for programmes on topics such as mindfulness, resilience etc., which teachers deliver.

The general consensus of the ASN network was that educational psychologists are used for support; to maintain systems; in GIRFEC processes; and, in some areas, in a diagnostic role; and that children's access to the service is highly variable and affected by more issues than purely the size of the service, including such factors as the authority's investment in teacher-led interventions, and its perception of the E.P. role.

The scope of Educational Psychology services

The reduction in educational psychology services is stark. The number of practicing E.P.s has fallen to 371 across Scotland in 2016. The number of educational psychologists working in schools dropped by 10% in the last ten years from 416 in 2007 to 371 in 2016.

At the same time, the number of pupils identified as having Additional Support Needs (ASN) increased. In 2016, 170,329 pupils (24.9% of all pupils) had additional support needs¹⁰. The data held by the Scottish Government suggests that in 2016, 5.3% of pupils had social, emotional or behavioural difficulties and 2.1% had a learning disability. The number of young people treated for mental health conditions in Scotland has also risen in recent years (it rose by 30% from the quarter ending June 2014 compared to June 2016¹¹), which is perhaps unsurprising, given that we now know that half of all diagnosable mental health problems start before the age of 14 and 75% by the age of 21.¹²

In addition to cuts in serving E.P.s, there has also been a decline in trainees. Applications to study educational psychology at universities in Scotland have fallen sharply in recent years. This could be attributed wholly or partly to the Scottish Government's 2012 decision to withdraw national funding (via bursaries) of trainee educational psychologists. Students of educational psychology now have to cover university tuition fees as well as living expenses.

It has been reported that before the bursary was removed, university courses in educational psychology at Dundee and Strathclyde attracted somewhere between 170 and 220 candidates. In 2016, they reportedly received 30 applications. In 2016, for the first time ever, they had to have a second recruitment phase, and eventually attracted 19 candidates for 24 places, but subsequently, two candidates dropped out because of a lack of funding.¹³

¹⁰ <http://www.gov.scot/Topics/Statistics/Browse/School-Education/TrendSpecialEducation>

¹¹ <https://stv.tv/news/politics/1366169-half-of-health-boards-missing-children-s-mental-health-targets/>

¹² <https://www.mentalhealth.org.uk/statistics/mental-health-statistics-children-and-young-people>

¹³ http://www.heraldscotland.com/News/14776302.Criss_over_educational_psychology_in_Scotland/?ref=rss

This situation is not new. A 2013 report from the Scottish National Steering Group of Educational Psychologists said that nearly a quarter of E.P.s might retire in the next four years; that too few new trainees are being recruited; and that the Group had concerns that some councils could breach their statutory obligations on provision if the situation does not improve. The report indicated that nearly 25% of Scottish Educational Psychologists were eligible to retire by 2017.

In 2017, just twelve newly qualified educational psychologists are expected to join the profession in Scotland, which is around half the number needed annually to fill vacancies. In 2018, it is expected that just 17 educational psychologists will graduate. The Association of Scottish Principal Educational Psychologists (ASPEP) has said that the situation is so serious that training courses could fold because of a lack of demand. It has been reported that due to this decline in trainees, discussions are underway between Education Scotland and Directors of Education about the possibility of education psychology services in Scotland being removed from local council control and turned into a national service.¹⁴

The overall data on provision of practicing E.P.s is as follows:

Teacher census
2016

Table 5.3: Other centrally employed staff, 2007-2016

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016 ⁽¹⁾
Educational Psychologist ⁽¹⁾	416	413	418	401	390	411	407	405	370	371

The impact on children’s access to the service

It is perhaps a logical step to say that a reduction of 10% in the service has a consequent impact on children’s access to educational psychology.

There certainly appears to be some evidence of that. The Scottish National Steering Group report of 2013 reported that the withdrawal of national funding for training of E.P.s, cuts to overall council budgets and an increase in the number of pupils with ASN have combined to put delivery of services in schools and communities under significant pressure. The report claimed that a postcode lottery exists and that people in some areas have less access to educational psychologists, potentially putting them at risk.

The Association of Scottish Principal Educational Psychologists (ASPEP) is on record as saying that "a number of local authorities have been unable to employ a sufficient number of educational psychologists, and, unless national steps are taken to secure the workforce supply, then we are likely to see looked after

¹⁴ <https://www.tes.com/news/school-news/breaking-news/shortage-educational-psychologists-means-service-could-be-taken-out>

children and those with additional support needs lose out on the core services that they need."

There also appears to be variation in how children access the service. It was noted during a March 2017 evidence session in the Scottish Parliament on ASN, that educational psychologists' role can vary, e.g. in whether they are used for expert assessment of additional needs. Professor Riddell (University of Edinburgh) said, "Some people might be effective at arguing for an expert assessment to be done by a psychologist, but many parents get an assessment from the class teacher", and a parent spoke of her experience, saying, "We have recently requested additional assessments for my youngest foster son...there was resistance from the educational psychologists in his own local authority and in the local authority in which he is now placed. They said that they did not want to do the assessments."

Teachers speaking at the same evidence session referred to the declining E.P. service in nursery, saying, "nursery staff no longer have the same access to psychologists or other resources if they want to get help with a child's speech and language" and "the pastoral care team and people who are involved in speech and language therapy see an educational psychologist once a month for two hours, if they are lucky."

ASPEP has recommended that the Scottish government should provide clear guidance to local authorities about the number of educational psychologists required per head of population to safeguard an effective level of service for children and young people. However, the Scottish Government's position is that it is up to each local authority to identify and meet this demand, with central government's role being to monitor the delivery of this support through the National Scottish Steering Group for Educational Psychologists.

Wider mental health services issues

New research on health boards' mixed delivery in terms of meeting the waiting time target (18 weeks) for treating children with mental health issues seem to suggest that there are systemic issues in Scotland re: children's access to mental health/psychological support services, which go beyond cuts to the educational psychology service.

Health boards are expected to ensure that 90% of people are seen within 18 weeks, but 2016 statistics showed seven of Scotland's 14 health boards failed to make the target, and in some areas only around a fifth to two fifths of children were seen within 18 weeks, e.g. in Shetland the figure was 22.7%, in Forth Valley it was 28% and in Grampian it was 41%.

The Scottish Government announced in 2016 that it will increase spending on mental health provision by £150m over the next five years, and it recently published a new Scottish Government Mental Health Strategy¹⁵. The strategy is fairly thin on educational psychology issues. It states:

¹⁵ <http://www.gov.scot/Publications/2017/03/1750>

"Making sure that children and young people are included, engaged and involved in their education is fundamental to achievement and attainment in school. That means ensuring that schools provide a positive culture for all students' social, emotional and mental wellbeing, and that appropriate pastoral care and access to educational psychologists is available. The school environment can then help children to feel secure, resilient, confident, supported, and ready to learn."

However, there are no specific commitments in relation to educational psychology.

The Scottish Children's Services Coalition has called for more action on children's mental health, on the basis of the fact that half of all diagnosable mental health problems start before the age of 14 and 75% by the age of 21, and saying, "as such, it is vitally important that we radically improve mental health services and increase investment in these, with an overall aim of ensuring that children and young people get the help they need, when they need it. We need to look at preventing such problems arising in the first place and intervene early to ensure that these young people are able to realise their full potential."

It has been pointed out by EIS members that there are a wide range of factors which can impact on children's access to educational psychology services, including local priorities and investment in teacher-led programmes. It may also be the case that some children are having their needs met through other means, e.g. universal services, such as G.P.s or school nurses, or that they are being diverted to specialist services. (The Scottish Government announced in 2016 that it has doubled the number of psychologists working in children and adolescent mental health services, so these new posts may have taken on some of the caseload previously dealt with by E.P.s).

Conclusion and recommendations

It is evident that there has been a significant reduction in the educational psychology service, with further reductions likely in future, as the number of trainees falls, austerity budgeting continues and council budgets keep shrinking, and as practicing E.P.s retire or leave the profession for other reasons. At the same time, the number of children who may demonstrate a need for the service is increasing steadily.

What remains unclear is what the impact of the reduced service is on children. There is conflicting evidence about children's access to the service, and widespread variation across different authorities. However, with the number of children identified as having additional support for learning needs increasing, it is clear that the role of educational psychology remains a vital one.

In that light, it is recommended that the EIS:

- Continue to raise concerns about cuts to educational psychology services, both nationally and through local level dialogue at LNCTs

- Seek to influence the implementation of the new Scottish Government mental health strategy, raising issues pertaining to the importance of equitable access to educational psychology services
 - Seek clarity about the roles and responsibilities of Educational Psychologists, to enable members working with children with additional support needs to better understand what services E.P.s can provide
 - Continue to monitor data on this issue, primarily through the teacher census, and raise with the E.P. and ASN networks on an ongoing basis.
-

The Educational Institute of Scotland

Support for Newly Appointed Teaching Staff

Introduction

The 2016 AGM adopted the following Resolution:

“That this AGM instruct Council to investigate and report on the support given by local authorities to newly appointed teaching staff including newly promoted staff.”

The Resolution was passed to the Education Committee for action. It agreed to write to all Local Association Secretaries and Directors of Education requesting information on the supports that are currently in place.

Information was requested on induction and post-appointment support provided by the local authority to:

- (a) Teachers post-probation
- (b) Teachers newly employed within the authority
- (c) Newly promoted PTs
- (d) Newly appointed Deputes
- (e) Newly appointed HTs

Responses from Local Associations

Replies were received from five Local Associations: Aberdeenshire, Dumfries and Galloway, East Ayrshire, Glasgow and North Lanarkshire.

Responses from local authorities

At the time of writing, 15 responses had been received from local authorities: Aberdeenshire, Argyll and Bute, East Ayrshire, East Dunbartonshire, East Lothian, East Renfrewshire, Glasgow, Inverclyde, Moray, North Ayrshire, Perth and Kinross, Renfrewshire, Scottish Borders, Shetland and Western Isles.

Findings

This section contains an outline of the main ways in which it has been reported that support is being provided to the above groups of teachers. The various kinds of support that appeared most commonly in the information supplied by Local Associations and local authorities are grouped together under thematic headings: induction schemes, in-school support, network support, mentoring, central

support (from the local authority), Headteacher meetings and professional learning.

Full details of the information supplied by local authorities are included in Appendix A.

(a) Support for teachers post-probation

Induction schemes

Glasgow provides a full induction programme for this group of staff, which, it was reported by the LA Secretary, is judged to be valued by those who participate.

Renfrewshire Council invites all newly qualified teachers (NQTs) to a 2-day welcome session prior to the beginning of the school year. The session covers, for example, practical employment matters, learning and teaching, Literacy and Numeracy, assessment, and includes inputs from the previous year's NQTs.

Some local authorities reported that they have mandatory induction programmes for all newly appointed staff, including those who are in their first year of teaching with full registration. In two cases, these programmes include a corporate programme.

Some local authorities cited school-level induction as a means of support for post-probation teachers.

In-school support

In-school support for teachers who have recently completed probation was reported to take several forms.

Individual programmes of induction and support were referenced, though detail of content was not provided. In a number of cases, SMT staff were identified as having responsibility for such programmes.

Opportunities to team-teach and to shadow more experienced colleagues were highlighted by Aberdeen Local Association as supportive measures in place for newly qualified teachers.

Dumfries and Galloway Local Association indicated SMT and other staff in the school give support to NQTs, while in Scottish Borders individual coaching is a core element of the induction process within schools.

Network support

Two Local Associations- Aberdeen and North Lanarkshire- identified local networks as a source of support for teachers in employment post-probation.

Mentoring

In Aberdeenshire, probationer mentors remain in contact with those that they worked with in the probation year as they undertake their first year of teaching as fully registered teachers.

Professional learning

It was reported that newly qualified teachers can also access support through existing professional learning opportunities that are open to all staff, either provided by the local authority or by school staff, depending on the focus.

Professional learning sessions for teachers post-probation are provided by some authorities in such topics as GIRFEC, curriculum, assessment and moderation, behaviour management and active learning. Moray provides professional learning on classroom leadership to teachers in their first substantive post.

East Ayrshire Local Association indicated that while no such specific supports were in place at the moment, plans are afoot to use Attainment Challenge funding to provide courses for newly qualified teachers (NQTs) in Literacy and Numeracy, and in other areas of priority as identified by this cohort of teachers themselves.

In Aberdeenshire, new teachers are encouraged to continue use of their final probationer profiles and other self-evaluation resources, alongside the support provide through local authority events and at establishment level.

A few local authorities indicated that they encourage new teachers to engage with SCEL's teacher leadership programme.

(b) Support for teachers newly employed within the authority

Induction

A few local authorities indicated that they run mandatory induction programmes for all staff newly employed, which, in one local authority- East Renfrewshire- must be taken up within the first four months of employment by the authority. A few local authorities provide an online induction checklist for newly employed staff, while East Lothian organises 'Meet the Chief executive' sessions for all newly appointed staff.

Mentoring

Western Isles offers mentorship to newly appointed staff, this being an area that they hope to develop further.

General

In most of the local authorities for which information was provided, however, there are currently no additional bespoke arrangements in place for teachers who are new to employment within the authority.

Feedback from the five Local Associations suggests that the nature of the support offered is generic and comparable to that most commonly available to NQTs- access to available professional learning opportunities, involvement in local networks, and support from school staff in various forms.

Glasgow Local Association has highlighted the need for support for this group of teaching staff with HR, and the matter is now under consideration.

(c) Support for newly promoted PTs

Induction

A few local authorities specifically referenced personal induction for newly promoted PTs.

Perth and Kinross indicated that newly appointed PTs have access to a 10-day programme of Leadership and Induction which includes focus on policy, finance, legislation, leadership and management theory and practice, and the support of a coach/ mentor. (Such opportunities are also open to new DHTs and HTs).

In-school support

Information provided pointed to in-school support being provided by SMT, though Local Associations suggested that this is dependent on capacity.

For example, at school level, for newly promoted PTs in the primary sector, the reductions in school management personnel in North Lanarkshire, specifically the elimination of DHTs in some schools, has meant that PTs have no other senior manager to support them apart from the HT.

Mentoring

Dumfries and Galloway organises mentoring across the authority, pairing newly appointed PTs with more experienced PT colleagues. Aberdeen and Aberdeenshire operate similar models. East Ayrshire also arranges mentoring for newly appointed PTs.

Network support

Inverclyde PTs, including those newly appointed, are supported through Primary and Subject PTs' Networks.

Central support

Aberdeenshire's QIOs support newly appointed PTs, particularly with regards to training and professional learning appropriate to the role.

North Lanarkshire Local Association reported that local authority support is limited because of budget constraints. The Local Association Secretary identified the dilution of centrally provided support as an issue for newly promoted PTs in the secondary sector. For example, local authority organised subject-specific business meetings have all but disappeared. Any which do occur are more *ad hoc* in nature, tend to be after school and are more reactive to emerging concerns than part of a planned, proactive, co-ordinated programme of support. The associated challenges are compounded for Heads of Faculties that encompass subjects in which they are not specialist.

In contrast, East Renfrewshire continues to run four PT meetings per year, supported by the QIO.

Professional learning

Aberdeen City offers generic management training though this is not bespoke to educational leadership and management.

Argyll and Bute offers a programme of professional learning for middle leaders operated through a Middle Leadership Network, comprising 6 days throughout the year, two of which are run in partnership with East Dunbartonshire Council and SCEL. East Dunbartonshire itself offers a similar programme.

SCEL has also supported North Lanarkshire in design and delivery of a middle leadership conference, which new PTs were encouraged to attend. In addition, North Lanarkshire provides a number of leadership development courses for this cohort. North Lanarkshire Council indicated its intention to use Attainment Challenge funds in session 2017-18 to develop further courses in leadership for teachers at this level.

Renfrewshire Council has recently developed a training programme for newly appointed PTs covering effective leadership, managing improvement, leading and managing change, communication and relationships, managing people, GIRFEC and pupil support, and Council and national priorities.

In Dumfries and Galloway there are a variety of opportunities, offered through existing CPD mechanisms, to access courses in leadership, financial management, implementation of policies and procedures, and management of Professional Review and Development and Professional Update.

Glasgow City Council makes professional learning options available to new PTs on an opt-in basis, while Moray and Shetland offer new PTs the option of undertaking Leadership programmes.

Both North Lanarkshire and Glasgow local authorities offer development opportunities for aspiring PTs, with the emphasis more on preparation for promotion at this level rather than support afterwards.

East Ayrshire offers an Introduction to Management programme for newly appointed PTs and is soon to introduce a Middle Leadership programme to be delivered in partnership with Tapestry.

Dumfries and Galloway holds an annual conference for PTs (and DHTs).

Several local authorities indicated that newly appointed PTs have access to the full range of professional learning opportunities provided.

(d) Support for newly promoted Deputes

Network support

Inverclyde and Moray DHTs are able to seek support through participation in the DHTs' Network.

Mentoring

Aberdeen City and Dumfries and Galloway provide mentorship support to new Deputes through local networks.

Professional learning

Relevant professional learning opportunities are available to Deputes and/ or aspiring Deputes in Dumfries and Galloway, Glasgow and North Lanarkshire.

DHTs in Dumfries and Galloway are invited to an annual conference hosted by the authority.

Argyll and Bute cited its ABLE Programme (Argyll and Bute Leadership in Education) as being a good support to new Deputes. The programme offers four day-long sessions, covering a range of topics and the option for participants to complete assignments reflecting on their own personal development and contribution to school improvement. The programme is supported by SCEL and by UHI and on completion of it, participants can apply for credits in recognition of the professional learning that they have undertaken.

A few local authorities indicated that new Deputes are given the opportunity to undertake the 'Into Headship' qualification.

(e) Support for newly promoted HTs

Induction

Aberdeenshire offers what it describes as a comprehensive package of support for all new Headteachers, the appropriate elements of which are undertaken following discussion with the QIO. Learning focuses on the Headteacher handbook, a 7-day course of induction modules and involves mentorship.

Glasgow City Council arranges two days of induction for newly promoted Headteachers, covering matters such as Health and Safety. The Local Association Secretary reported that there can be quite significant delays between the date of appointment of an HT and participation in induction sessions, however.

HT induction is overseen in East Lothian by the Head of Education, with responsibility for ensuring completion resting with the Training and Development Officer.

North Lanarkshire and Shetland offer a central induction programme, also.

Mentoring

Experienced HTs are paired with newly appointed Headteachers in Aberdeen, Dumfries and Galloway and North Lanarkshire. In Borders, coaching/mentoring is provided to new HTs by central staff.

Headteacher meetings

Aberdeen City organises meetings specifically for newly appointed Headteachers. The authority also holds general meetings for Headteachers to which newly appointed HTs are invited, though the agenda is not tailored to their specific needs.

Similar meetings with input from central staff are arranged by Dumfries and Galloway.

The North Lanarkshire Local Association Secretary reported that HTs also meet with other HTs in their clusters on a fairly regular basis, in addition to attending termly meetings organised by the authority for all HTs, usually but not always according to sector, to discuss matters of importance.

Central support

Newly promoted HTs in Aberdeen are supported by the QIO, Curriculum, Inclusion and central CPD teams.

In Aberdeenshire, QIOs meet with new Headteachers formally to focus on handover from the previous Headteacher, introduction to key colleagues, the school and the wider community, overview of roles and responsibilities and of the support available.

In North Lanarkshire new HTs are assigned to work with a senior manager from Council Headquarters whose role is to ensure that a suitable induction to the new post-holder is provided. The authority also trains coaches and mentors to ensure availability of such support should it be requested by a new HT.

Professional learning

Renfrewshire has developed a programme for newly appointed HTs which is delivered by external consultants. Topics covered include leadership, vision, emotional intelligence, self-evaluation, education and the law, child protection, handling conflict, using data, and educational finance. The Council also provides training for HTs on coaching to support them in their role within the PRD process.

North Lanarkshire Local Association reported that formal training in management functions appears to be rather sporadic and variable in quality. The Council itself indicated that it is planning a range of senior leadership programmes for session 2017-18 that will be delivered using funding from the Attainment Challenge.

The Local Association Secretary indicated that the programme of professional learning is most robust as staff prepare for headship. In recent years, the authority has established an "aspiring HTs pool" from which acting HTs have normally been appointed when required, run in tandem with a locally organised "aspiring HTs development programme". They are also made aware of other opportunities for development, such as SCEL's "Into Headship" programme.

Similarly, East Ayrshire is in the early stages of planning an 'Academy' for staff who aspire to promoted posts, likely to involve a mentoring approach and include relevant professional learning. The Local Association Secretary suggested that this

would be open to staff at all stages in their careers, including those wishing to become Headteachers.

Professional learning opportunities are available to HTs in Dumfries and Galloway, including an annual Headteacher conference.

Conclusion and recommendations

From the information provided, albeit at the time of writing from less than half of local authorities, it would appear that the level of provision of support for newly appointed teaching staff at each level is variable across council areas though there are some similarities in the approaches adopted.

The least well supported group of teachers appears to be those who are newly appointed to an education authority. This should be a matter for the consideration of Local Associations. It is therefore recommended that this paper is issued to Local Association Secretaries.

Regarding the matter of support for newly appointed teachers to the full range of roles, the CPD Sub Committee will share the information with Local Association Secretaries, EIS Learning Representatives and the HT and DHT Network, and will continue to monitor.

The Educational Institute of Scotland

Rating of Teachers by Parents and Pupils

Introduction

- 1.1 The following resolution was approved by the 2016 Annual General Meeting:

"This Council resolves to survey Local Associations to ascertain:

- (a) the extent to which schools and local authorities carry out exercises where pupils and parents are invited to rate or comment upon the service provided by individual teachers or groups of teachers;*
- (b) the nature of such exercises and their ascribed purpose;*
- (c) the impact of such exercises on teachers."*

- 1.2 The Employment Relations Committee decided to survey the Local Association Secretaries in the first instance. A total of 7 responses were received in response to the first letter. A further letter requesting additional information resulted in a further 7 responses being received. This gave a total number of responses of 14.

Report

- 2.1 The responses indicated that most Councils (11) did not undertake such exercises or surveys. However, members of the Committee and Local Association Secretaries reported on inappropriate activities being practised under the heading 'Pupil Voice'. This aspect is discussed below.

Discussion – Pupil Voice

- 3.1 Within schools, pupil involvement in decision-making is often referred to as 'Pupil Voice'. This involves pupils having the opportunity to have a say in decisions in school that affect them. It aims to encourage pupils to play an active role in their education.
- 3.2 One Local Association reported on an instance in a primary school in which such a rating exercise occurred. This involved the use of a "smiley face" survey in early primary stages ostensibly as part of ascertaining the 'pupil voice' and included two inappropriate questions about the teaching staff. Once the Local Association raised the concern formally with the Council, the survey was withdrawn and the practice ceased immediately.
- 3.3 Another Local Association provided examples where some primary pupils (P6/P7) were invited sit on interview panels and were asked which candidate they preferred. It is reported that this also happens in secondary schools. This practice ceased when it was reported to

the LNCT Joint Secretaries as a variation from the locally agreed appointments procedures.

- 3.4 Some Local Associations reported situations where some primary school pupils have been asked to comment on lessons carried out by their teachers. This may be done to “give the children a voice” but such endeavours could leave teachers feeling demoralised as it undermines their professionalism and professional judgements.

Conclusion

- 4.1 There is insufficient evidence to suggest that Scottish Councils are carrying out exercises inviting pupils and/or parents to rate or comment upon the service provided by individual teachers or groups of teachers.
- 4.2 ‘Pupil Voice’ is not a new idea. However, some of the examples provided indicate insufficient strategic thinking in relation to its purpose without a clear idea of success criteria against which they can be properly evaluated. This can lead to neutral or even negative outcomes.
- 4.3 Local Association Secretaries should seek to ensure when such initiatives are proposed, that teachers are not subjected to unjust criticism and that they respond to members’ concerns.

The Educational Institute of Scotland

Myths of Immigration:

Guidance for nursery and primary teachers on challenging myths and misunderstandings

Introduction

Migration is the movement of people from one country to another. The people who move into a country are considered immigrants to that country, though they would be considered to be emigrants by their home country. Historically, immigrants have faced a number of challenges when settling into a new home. One of the most significant challenges faced by immigrants in Scotland is a lack of widespread public understanding about immigration, and the persistence of myths, often propagated by certain sections of the media. These myths taking hold can create a very hostile discourse about immigration and can lead to racist attitudes and behaviours. Often these ideas take root if children do not have the chance to have open discussions about difference and diversity when they are very young.

This booklet aims to provide nursery and early primary teachers with some ideas for discussing immigration within their schools and nurseries. We know that teachers are already very busy and that the curriculum is crowded. However, there are many different ways to engage with this issue. Whether you have time to organise one assembly or learning focus or to plan a few activities or a themed day, there is something you can do to help children and families understand this issue better.

The EIS welcomes and values a diverse and inclusive society. We welcome refugees and asylum seekers to Scotland. We support a rights-based approach to migrants and refugees, and expect governments to uphold all relevant laws including the 1951 UN Refugee Convention. We reject the demonisation of refugees and asylum seekers. We hope that teachers will find this resource useful for supporting open, honest conversations about immigration and for countering some of the misinformation that has spread in recent years.

“War is bad. It’s when they throw bombs out of planes. Sometimes I heard bombs. But I don’t remember. I only think of good things. I have a box in my head and put all the bad things in there and keep it locked. At the start in the UK it was hard because we knew no one. I was shy at first, but I have many best friends here now. I like school.”

Ahmed, age 9, from Syria but now living in the UK.

Source: http://www.refugee-action.org.uk/refugee_voices/2919_jana_ahmed

Language and definitions

Some sections of the media use the words 'migrant', 'refugee' and 'asylum seeker' interchangeably. There are, however, vast differences in their meanings, which carry different implications for data and research, but also different legal obligations. It is important to use clear language when discussing immigration. Age appropriate definitions suitable for nursery and early primary might include:

- **Racism:** treating someone differently or unfairly just because of their race or culture.
- **Immigration:** people moving from one country to another, and living somewhere new.
- **Asylum seeker:** someone who left their home country because they were being treated badly or because they were sad, scared or didn't feel safe, and who has asked the government if they can stay in their new country.
- **Refugee:** someone who is allowed to stay in another country because they are not safe at home.

It is important to explain to children at early level that some people come to other countries to get a job or to learn something new, and some people move because they don't feel safe, so that they understand the range of reasons for people moving between countries. This provides a foundation for further conversations at first level and beyond.

The scale of the issue

- 65.3 million people were "forcibly displaced" in 2015, including 21.3 million refugees and 3.2 million asylum seekers (United Nations High Commissioner for Refugees)
- An estimated 12.4 million people were displaced due to conflict or persecution
- The number of asylum applications by unaccompanied minors tripled in one year reaching a record of 98,400 in 2015
- 169 countries or territories worldwide host refugees
- 80% of refugees are hosted by developing countries
- There were 38,878 applications for asylum in the UK in 2015, compared with 431,000 in Germany, 163,000 in Sweden and 163,000 in Hungary.
- An estimated 323,000 people emigrated from Britain in 2015. The main reason people leave is for work and the most common destinations for British citizens are Australia, Spain, the United States and France
- Less than 1% of world's refugees live in the UK, and refugees make up only 0.19% of the UK population.

Legal context

- Immigration is a reserved issue in the UK, not a devolved one, meaning that powers over immigration sit with the UK parliament, not the Scottish Parliament.
- The UK's approach to immigration is the subject of intense debate at present, due in part to the June 2016 vote for Britain to leave the European Union. This may lead to changes in the UK's approach to immigration, which would change the legal context.
- Since 1954 the UK has been signed up to the 1951 UN Refugee Convention. Almost every country is bound by this international law. Under this law, anyone in the UK has the right to seek asylum; and the UK Government has an obligation not forcibly to return anyone to a country where they have a genuine fear of being persecuted.
- The right to seek asylum is completely separate to the issue of immigration. It is a human right.

"Everyone has the right to seek and to enjoy in other countries asylum from persecution."

Article 14 of the Universal Declaration on Human Rights

- There is no human right to immigration, so fair and non-discriminatory limits can be placed on economic migration (moving to another country for work); but the right to asylum can never be limited.
- Human rights, including the right not to be subjected to degrading treatment; the right to a private and family life; the right to free expression and protest etc., apply to all human beings. These rights do not depend on citizenship.

Recurring issues

Immigration to the UK and Scotland is not new, and the debate about levels of immigration is a recurring one. Since the 1940s, Britain has had waves of immigrants from many countries, including the West Indies, Ireland, Pakistan, and Poland, many of whom have formed large communities, which are well established and have added to the richness and diversity of our society. Britain once had an empire of colonised countries, which contributed to the movement - not always freely - of people between countries. British history is steeped in migration and emigration.

Likewise, scapegoating of immigrants - blaming them for societal problems such as shortages of jobs and housing, caused by political decisions like pursuing austerity - has always happened. Scapegoating of 'others' can lead to multiple forms of oppression and ultimately to murder. Jews were used as scapegoats by the Nazi government in Germany before and during world war 2, and six million Jewish people died in the holocaust as a result. Dehumanising people opens the gates to abuse. One tool for understanding how the holocaust could have happened, the Allport scale, posits that hate speech is the foundation for all forms of abuse, discrimination and violence towards groups. That is why it is so

important to challenge the myths of immigration and the prejudices that can arise from misinformation, from the earliest opportunity.

Policy context

The Scottish educational context provides a range of ways to support education on immigration:

- The Curriculum for Excellence includes experiences and outcomes on a range of equality and inclusion issues
- Getting it Right for Every Child (GIRFEC) policy and practices support inclusive education which meets the needs of immigrant, refugee and asylum-seeking children. The SHANARRI well-being indicators include feeling safe and included, which can be especially relevant to refugee and migrant children.
- How Good is Our School 4 has an increased focus on equality, and says 'inclusion and equality leads to improved outcomes for all learners'
- The General Teaching Council for Scotland expects teachers to commit to "the principles of democracy and social justice" and to "demonstrate a commitment to engaging learners in real world issues to enhance learning experiences and outcomes, and to encourage learning our way to a better future". Providing education about the myths of immigration is entirely consistent with the GTC standards.
- The Equality Act 2010 protects people in the UK from discrimination on various grounds including race and religion. This law can protect immigrants who experience racism. It provides a framework for tackling discrimination and promoting equality.

Policy context – Scottish Government immigration policy

The current Scottish Government's stance on immigration differs significantly from current and recent UK Governments' positions. Immigration is reserved, not devolved, so that Scotland cannot determine its own policy on overall numbers of immigrants. However, several Scottish Governments have used their powers to shape the debate and frame immigration as a positive development, as a means of attracting fresh talent to Scotland, and a way of addressing the challenges of a declining population. Scottish Government spokespeople are on record as noting the important economic, social and cultural contributions migrants make to Scottish communities. In 2015 the then Minister for Europe and International Development said "We work hard to attract the best international talent to Scotland and those who choose to make Scotland their home will always be welcomed."

Whole setting approaches

There are various ways to discuss immigration involving the whole school or nursery. You could:

- ✓ Hold an assembly or a learning focus about immigration, possibly involving a speaker from an external organisation, a parent or teacher who is an immigrant, or using a video clip which shares a child's experience of immigration (see Further Reading)
- ✓ Display posters or materials around the school or nursery, to convey a welcoming and inclusive environment, to pupils, parents, staff and visitors - for example:
 - A poster which says how many different languages are spoken here
 - A poster showing the word "Welcome" in every language spoken here, made with the children's and possibly their parents' participation
 - Posters from anti-racism organisations e.g. Show Racism the Red Card
- ✓ Take part in themed weeks such as Refugee Festival Scotland (June) or hold special events on special days e.g. World Refugee Day (20 June), International Day for the Elimination of Racism (21 March), or Children's Rights Day (20 November)
- ✓ Have clear anti-racist policies and procedures to prevent, record and respond to racist incidents and the use of racist and anti-immigrant language, including among staff.

Exploring the issues in the classroom or the nursery

You could:

- ✓ Use puppets to act out scenes of people leaving their home, and having to live somewhere new, and explore with the children what they already know and what they think about people moving here.
- ✓ Discuss issues about moving to a new country during circle time, and talk about what makes children feel safe, and why someone might need to go and live somewhere new where they feel safe.
- ✓ Use games and activities to explore issues around immigration – see below.
- ✓ Listen to music about traveling, a new home, making friends, and being kind and fair to everyone. The children could learn songs from other countries or cultures.
- ✓ Share stories about immigration, moving from one country to another, finding a new home, and differences between people and cultures e.g.

- Gervelie’s Journey: A Refugee Diary by Anthony Robinson (early and first level)
 - Hamid’s Story by Andy Glynne (early and first level) – NB: this is one of a series from the ‘Seeking Refuge’ range of books, which are all useful
 - Azzi in Between by Sarah Garland (early and first level)
 - The Colour of Home by Mary Hoffman (first level)
 - Here I Am, by Patti Kim (early and first level)
 - My World, Your World by Melanie Walsh (early and first level)
 - All Kinds of People, by Emma Damon (early level)
- ✓ Ask a parent or friend of the nursery or school who has come to Scotland from another country to come and talk to the children about why they moved, what was the same and what was different, and what made them feel welcome or unwelcome.
 - ✓ Discuss with the children how they might notice if someone is not joining in, perhaps someone who might not speak very much English, and how they can include that child.

Meeting the needs of refugee and migrant children

Some children in our nurseries and in early primary in Scotland have fled their homeland in terror with their parents or have fled not knowing what has happened to their mother, father or other family. They have ended up in a strange country with different cultures and language. Some have come here because their parents came to Scotland for work, and they also have to adjust to a new language, culture, climate and school system.

All children who start a new nursery or school will experience some difficulty as they try to make new friends and ‘fit in’. Children of refugees and asylum seekers have added burdens. The children may have come from a prosperous background in their home country and now live in poverty. They may be suffering trauma and a sense of loss because of what they have seen or heard in their journey here. They may be missing home. It is important for nurseries and schools to provide a welcoming, safe and inclusive environment.

The EIS provides specific guidance on meeting these children’s needs (see Further Reading) but some key pointers include sensitivity around:

- ✓ religious, dietary or cultural differences
- ✓ home languages e.g. all pupils learning words of greeting, using bilingual signs around the school or nursery, displays of words in children’s own languages
- ✓ correct pronunciation and spelling of names
- ✓ children’s right to silence especially in the beginning
- ✓ the need to create a sense of belonging and achievement.

Your local authority English as an Additional Language (EAL) service can help with meeting children's language needs and with other issues around cultural differences.

"One night the bombs were coming closer and closer... We were so terrified we didn't even think about taking anything with us. We've been here for three years now. We miss everything about home. We would love to go back."

Amira, 16, from Syria, now living in a refugee camp.

Source: http://www.tearfund.org/en/latest/2015/06/diary_of_a_teenage_refugee/

Games and activities

There are organisations listed in the Further Reading section who can signpost games, activities, and materials for use in nursery and early primary. Here are two examples:

Same but different (source: Woodcraft Folk, 'Same but Different' – first level)

Aim: To help children understand that everyone is different, and these differences make us individuals, but that we all have some basic needs that all human beings have.

Activity: Draw a chalk circle on the floor, or make one in string, big enough for everyone to fit in. Ask everyone to stand just outside the circle, and to jump into it when a statement is read that applies to them.

Activity outline: <https://www.woodcraft.org.uk/resources/same-different>

Pack up a bag (source: Woodcraft Folk 'Time to Flee' – first level)

Aim: This activity is to get the children thinking about what they would take if they had to leave home suddenly. It aims to get them to think about how difficult it can be for refugee children who have to leave home without any choice.

Activity: Ask the children what 3 things they would pack if they had to leave home today. Ask them to share with the group. Discuss what items are important to the children. Variations:

- You could get them to draw the items and the bag they would take
- You could get them to count common items, e.g. how many teddies?
- You could get them to choose items from around the nursery or classroom
- You could ask them to bring in a special item from home to share with the class.

Activity outline: <https://www.woodcraft.org.uk/resources/time-flee>

Working with parents

Working with parents is an important feature of early level education. Parents involved with the school or nursery may come from a variety of backgrounds. Some may be economic migrants (who came to the UK for work), or refugees or asylum seekers (who had to flee their homeland because of danger or persecution). They may have varying levels of fluency in English and confidence in coming into the setting. Schools and nurseries which provide a welcoming and inclusive atmosphere can play an important role in countering some of the prejudice that migrants can encounter elsewhere.

Things to consider:

- ✓ Offering information in various languages
- ✓ Involving parents in telling their stories of migration to the children
- ✓ Asking parents to share food, music or clothing from their culture with the children
- ✓ Visibly letting parents know that this is an anti-racist setting that welcomes everyone e.g. by prominently displaying multi-lingual or anti-racist posters.

Myths of Immigration: Countering misinformation

Myths	Facts
<i>"We have loads of immigrants in the UK"</i>	<ul style="list-style-type: none"> • Less than 1% of world's refugees live in the UK, and refugees make up only 0.19% of the UK population. • 86% of the world's refugees live in the poorest countries. • There are more refugees in Turkey, Pakistan and Lebanon than anywhere else.
<i>"Loads of immigrants are criminals"</i>	<ul style="list-style-type: none"> • Immigrants are no more likely to commit crime than anyone else. • Crime fell significantly in areas that had experienced mass immigration from eastern Europe, with rates of burglary, vandalism and car theft down since 2004. • Newcomers often face the poorest conditions and become targets for crime and exploitation. • Immigrants can also experience hate crimes and racist attacks.

<p><i>"People come to the UK because we're a soft touch and give out loads of benefits"</i></p> <p><i>"People just want free healthcare and free houses"</i></p>	<ul style="list-style-type: none"> • Most immigrants are refugees, fleeing persecution, violence and war and they cannot safely stay where they are – their lives are at risk. That's why they sometimes use such dangerous ways of leaving e.g. unsafe boats or container lorries. • More than 3,700 people drowned in 2015 trying to cross the Mediterranean Sea. • Some people choose to leave a safe country and seek a better life in the UK, just as many British people choose to live in Australia, America or many European countries. Migration is part of British history and culture. 1.2 million people born in the UK live in other EU countries. • The UK has comparatively low levels of benefits and high level of refusals. Only 41% of asylum claims here are granted, compared with over 70% in some EU countries. • Refugees and asylum seekers have to live where we tell them, often in very poor quality housing. • Sometimes we put asylum seekers, including children, in prison-like detention centres while we process their claims. • Immigrants make a net contribution to the economy – they pay more tax than they take out in benefits. • Migrants coming to the UK since 2000 have been 43% less likely to claim benefits or tax credits compared to the British-born workforce. • More people leave the UK for medical treatment abroad than arrive here seeking care. • Without non-British staff the NHS would struggle to provide effective care. 11% of NHS staff are not British, including more than a quarter of doctors.
<p><i>"Immigrants are all the same"</i></p>	<ul style="list-style-type: none"> • There are important distinctions between economic migrants, refugees, and asylum seekers. • Immigration has brought new and exciting cultures to Scotland. We are a mix of races and have benefited from that diversity. • Ultimately we are all humans with the same rights and needs.

<p><i>"Immigration is a taboo subject; everyone is afraid to talk about it"</i></p>	<ul style="list-style-type: none"> • Immigration features in the newspapers and on TV/Radio/web news every day but there is a myth that it is 'taboo' to discuss it. • Media portrayals of immigration can create or exacerbate racism and prejudice and are very worthy of discussion and critical examination.
<p><i>"Immigration causes terrorism"</i></p>	<ul style="list-style-type: none"> • Terrorism is a complex issue with complex causes; stigmatising immigrants is wrong. • Leaders from black and minority ethnic faith and community groups condemn terrorism. • Many immigrants are fleeing terrorism. • Most terrorism is committed by people who are legally resident where they commit their crimes.
<p><i>"Immigrants take all the jobs and drive down wages"</i></p>	<ul style="list-style-type: none"> • There is no evidence of an overall negative impact of immigration on jobs, wages, housing or the crowding out of public services.

Further reading

EIS publications and policies

Asylum seekers and refugees – member guidance

<http://www.eis.org.uk/public.asp?id=662&parentid=0&dbase=2>

Challenging Racism – member guidance

<http://www.eis.org.uk/public.asp?id=947&parentid=0&dbase=2>

Islamophobia – member guidance

<http://www.eis.org.uk/public.asp?id=657&parentid=0&dbase=2>

Teaching Children from Asylum and Refugee Seeking families

<http://www.eis.org.uk/images/equality/asylum%20brochure.pdf>

Useful contacts and further reading

Show Racism the Red Card - <http://www.theredcard.org/>

British Red Cross - <http://www.redcross.org.uk/What-we-do/Teaching-resources>

Scottish Refugee Council - <http://www.scottishrefugeecouncil.org.uk/>

Woodcraft Folk - <https://woodcraft.org.uk/resources/results/taxonomy-415>

Various resources: <http://refugeeweek.org.uk/info-centre/educational-resources/classroom-resources/>

British Council - <https://www.teachingenglish.org.uk/article/immigration>

Unison myth-buster - <http://www.srtrc.org/uploaded/Immigration%20Myth%20Buster%20May%202014.pdf>

TUC leaflet: Truth, lies and migrants - <https://www.tuc.org.uk/sites/default/files/myths%20book%202014.pdf>

Famous Refugees - <http://refugeeweek.org.uk/info-centre/famous-refugees/>

Ruth's story (video clip) - <http://www.bbc.co.uk/newsround/36714334>

Seeking refuge (video clips) - <http://www.bbc.co.uk/programmes/b01k7c4q/clips>

Assembly ideas - http://www.risc.org.uk/files/refugee_assembly.pdf

i Allport's scale of prejudice –

http://the-classroom.org.uk/wp-content/uploads/2014/07/Prejudice_And_Allport_Scale.pdf-1.pdf

The Educational Institute of Scotland

Myths of Immigration:

Guidance for primary teachers on challenging myths and misunderstandings

Introduction

Migration is the movement of people from one country to another. The people who move into a country are considered immigrants to that country, though they would be considered to be emigrants by their home country. Historically, immigrants have faced a number of challenges when settling into a new home. One of the most significant challenges faced by immigrants in Scotland is a lack of widespread public understanding about immigration, and the persistence of myths about immigration, often propagated by certain sections of the media. These myths taking hold can create a very hostile discourse about immigration and its scale, value, benefit, and origins; and can lead to racist attitudes and behaviours.

This booklet aims to provide primary school teachers with some ideas for tackling the myths of immigration within their schools. We know that teachers are already very busy and that the primary curriculum is crowded. However, there are many different ways to engage with this issue. Whether you have time to organise one assembly, to run one or a few specific lessons on immigration issues, or to develop a whole-school approach, there is something you can do to tackle the myths of immigration.

The EIS welcomes and values a diverse and inclusive society. We welcome refugees and asylum seekers to Scotland. We support a rights-based approach to migrants and refugees, and expect governments to uphold all relevant laws including the 1951 UN Refugee Convention. We reject the demonisation of refugees and asylum seekers. We hope that teachers will find this resource useful for supporting open, honest conversations about immigration and for countering some of the misinformation that has spread in recent years.

“As a young man in Eritrea, you don’t have any dreams. You can’t...I had no choice [about leaving]. I wanted to reach a place where I could fulfil my dreams and live in safety”.

Mohammed, from Eritrea, now living in the U.K.

Source: http://www.refugee-action.org.uk/refugee_voices/1689_mohammed

Language

Some sections of the media use the words ‘migrant’, ‘refugee’ and ‘asylum seeker’ interchangeably. There are, however, vast differences in their meanings, which carry different implications for data and research, but also different legal obligations. It is vital to use clear language when discussing immigration to avoid perpetuating myths and misunderstandings. Clear language can also help challenge the racism that often surrounds debates about immigration.

Definitions

Racism: prejudice, discrimination or antagonism directed against someone of a different race based on the belief that one's own race is superior. A suggested definition for primary might be "treating someone differently or unfairly just because of their race or culture".

Immigrant: a person who comes to live permanently in a foreign country. Immigration is about coming into a new country. This is often confused with emigration, which is about leaving your country of origin.

Emigrant: a person who leaves their own country to settle permanently in another.

Expatriate: short for expatriate, a person who lives outside their native country, often used in the UK to refer to British people living abroad; has the same meaning as immigrant but usually used to refer to White Europeans and seen as less pejorative in tone than immigrant.

Migration: the movement of people from one country to another.

Migrant: a person who makes a free and conscious choice to leave their country to seek a better life elsewhere; often wrongly used to describe refugees or asylum seekers.

Economic migrant: someone who has moved to another country to work. For example, members of the European Union are free to move between EU member states and to seek work in any of them. A suggested definition for primary might be "someone who has moved to another country to get a job".

Displaced person: A person who has been driven from their homeland or place of residence by war, internal upheaval, or natural disaster; another word for a refugee.

Asylum seeker: a person who has fled persecution in their homeland, has arrived in another country, made themselves known to the authorities and exercised the legal right to apply for asylum. A suggested definition for primary might be: "someone who had to leave their homeland because they were not safe at home, has arrived in another country, and has asked the government for permission to stay".

Refugee: a person whose asylum application has been successful and who is allowed to stay in another country, having proved that they would face persecution at home; they have been given the legal "right to remain". A suggested definition for primary might be "someone who was not safe at home and has been given the right to stay in their new country".

'Illegal immigrant': a term commonly used to refer to someone who has entered the country through deception, perhaps not applying for a visa or for asylum. Some people do try to avoid detection when they get to another country but that may be because of a fear of authority, a fear of persecution, illiteracy, trauma or

other good reasons. This is the least common type of immigrant to the UK. We recommend that other terms be used instead of this one.

The scale of the issue

- 65.3 million people were "forcibly displaced" in 2015, including 21.3 million refugees and 3.2 million asylum seekers (United Nations High Commissioner for Refugees)
- An estimated 12.4 million people were displaced due to conflict or persecution
- The number of asylum applications by unaccompanied minors tripled in one year reaching a record of 98,400 in 2015
- 169 countries or territories worldwide host refugees
- 80% of refugees are hosted by developing countries
- There were 38,878 applications for asylum in the UK in 2015, compared with 431,000 in Germany, 163,000 in Sweden and 163,000 in Hungary.
- An estimated 323,000 people emigrated from Britain in 2015. The main reason people leave is for work and the most common destinations for British citizens are Australia, Spain, the United States and France
- Less than 1% of world's refugees live in the UK, and refugees make up only 0.19% of the UK population.

Legal context

Immigration is a reserved issue in the UK, not a devolved one, meaning that powers over immigration sit with the UK parliament, not the Scottish Parliament. The UK's approach to immigration is the subject of intense debate at present, due in part to the June 2016 vote for Britain to leave the European Union. This may lead to changes in the UK's approach to immigration, which would change the legal context.

However, in 1954 the UK signed up to the 1951 UN Refugee Convention. Almost every country is bound by this international law. Under this law, anyone in the UK has the right to seek asylum; and the UK Government has an obligation not forcibly to return anyone to a country where they have a genuine fear of being persecuted.

The right to seek asylum is completely separate to the issue of immigration. It is a human right.

"Everyone has the right to seek and to enjoy in other countries asylum from persecution." Article 14 of the Universal Declaration on Human Rights

There is no human right to immigration, so fair and non-discriminatory limits can be placed on economic migration (moving to another country for work); but the right to asylum can never be limited. Human rights, including the right not to be subjected to degrading treatment; the right to a private and family life; the right

to free expression and protest etc., apply to all human beings. These rights do not depend on citizenship.

The Equality Act 2010 protects people in the UK from discrimination on various grounds including race and religion. This law can protect immigrants who experience racism.

Recurring issues

Immigration to the UK and Scotland is not new, and the debate about levels of immigration is a recurring one. Since the 1940s, Britain has had waves of immigrants from many countries, including the West Indies, Ireland, Pakistan, and Poland, many of whom have formed large communities, which are well established and have added to the richness and diversity of our society. Britain once had an empire of colonised countries, which contributed to the movement - not always freely - of people between countries. British history is steeped in migration and emigration.

Likewise, scapegoating of immigrants - blaming them for societal problems such as shortages of jobs and housing, caused by political decisions like pursuing austerity - has always happened. Scapegoating of 'others' can lead to multiple forms of oppression and ultimately to murder. Jews were used as scapegoats by the Nazi government in Germany before and during world war 2, and six million Jewish people died in the holocaust as a result. Dehumanising people opens the gates to abuse. One tool for understanding how the holocaust could have happened, the Allport scale, posits that hate speech is the foundation for all forms of abuse, discrimination and violence towards groups. That is why it is so important to challenge the myths of immigration and the prejudices that can arise from misinformation.

Policy context - education

The Scottish educational context provides a range of ways to support education on immigration:

- The Curriculum for Excellence includes experiences and outcomes on a range of equality and inclusion issues
- Getting it Right for Every Child (GIRFEC) policy and practices support inclusive education which meets the needs of immigrant, refugee and asylum-seeking children
- How Good is Our School 4 has an increased focus on equality, and says 'inclusion and equality leads to improved outcomes for all learners'
- The General Teaching Council for Scotland expects teachers to commit to "the principles of democracy and social justice" and to "demonstrate a commitment to engaging learners in real world issues to enhance learning experiences and outcomes, and to encourage learning our way to a better future". Providing education about the myths of immigration is entirely consistent with the GTC standards.

- The Equality Act 2010 provides a legal framework for challenging discrimination and promoting equality throughout the Scottish education system.

Policy context – Scottish Government immigration policy

The current Scottish Government's stance on immigration differs significantly from current and recent UK Governments' positions. Immigration is reserved, not devolved, so that Scotland cannot determine its own policy on overall numbers of immigrants. However, several Scottish Governments have used their powers to shape the debate and frame immigration as a positive development, as a means of attracting fresh talent to Scotland, and a way of addressing the challenges of a declining population. Scottish Government spokespeople are on record as noting the important economic, social and cultural contributions migrants make to Scottish communities. In 2015 the then Minister for Europe and International Development said "We work hard to attract the best international talent to Scotland and those who choose to make Scotland their home will always be welcomed."

*"War is bad. It's when they throw bombs out of planes. Sometimes I heard bombs. But I **don't remember**. I only think of good things. I have a box in my head and put all the bad things in there and keep it locked. At the start in the UK it was hard because we knew no one. I was shy at first, but I have many best friends here now. I like school."*

Ahmed, age 9, from Syria but now living in the UK.

Source: http://www.refugee-action.org.uk/refugee_voices/2919_jana_ahmed

Whole school approaches

Schools should take a whole school approach to anti-racism as part of a wider programme of equality proofing work.

There are various ways to discuss the myths of immigration involving the whole school. You could:

- ✓ Hold an assembly on immigration, possibly involving a speaker from an external organisation (see contacts in Further Reading), a parent or teacher who is an immigrant, or using a video clip which shares an experience of immigration (see links)
- ✓ Display posters or materials around the school, to convey a welcoming and inclusive environment, to pupils, parents, staff and visitors - for example:
 - A poster which says how many different languages are spoken in the school

- A poster showing the word “Welcome” in every language spoken in the school, made with pupil participation
 - Posters from anti-racism organisations e.g. Show Racism the Red Card
- ✓ Take part in themed weeks such as Refugee Festival Scotland (June) or hold special events on special days e.g. World Refugee Day (20 June), Holocaust Memorial Day (27 January), International Day for the Elimination of Racism (21 March), UN Human Rights Day (10 December)
 - ✓ Have clear anti-racist policies and procedures to prevent, record and respond to racist incidents and the use of racist and anti-immigrant language.

Myth busting through the curriculum

There are many ways to embed refugee inclusion across the curriculum, so that issues around immigration, refugees, asylum seekers and a diverse population are routinely discussed in school. This can be a useful addition to stand-alone lessons on immigration. Immigration is relevant to every subject area and can be woven into:

- ✓ **English and literacy:** there are many excellent story books about refugees and immigrants, including:
 - Christophe’s Story by Niki Cornwell (1st or 2nd level)
 - When Hitler Stole Pink Rabbit by Judith Kerr (2nd level or above)
 - Inside Out and Back Again by Thanhha Lai (2nd level or above)
 - Coming to England by Floella Benjamin (2nd level or above)
 - The Other Side of Truth by Beverley Naidoo (2nd level or above).

It can also be useful to look at news and media coverage of immigration and examine the language used in different news articles, with pupils working at second level.

- ✓ **Science:** many famous scientists were immigrants e.g. Albert Einstein (German-Jewish refugee) and Bernard Katz, Nobel Prize winner (German-Jewish refugee). In 2013, 4 immigrant scientists won the Nobel Prizes for chemistry, physiology and medicine. You could ask pupils to find out about immigrants’ achievements.
- ✓ **Maths and numeracy:** consider using immigration information for lessons on e.g. percentages, and making graphs and charts, and exploring the origins of different number systems from around the world to emphasise the range of ways in which different cultures have contributed to our thinking about maths.
- ✓ **Art:** many famous artists were immigrants, e.g. Camille Pissarro (French-Jewish refugee) and Anish Kapoor, Turner Prize winner (son of refugees who fled Iraq). You could find out more about artists who were immigrants, and how that affected their work, or get pupils to make art about themes such as safety, home, or racism.

- ✓ **Music:** an option might be to play music by refugees and asylum seekers and discuss the artists' stories; or listen to and discuss songs about immigration and travel.
- ✓ **Social studies:** pupils might enjoy looking at news coverage of immigration and discussing the language used. Newspaper headlines and images are worthy of discussion.
- ✓ **Drama:** drama can be used to explore themes of racism, diversity, difference and inclusion, and to learn more about immigrants' stories.

Lesson ideas

Lessons suitable for pupils working at first and second levels could be linked to various topics. There are various excellent materials for holding lessons on specific myths of immigration, developed by specialist organisations such as Show Racism the Red Card and the British Red Cross. Many organisations offer teaching resources and lesson and assembly outlines on immigration so you can select what would work best in your setting (see links in Further Reading). You could hold a series of lessons exploring different myths of immigration, or links several myths into one lesson.

Myths of Immigration: Countering misinformation

Myth	Facts and exercises
<i>"We have loads of immigrants in the UK"</i>	<p>Less than 1% of world's refugees live in the UK, and refugees make up only 0.19% of the UK population. 86% of the world's refugees live in the poorest countries. There are more refugees in Turkey, Pakistan and Lebanon than anywhere else.</p> <p>Suggested exercises:</p> <p>'My new neighbours' – SRTRC No Place for Hate (20-30 mins)</p> <p>Quiz – where do migrants come from and go to? – British Red Cross (30 mins)</p>
<i>"Loads of immigrants are criminals"</i>	<p>Immigrants are no more likely to commit crime than anyone else. Research found that crime fell significantly in areas that had experienced mass immigration from</p>

	<p>eastern Europe. There is no causal link between immigration & crime.</p> <p>Immigrants often face the poorest conditions and become targets for crime. People who arrive via human traffickers are vulnerable to exploitation, such as being forced into domestic work. Immigrants can also experience hate crimes and racist attacks.</p> <p>Suggested exercises:</p> <p>'Who are migrants?' – British Red Cross (Adaptable, 70-90mins total, all activities 5-30 mins)</p> <p>'How does it feel to be in a new country?' – British Red Cross (50 mins)</p>
<p><i>"People come to the UK because we're a soft touch and give out loads of benefits"</i></p> <p><i>"People just want free healthcare and free houses"</i></p> <p><i>"Immigrants are a drain on public services"</i></p>	<p>Most immigrants are refugees, fleeing persecution, violence and war. They cannot safely stay where they are. That's why they often find dangerous ways of leaving e.g. unsafe boats or container lorries. More than 3,700 people drowned in 2015 trying to cross the Mediterranean Sea.</p> <p>Some people freely choose to leave a safe country to work or study in the UK, just as many British people choose to live in Australia, America or Europe. Migration is part of British history and culture. 1.2 million people born in the UK live in other EU countries.</p> <p>The UK is very tough on immigrants and has comparatively low levels of benefits and high level of refusals. Only 41% of asylum claims here are granted, compared with over 70% in some EU countries. Refugees and asylum seekers have to live where we tell them, often in very poor quality housing. Sometimes</p>

	<p>asylum seekers, including children, are put in prison-like detention centres while we process their claims.</p> <p>Immigrants make a net contribution to the economy: they pay more tax than they take out in benefits. Migrants coming to the UK since 2000 have been 43% less likely to claim benefits or tax credits compared to the British-born workforce. Immigrants tend to be better educated than the UK-born and less likely to be unemployed.</p> <p>More people leave the UK for medical treatment abroad than arrive here seeking care. Without non-British staff the NHS would struggle to provide effective care. 11% of NHS staff are not British, including more than a quarter of doctors.</p> <p>Suggested exercises:</p> <p>'Why do people move?' – SRTRC No Place for Hate (20 mins)</p> <p>'Would you leave home?' – British Red Cross (40 mins)</p>
<p><i>"Immigrants are all the same"</i></p> <p><i>"Immigrants aren't like me and my family"</i></p>	<p>There are important legal differences between economic migrants, refugees, and asylum seekers. Immigration has brought new and exciting cultures to Scotland. We are a mix of races and have benefited from that diversity. Ultimately all humans have the same rights and needs.</p> <p>Suggested exercises:</p> <p>'Migrant profiles' – SRTRC No Place for Hate (40-60 mins)</p> <p>'Who are migrants?' – British Red Cross (adaptable)</p>

<p><i>"Immigration is a taboo subject; you can't talk about it"</i></p>	<p>Immigration is in the news every day but there is a myth that it is 'taboo' to discuss it. Media portrayals of immigration can create or exacerbate racism and prejudice and are very worthy of discussion and critical examination.</p> <p>Suggested exercises:</p> <p>'The Media and Minority groups' – SRTRC No Place for Hate (30 mins)</p> <p>'How are migrants portrayed in the media?' – British Red Cross (60 mins)</p>
<p><i>"Immigration causes terrorism"</i></p>	<p>Terrorism is a complex issue with complex causes; stigmatising immigrants is wrong. Leaders from black and minority ethnic faith and community groups condemn terrorism. Many immigrants are fleeing terrorism. Most terrorism is committed by people who are legally resident where they commit their crimes.</p> <p>Suggested exercise:</p> <p>'Terrorism and the media' – SRTRC Islamophobia Pack (20 mins)</p> <p>'The historical context of terrorism' – SRTRC Islamophobia Pack (30 mins)</p>

Further reading

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Scottish Refugee Council - <http://www.scottishrefugeecouncil.org.uk/>

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Assembly ideas - http://www.risc.org.uk/files/refugee_assembly.pdf

Educational resources on refugees: <http://refugeeweek.org.uk/info-centre/educational-resources/>

BBC schools lessons -

http://www.bbc.co.uk/schools/pshe_and_citizenship/personal_wellbeing/relationships/challenging_discrimination/pages/immigration.shtml

Refugee voices - http://www.refugee-action.org.uk/refugee_voices

Refugee stories - <http://stories.unhcr.org/>

i Allport's scale of prejudice - http://the-classroom.org.uk/wp-content/uploads/2014/07/Prejudice_And_Allport_Scale.pdf-1.pdf

The Educational Institute of Scotland

Myths of Immigration:

Guidance for secondary teachers and lecturers on challenging myths and misunderstandings

Introduction

Migration is the movement of people from one country to another. The people who move into a country are considered immigrants to that country, though they would be considered to be emigrants by their home country. Historically, immigrants have faced a number of challenges when settling into a new home. One of the most significant challenges faced by immigrants in Scotland is a lack of widespread public understanding about immigration, and the persistence of myths about immigration, often propagated by certain sections of the media. These myths taking hold can create a very hostile discourse about immigration and its scale, value, benefit, and origins; and can lead to racist attitudes and behaviours.

This booklet aims to provide secondary school teachers and college lecturers with some ideas for tackling the myths of immigration within their schools. We know that teachers and lecturers are already very busy and that the curriculum is crowded. However, there are many different ways to engage with this issue. Whether you have time to organise one assembly, to run one or a few specific lessons on immigration issues, or to develop a whole-school or college-wide approach, there is something you can do to tackle the myths of immigration.

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“As a young man in Eritrea, you don’t have any dreams. You can’t...I had no choice [about leaving]. I wanted to reach a place where I could fulfil my dreams and live in safety”.

Mohammed, from Eritrea, now living in the U.K.

Source: http://www.refugee-action.org.uk/refugee_voices/1689_mohammed

Language

Some sections of the media use the words ‘migrant’, ‘refugee’ and ‘asylum seeker’ interchangeably. There are, however, vast differences in their meanings, which carry different implications for data and research, but also different legal obligations. It is vital to use clear language when discussing immigration to avoid

perpetuating myths and misunderstandings. Clear language can also help challenge the racism that often surrounds debates about immigration.

Definitions

Racism: prejudice, discrimination or antagonism directed against someone of a different race based on the belief that one's own race is superior.

Immigrant: a person who comes to live permanently in a foreign country. Immigration is about coming into a new country. This is often confused with emigration, which is about leaving your country of origin.

Emigrant: a person who leaves their own country to settle permanently in another.

Expatriate: short for expatriate, a person who lives outside their native country, often used in the UK to refer to British people living abroad; has the same meaning as immigrant but usually used to refer to White Europeans and seen as less pejorative in tone than immigrant

Migration: the movement of people from one country to another

Migrant: a person who makes a free and conscious choice to leave their country to seek a better life elsewhere; often wrongly used to describe refugees or asylum seekers

Economic migrant: someone who has moved to another country to work. For example, members of the European Union are free to move between EU member states and to seek work in any of them.

Displaced person: A person who has been driven from their homeland or place of residence by war, internal upheaval, or natural disaster; another word for a refugee

Asylum seeker: a person who has fled persecution in their homeland, has arrived in another country, made themselves known to the authorities and exercised the legal right to apply for asylum.

Refugee: a person whose asylum application has been successful and who is allowed to stay in another country, having proved that they would face persecution at home; they have been given the legal "right to remain".

'Illegal immigrant': a term commonly used to refer to someone who has entered the country through deception, perhaps not applying for a visa or for asylum. Some people do try to avoid detection when they get to another country but that may be because of a fear of authority, a fear of persecution, illiteracy, trauma or other good reasons. This is the least common type of immigrant to the UK. We recommend that other terms be used instead of this one.

The scale of the issue

- 65.3 million people were "forcibly displaced" in 2015, including 21.3 million refugees and 3.2 million asylum seekers (United Nations High Commissioner for Refugees)
- An estimated 12.4 million people were displaced due to conflict or persecution
- The number of asylum applications by unaccompanied minors tripled in one year reaching a record of 98,400 in 2015
- 169 countries or territories worldwide host refugees
- 80% of refugees are hosted by developing countries
- In 2015, over 1.2 million people sought safety in Europe, yet Britain received just 38,878 asylum applications, including dependants, compared with 431,000 in Germany, 163,000 in Sweden and 163,000 in Hungary.
- An estimated 323,000 people emigrated from Britain in 2015. The main reason people leave is for work and the most common destinations for British citizens are Australia, Spain, the United States and France
- Less than 1% of world's refugees live in the UK, and refugees make up only 0.19% of the UK population.

Legal context

Immigration is a reserved issue in the UK, not a devolved one, meaning that powers over immigration sit with the UK parliament, not the Scottish Parliament. The UK's approach to immigration is the subject of intense debate at present, due in part to the June 2016 vote for Britain to leave the European Union. This may lead to changes in the UK's approach to immigration, which would change the legal context.

However, in 1954 the UK signed up to the 1951 UN Refugee Convention. Almost every country is bound by this international law. Under this law, anyone in the UK has the right to seek asylum; and the UK Government has an obligation not to forcibly return anyone to a country where they have a genuine fear of being persecuted.

The right to seek asylum is completely separate to the issue of immigration. It is a human right.

"Everyone has the right to seek and to enjoy in other countries asylum from persecution."

Article 14 of the Universal Declaration on Human Rights

There is no human right to immigration, so fair and non-discriminatory limits can be placed on economic migration (moving to another country for work); but the right to asylum can never be limited. Human rights, including the right not to be subjected to degrading treatment; the right to a private and family life; the right

to free expression and protest etc., apply to all human beings. These rights do not depend on citizenship.

The Equality Act 2010 protects people in the UK from discrimination on various grounds including race and religion. This law can protect immigrants who experience racism.

Recurring issues

Immigration to the UK and Scotland is not new, and the debate about levels of immigration is a recurring one. Since the 1940s, Britain has had waves of immigrants from many countries, including the West Indies, Ireland, Pakistan, and Poland, many of whom have formed large communities, which are well established and have added to the richness and diversity of our society. Britain once had an empire of colonised countries, which contributed to the movement - not always freely - of people between countries. British history is steeped in migration and emigration.

Likewise, scapegoating of immigrants - blaming them for societal problems such as shortages of jobs and housing, caused by political decisions like pursuing austerity - has always happened. Scapegoating of 'others' can lead to multiple forms of oppression and ultimately to murder. Jews were used as scapegoats by the Nazi government in Germany before and during World War 2, and six million Jewish people died in the holocaust as a result. Dehumanising people opens the gates to abuse. One tool for understanding how the holocaust could have happened, the Allport scaleⁱ, posits that hate speech is the foundation for all forms of abuse, discrimination and violence towards groups. That is why it is so important to challenge the myths of immigration and the prejudices that can arise from misinformation.

Policy context - education

The Scottish educational context provides a range of ways to support education on immigration:

- The Curriculum for Excellence includes experiences and outcomes on a range of equality and inclusion issues
- Getting it Right for Every Child (GIRFEC) policy and practices support inclusive education which meets the needs of immigrant, refugee and asylum-seeking children
- How Good is Our School 4 has an increased focus on equality, and says 'inclusion and equality leads to improved outcomes for all learners'
- The General Teaching Council for Scotland expects teachers to commit to "the principles of democracy and social justice" and to "demonstrate a commitment to engaging learners in real world issues to enhance learning experiences and outcomes, and to encourage learning our way to a better future". Providing education about the myths of immigration is entirely consistent with the GTC standards.

- The Equality Act 2010 provides a legal framework for challenging discrimination and promoting equality throughout the Scottish education system.

Policy context – Scottish Government immigration policy

The current Scottish Government's stance on immigration differs significantly from current and recent UK Governments' positions. Immigration is reserved, not devolved, so that Scotland cannot determine its own policy on overall numbers of immigrants. However, several Scottish Governments have used their powers to shape the debate and frame immigration as a positive development, as a means of attracting fresh talent to Scotland, and a way of addressing the challenges of a declining population. Scottish Government spokespeople are on record as noting the important economic, social and cultural contributions migrants make to Scottish communities. In 2015 the then Minister for Europe and International Development said "We work hard to attract the best international talent to Scotland and those who choose to make Scotland their home will always be welcomed."

"I was afraid all the time before I came here but now I feel safe - at last."

(Aimee, living in Scotland, from the Democratic Republic of Congo)

Source: British Red Cross: <http://www.redcross.org.uk/What-we-do/Refugee-support/Refugees-true-stories/Aimees-story-escaping-years-of-persecution>

Whole school/college-wide approaches

Schools and colleges should take a whole school approach to anti-racism as part of a wider programme of equality proofing work. There are various ways to discuss the myths of immigration involving the whole school. You could:

- ✓ Hold an assembly on immigration, possibly involving a speaker from an external organisation (see contacts in Further Reading section), a parent or teacher who is an immigrant, or using a video clip which shares an experience of immigration (see links)
- ✓ Display posters or materials around the school, to convey a welcoming and inclusive environment, to pupils, parents, staff and visitors - for example:
 - A poster which says how many different languages are spoken in the school
 - A poster showing the word "Welcome" in every language spoken in the school, made with pupil participation
 - Posters from anti-racism organisations e.g. Show Racism the Red Card

- ✓ Take part in themed weeks such as Refugee Festival Scotland (June) or hold special events on special days e.g. World Refugee Day (20 June), Holocaust Memorial Day (27 January), International Day for the Elimination of Racism (21 March), UN Human Rights Day (10 December)
- ✓ Have clear anti-racist policies and procedures to prevent, record and respond to racist incidents and the use of racist and anti-immigrant language.
- ✓ Hold joint activities with college ESOL programmes, e.g. guest speakers, shared lunches, and cultural/social events.

More options

Senior phase pupils and students could also address the myths of immigration through:

- ✓ incorporating into extra-curricular activities – e.g. a motion at the debating society or a guest speaker at a relevant club e.g. an Amnesty International club
- ✓ writing discursive essays/developing portfolio pieces about refugees, immigration, diversity and media narratives on migration
- ✓ volunteering or fundraising for refugee or migrant help charities or causes
- ✓ making links with schools or colleges in other countries, perhaps through social media, to explore different narratives around immigration
- ✓ raising issues through their students' association
- ✓ using core skills and project based learning units in NC programmes to investigate issues around immigration and work with asylum seeker/refugee groups.

Myth busting through the curriculum

There many ways to embed refugee inclusion across the curriculum, so that issues around immigration, refugees, asylum seekers and a diverse population are routinely discussed in school. This can be a useful addition to stand-alone lessons. Immigration is relevant to every subject area.

- ✓ **English:** there are many excellent books about refugees and immigrants, including
 - Christophe's Story by Niki Cornwell (1st or 2nd level)
 - When Hitler Stole Pink Rabbit by Judith Kerr (2nd level or above)
 - Inside Out and Back Again by Thanhha Lai (2nd level or above)
 - Coming to England by Floella Benjamin (2nd level or above)
 - The Other Side of Truth by Beverley Naidoo (2nd level or above)
 - Shadow by Michael Morpurgo (2nd level or above)
 - Little Soldier by Bernard Ashley (senior phase)
 - Small Island by Andrea Levy (senior phase)
 - The Other Hand by Chris Cleave (senior phase)

It can also be useful to look at news and media coverage of immigration and examine the language used in different news articles.

- ✓ **Science:** many famous scientists were immigrants e.g. Albert Einstein (German-Jewish refugee) and Bernard Katz, Nobel Prize winner (German-Jewish refugee). In 2013, 4 immigrant scientists won the Nobel Prizes for chemistry, physiology and medicine. Consider mentioning scientists' backgrounds when you refer to their work.
- ✓ **Maths:** an option might be to use immigration information for lessons on e.g. statistics, data-handling, percentages, and making graphs and charts; or to explore the origins of different number systems and mathematical concepts
- ✓ **Art:** many famous artists were immigrants, e.g. Camille Pissarro (French-Jewish refugee) and Anish Kapoor, Turner Prize winner (son of refugees who fled Iraq). You could find out more about artists who were immigrants, and how that affected their work. You could explore art related to immigration including photography projects such as World Press Photo.
- ✓ **Music:** you could play music performed or composed by refugees and asylum seekers and discuss the artists' stories; or listen to and discuss songs about immigration and travel; or explore musical systems and scales from various cultures
- ✓ **Social studies:** consider looking at news coverage of immigration and examine the language used; or explore trends over time and links between immigration and political and historical events. Newspaper headlines are worthy of discussion.
- ✓ **Drama:** there are many plays which include refugees' stories or stories of persecution and prejudice. Drama can be used to explore themes of difference, diversity and inclusion.

Lesson ideas

There are various excellent materials for holding lessons on specific myths of immigration, developed by specialist organisations such as Show Racism the Red Card and the British Red Cross. Lessons suggested in the grid below, which are suitable for the senior phase, could be held within various subjects including RME, Citizenship, Personal and Social Education, and Modern Studies. Many organisations offer lesson plans and assembly outlines on immigration so you can select what would work best in your setting (see Further Reading). You could hold a series of lessons exploring different myths of immigration, or links several myths into one lesson.

Myths of Immigration: Countering misinformation

Myth	Facts and exercises
<p>"We have loads of immigrants in the UK"</p>	<p>Less than 1% of world's refugees live in the UK, and refugees make up only 0.19% of the UK population. 86% of the world's refugees live in the poorest countries. There are more refugees in Turkey, Pakistan and Lebanon than anywhere else.</p> <p>Suggested exercises:</p> <p>'My new neighbours' – SRTRC No Place for Hate (20-30 mins)</p> <p>Quiz – where do migrants come from and go to? – British Red Cross (30 mins)</p>
<p>"Loads of immigrants are criminals"</p>	<p>Immigrants are no more likely to commit crime than anyone else. Research by LSE<i>ii</i> found that crime fell significantly in areas that had experienced mass immigration from eastern Europe, with rates of burglary, vandalism and car theft down since 2004. There is no causal link between immigration & crime.</p> <p>Immigrants often face the poorest conditions and become targets for crime. People who arrive via human traffickers are vulnerable to exploitation, such as being forced into domestic work or prostitution. Immigrants can also experience hate crimes and racist attacks.</p> <p>Suggested exercises:</p> <p>'Who are migrants?' – British Red Cross (Adaptable, 70-90mins total, all activities 5-30 mins)</p> <p>'How does it feel to be in a new country?' – British Red Cross (50 mins)</p>

<p><i>"People come to the UK because we're a soft touch and give out loads of benefits"</i></p>	<p>Most immigrants are refugees, fleeing persecution, violence and war. They cannot safely stay where they are. That's why they often find dangerous ways of leaving e.g. unsafe boats or container lorries. More than 3,700 people drowned in 2015 trying to cross the Mediterranean Sea.ⁱⁱⁱ</p>
<p><i>"People just want free healthcare and free houses"</i></p>	<p>Some people freely choose to leave a safe country to work or study in the UK, just as many British people choose to live in Australia, America or Europe. Migration is part of British history and culture. 1.2 million people born in the UK live in other EU countries.</p>
<p><i>"Immigrants are a drain on public services"</i></p>	<p>The UK is very tough on immigrants and has comparatively low levels of benefits and high level of refusals. Only 41% of asylum claims here are granted, compared with over 70% in some EU countries. Refugees and asylum seekers have to live where we tell them, often in very poor quality housing. Sometimes asylum seekers, including children, are put in prison-like detention centres (e.g. Dungavel in Ayrshire and Yarl's Wood in England) while we process their claims.</p>
<p><i>"Immigrants take all the jobs and keep wages low"</i></p>	<p>Immigrants make a net contribution to the economy: they pay more tax than they take out in benefits. Migrants coming to the UK since 2000 have been 43% less likely to claim benefits or tax credits compared to the British-born workforce. Immigrants tend to be better educated than the UK-born and less likely to be unemployed.</p>
	<p>More people leave the UK for medical treatment abroad than arrive here seeking care^{iv}. Without non-British staff the NHS would struggle to provide effective care; there is a shortage of NHS doctors. 11% of NHS staff are not British, including more than a quarter of doctors.</p>
	<p>In its 2015 General Election briefing^v, the Centre for Economic Performance at the London School of Economics observed: "There is still no evidence of an</p>

	<p>overall negative impact of immigration on jobs, wages, housing or the crowding out of public services.”</p> <p>Suggested exercises:</p> <p>‘Why do people move?’ – SRTRC No Place for Hate (20 mins)</p> <p>‘Would you leave home?’ – British Red Cross (40 mins)</p> <p>‘Persecution and Propaganda’ – SRTRC Islamophobia Education pack (25 mins)</p>
<p><i>“Immigrants are all the same”</i></p> <p><i>“Immigrants aren’t like me and my family”</i></p>	<p>There are important legal differences between economic migrants, refugees, and asylum seekers. Immigration has brought new and exciting cultures to Scotland. We are a mix of races and have benefited from that diversity. Ultimately all humans have the same rights and needs.</p> <p>Suggested exercises:</p> <p>‘Migrant profiles’ – SRTRC No Place for Hate (40-60 mins)</p> <p>‘Who are migrants?’ – British Red Cross (adaptable)</p> <p>‘Persecution and Propaganda’ – SRTRC Islamophobia Education pack (25 mins)</p>
<p><i>“Immigration is a taboo subject; you can’t talk about it”</i></p>	<p>Immigration features in the newspapers and on TV/Radio/web news every day but there is a myth that it is ‘taboo’ to discuss it. Media portrayals of immigration can create or exacerbate racism and prejudice and are very worthy of discussion and critical examination.</p> <p>Suggested exercises:</p>

	<p>'The Media and Minority groups' – SRTRC No Place for Hate (30 mins)</p> <p>'How are migrants portrayed in the media?' – British Red Cross (60 mins)</p>
<p><i>"Immigration creates terrorism"</i></p>	<p>Terrorism is a complex issue with complex causes; stigmatising immigrants is wrong. Leaders from black and minority ethnic faith and community groups condemn terrorism. Many immigrants are fleeing terrorism. Most terrorism is committed by people who are legally resident where they commit their crimes.</p> <p>Suggested exercise:</p> <p>'Terrorism and the media' – SRTRC Islamophobia Education pack (20 mins)</p> <p>'The historical context of terrorism' – SRTRC Islamophobia Education pack (30 mins)</p>

Further reading

EIS publications and policies

Asylum seekers and refugees – member guidance

<http://www.eis.org.uk/public.asp?id=662&parentid=0&dbase=2>

Challenging Racism – member guidance

<http://www.eis.org.uk/public.asp?id=947&parentid=0&dbase=2>

Islamophobia – member guidance

<http://www.eis.org.uk/public.asp?id=657&parentid=0&dbase=2>

Teaching Children from Asylum and Refugee Seeking families

<http://www.eis.org.uk/images/equality/asylum%20brochure.pdf>

Useful contacts and further reading

Show Racism the Red Card - <http://www.theredcard.org/>

SRTRC can provide educational materials and deliver sessions tailored to your school. Their resources include *No Place for Hate*, an Islamophobia Education Pack and the film *'Immigration: What's the story?'*

British Red Cross - <http://www.redcross.org.uk/What-we-do/Teaching-resources>

BRC can provide refugee inclusion education. Their resources include *Positive Images: A Toolkit on Migration and Development*.

Scottish Refugee Council - <http://www.scottishrefugeecouncil.org.uk/>

British Council - <https://www.teachingenglish.org.uk/article/immigration>

Unison and SRTRC myth-buster leaflet - <http://www.srtrc.org/uploaded/Immigration%20Myth%20Buster%20May%202014.pdf>

TUC leaflet: Truth, lies and migrants <https://www.tuc.org.uk/sites/default/files/myths%20book%202014.pdf>

Famous Refugees - <http://refugeeweek.org.uk/info-centre/famous-refugees/>

Ruth's story (video clip) - <http://www.bbc.co.uk/newsround/36714334>

Seeking refuge (video clips) - <http://www.bbc.co.uk/programmes/b01k7c4q/clips>

Assembly ideas - http://www.risc.org.uk/files/refugee_assembly.pdf

BBC schools lessons - http://www.bbc.co.uk/schools/pshe_and_citizenship/personal_wellbeing/relationships/challenging_discrimination/pages/immigration.shtml

Migration Observatory - research on UK attitudes to immigration - <http://www.migrationobservatory.ox.ac.uk/briefings/uk-public-opinion-toward-immigration-overall-attitudes-and-level-concern>

Teaching Tolerance (US resource, adaptable to UK) - <http://www.tolerance.org/category/classroom-resources/immigration>

Refugee voices - http://www.refugee-action.org.uk/refugee_voices

Refugee stories - <http://stories.unhcr.org/>

i Allport's scale of prejudice - http://the-classroom.org.uk/wp-content/uploads/2014/07/Prejudice_And_Allport_Scale.pdf-1.pdf

ii Bell, Brian, Machin, Stephen and Fasani, Francesco (2010) *Crime and immigration: evidence from large immigrant waves*. CEP Discussion Paper, No. 984. Centre for Economic Performance, London School of Economics and Political Science, London, UK <http://eprints.lse.ac.uk/28732/>

iii http://www.refugeecouncil.org.uk/latest/news/4548_top_20_facts_about_asylum

iv <https://www.theguardian.com/society/2013/oct/24/medical-tourism-generates-millions-nhs-health>

v <http://cep.lse.ac.uk/pubs/download/ea019.pdf>

The Educational Institute of Scotland
Migration Advisory Committee – Call for Evidence
‘Partial review of the Shortage Occupation List’
Response from the Educational Institute of Scotland

About the EIS

1. The Educational Institute of Scotland (EIS) thanks the Migration Advisory Committee for the opportunity to contribute to this review of the shortage occupation list (SOL) in regard to primary and secondary teachers.
2. The EIS is Scotland’s largest and longest-established teaching union with over 55,000 members in all sectors of education. Founded in 1847 the EIS is also the oldest teaching union in the world.
3. The EIS has developed a central role as one of the most respected voices in education in Scotland. We have a commitment to high standards of education and to a society which offers young people the best opportunities in education and training as well as social and cultural development.

General comments

4. We have the following general comments to make about issues regarding migration and teaching, and about the review.

Benefits of immigration

5. We note that the MAC is charged with examining whether there are occupational shortages in the primary and secondary education sectors but also “whether there are alternatives to increased migration”. We welcome migrants to Scotland and believe that Scotland and the UK benefit from the diversity and contribution that immigration brings. We note that migrants make a net contribution to the UK economyⁱ. We do not agree in principle that alternatives to increased migration should be sought.

i. <https://www.oecd.org/migration/mig/OECD%20Migration%20Policy%20Debates%20Numero%202.pdf>

6. Migration can allow Scottish schools to benefit from teachers who bring additional social and cultural capital into the profession. For example, migrant teachers may bring valuable language skills, which can have multiple educational benefits. The existence of a diverse workforce has a number of positive advantages. It enables the profession to be confident *that it is drawing on the same broad range of cultural and social experiences as the pupils and families served by schools.* The profession can draw on the wide range of cultural resources (including languages and arts) in its

teaching and presentation of the curriculum. Research (e.g. Menter, 2006ⁱ), has found that a diverse workforce creates learning opportunities. It also demonstrates that teaching is a profession esteemed by all sections of the community, and provides role models for young people.ⁱⁱ

Under-representation of BME teachers

7. Increased recruitment of migrant teachers could potentially help to address the lack of diversity in the profession. Presently, only 1% of teachers in Scotland come from a black or minority ethnic (BME) background (2015 teacher censusⁱⁱⁱ). Yet the proportion of BME people within the general population is 4%. (2011 census). In some cities this figure is much higher. E.g. in Glasgow City, 12% of the population were from a minority ethnic group, in the City of Edinburgh and Aberdeen City it was 8% and Dundee City it was 6%. (2011 data). The 2016 figure is likely to be higher.
8. The 2015 teacher census shows that BME teachers comprise:
 - 1% of primary teachers (same as 2014)
 - 2% of secondary teachers (same as 2014)
 - 2% of special education teachers (less than 2014 – 3%)
 - 4% of centrally employed teachers (less than 2014 – 5%)
 - 1% of all teachers (less than 2014 – 2%)
9. In the 2015 teacher census, 91% of teachers were White Scottish or White British. Research (Egalite and Kisida, 2015^{iv}) shows that black, white and Asian pupils benefit educationally from having teachers who look like them, and yet there are few people from visible ethnic minorities teaching in Scottish schools. This should be taken into account when determining immigration policy in regard to teaching.

Role of the private sector

10. We note that the MAC is interested to know what contribution the private sector makes to recruiting and training new teachers. We see no role for private companies in initial teacher education. The private sector plays a role in recruiting teachers but this is not an area in which the EIS has any locus. The EIS opposes in principle models of teacher recruitment and training which could undermine the robustness of the Scottish teaching profession, such as are in use in England. Accelerated schemes like 'Teach First' place delivering education cheaply above guaranteeing quality education provision from a fully-qualified teacher workforce.

i. Menter, I., Brisard, E. and Smith, I. (2006) *Convergence or Divergence?: Initial teacher education in Scotland and England* Edinburgh: Dunedin Academic Press

ii. Hartshorn et al, 2005: Widening Access to the Teaching Profession (GTCS)

- iii. <http://www.gov.scot/Topics/Statistics/Browse/School-Education/PubTeacherCensus>
- iv. <https://ced.ncsu.edu/wp-content/uploads/2015/07/Egalite-Kisida-Teacher-Match-Working-Paper-June-2016.pdf>

11. In Scotland, we have a comprehensive education system, which research confirms has a positive impact on education and equality. This is underpinned by a system of recruiting and training teachers through our universities, and ensuring all teachers are registered with the General Teaching Council of Scotland, which sets out standards for registration and for career long professional learning.

12. We note that the MAC recommends using pay to attract teachers to subjects and to parts of the UK that are in shortage. Scotland has national pay bargaining where pay is agreed through the Scottish Negotiating Committee for Teachers (SNCT). The SNCT was established in 2001 in the landmark agreement, *A Teaching Profession for the 21st Century* and is a tripartite negotiating body representing teacher unions, employers through the local authority umbrella group COSLA and Scottish Government. The SNCT sets national pay scales for grades of post. While there is no general mechanism to vary pay to address areas of shortage MAC is invited to note the following provision in the SNCT Handbook:

"A council may increase the salary of a teacher if, in the particular circumstances of the post, it considers the salary to be inadequate. Such placement will not necessarily be accepted as applicable in respect of future employment with another council. This provision shall not be applied to effect a general increase in the salaries of a particular category of post".
SNCT Handbook, Part 2, Section 1, paragraph 1.26

13. We note that this review focuses on economic migrants. However, we wish to point out that an additional means of addressing skills shortages is to better use the skills and experience of refugees. Refugees who have a teaching background should be supported to enter the teaching profession in Scotland. Previous schemes such as the RiTES project, to support the recruitment of refugee teachers have been successful to some degree, but there is currently no dedicated scheme for supporting refugee teachers into the profession in operation in Scotland. This area merits further investigation.

Teacher shortages in Scotland

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- v. Murphy, D., Croxford, L., Howieson, C. and Raffe, D. (2015) *Everyone's Future: lessons from fifty years of Scottish comprehensive schooling*, London: Institute of Education / Trentham Books.

14. We have the following general comments to make about teacher shortages in Scotland.
15. There are no general issues relating to university admissions for undergraduate and post graduate teaching courses although there are difficulties in attracting students to a number of secondary subjects. The decline in teachers' real terms pay since 2008, coupled with workload pressures and cuts to education services across Scottish Councils has led to a more competitive graduate market.
16. The number of teachers employed in schools across Scotland has been falling steadily for most of the last decade. Coupled with a desperate lack of teachers for supply cover, all of this is placing an intolerable workload burden on teaching staff in schools.
17. We have serious concerns about poor workforce planning on the part of many local authorities in Scotland. Workforce planning at national level has been beset by certain problems but in recent years successive Scottish governments have protected teacher numbers.
18. The most significant issue has been around the lack of supply teachers. This has been fully considered by SNCT and while discussions are ongoing the SNCT has agreed to introduce a national booking system to improve the administration of supply.
19. We have concerns about the shortage of ASN teachers in Scotland. The number of teachers employed to provide additional support for pupils fell to a new low in 2016. In 2015, there were 2,936 teachers with additional support needs as their main subject in Scotland, which is 27 fewer than 2014, and represents a consistent drop from 2009, when there were 3,402 employed. This represents a decline of 14% in overall numbers of ASN teachers since 2009. A total of 22 out of 32 local authority areas have experienced falls in ASN teacher numbers since the national peak in 2009.

Specific remarks

20. We have the following specific remarks to make in relation to questions asked in the call for evidence:

Teacher recruitment

Q4. What are the factors affecting the recruitment of teachers in the UK generally? What is driving this?

Teaching in Scotland is an all graduate profession. Therefore, the graduate market will influence teacher recruitment. Scottish Government has a standing Workforce

Planning Advisory Group that informs decisions about places at universities in Scotland that deliver teacher training courses. Once The Advisory Group has reported to the Cabinet Secretary for Education the Funding Council allocates places to universities.

Q5. Is teacher recruitment aimed at specific groups and is there an expectation that this is a long term or shorter-term career option?

There is graduate entry to teaching in Scotland. The intention is to invest in those who will make a commitment to a long term career in teaching.

Teacher retention

Q6. What are the issues around retention of teachers? Have these issues changed in recent years?

In 2008 there was an oversupply of teachers and the Cabinet Secretary established a working group to consider the issue. In recent years the problem has been recruitment issues in certain subjects or geographical areas.

Q7. To what extent are there qualified teachers of working age, resident in the UK, who are not working in the profession? Why are they no longer working in the profession? Where did they go (e.g. retired, to work abroad, to work in a non-teaching job)? What is being done to attract these back to the profession?

In Scotland, there are significant issues in attracting men to the profession. In the 2015 teacher census figures the gender breakdown in teaching is 77% female, 23% male (primary - 91% female, 9% male; secondary 63% female, 37% male). A number of female teachers take career breaks. There is not a significant drop in teachers leaving the profession after graduating. This is because of the stability offered of a guaranteed period to complete probation for new teachers who trained in Scotland. The Teacher Induction Scheme (TIS) was a key feature of the 2001 Agreement. There is a problem once the probationary year has been completed. A number of teachers having secured the Standard for Full Registration may leave teaching, choose to teach outside of Scotland or take a gap year. A number of universities, supported by local authorities, offer courses for those seeking to return to refresh their skills and update their curricular knowledge.

Q8. Are teachers with more experience more highly valued than teachers with less experience i.e. are they paid more? Are newly qualified teachers preferred for employment as they cost less?

Maingrade teachers are paid on a six point pay scale with a probationary point (Point 0). Incremental progression is solely linked to service, in accordance with SNCT rules. The costs of teachers are not normally devolved to school level in the state sector and therefore there is no pressure in Scotland to recruit inexperienced teachers rather than experienced teachers who have a higher salary on the maingrade scale. Records of service for salary calculation are recognised across Scottish Councils.

Specific shortages

Q9. Do some areas of the UK experience a shortage of teachers while others do not? If so what are some areas doing that others are not?

There are particular recruitment issues in North East Scotland and in more rural areas.

Q10. Are there differences in the relative supply and demand for teachers between the state and the private education sectors? If so what are these differences and why do they occur?

The EIS is not aware of issues relating to recruitment difficulties in the private sector.

Q11. How does supply and demand for teachers vary by subject taught? Are there specific teachers in certain subjects that are held to be in particular shortage? What are these and what evidence is there for shortage?

There are particular shortages in the STEM subjects, Home Economics and Computing in particular. The evidence arises from monitoring of vacancies.

Q12. Secondary teachers in maths and some science subjects have been included on the SOL since 2008 – what steps have been taken to reduce this reliance on migrant teachers and how successful have these been?

Through workforce planning, until recently, providers of teacher education were given a number of places to fill. In secondary education there were quotas for each subject and the universities would arrange distribution of places across establishments. However, if, for example, a university could not attract prospective maths teachers, places could be offered in other disciplines as long as the total of places in an institution matched the number of places. Over the last 2 years this has not been allowed. Universities cannot exceed subject allocations and returns indicate particular recruitment issues.

Alleviating shortage

Q13. If there is a shortage of teachers the relative pay of teachers would be expected to rise. Has this happened? If not why not?

The relative pay of teachers has been declining since 2008. Like others in the public sector, teachers have borne the brunt of austerity measures. In an extremely tight economic climate maintaining jobs has been the imperative for negotiators.

Q14. To what extent is flexibility around pay and other financial incentives used to alleviate specific shortages? How successful have these been?

Recruitment lies with each Scottish Council. Some Councils have incentivised recruitment by "golden hello" payments. Other Councils have assisted in housing. Where new teachers have relevant experience in a subject area or in working with children in another setting it is open to a Council to award additional salary points on the main grade scale:

1.24 "Recognised non-teaching experience includes periods of employment and of voluntary or other non-paid activities such as:

- 1 experience which is relevant to the subject being taught – for example, an industrial chemist teaching chemistry; and*
- 2 more general 'life skills' which have a bearing on the depth or quality of teaching being offered – for example, where someone has previously been involved in aspects of children's care or in education and training, whether in the workplace or in educational establishments.*

1.25 For recognised non-teaching experience, the following additional salary points should be awarded:

Recognised experience of up to 5 years = 1 point.

Recognised experience of over 5 and up to 10 years = 2 points.

Recognised experience of over 10 and up to 15 years = 3 points.

Recognised experience of over 15 years = 4 points."

SNCT Handbook, Part 2, Section 1, paragraphs 1.24 and 1.25

Q15. What use is made of agencies and supply teachers to fill shortages? What is the cost to employers of using these sources? What is the experience of agency and supply teachers if they are being called on to fill shortages?

All Scottish Councils depend on supply teachers to provide cover for short term and long term vacancies. In some areas permanent supply pools are employed. Only 1 Council in Scotland currently uses an agency but solely to match available supply teachers to vacancies, the teacher is employed by the Council on SNCT terms and conditions.

Comments on 'Sensible' criteria

Q18. To what extent can existing teachers be retrained to teach the subjects of other teachers who have left? How would this affect the quality of education delivered?

In principle we would not object to retraining of teachers to address shortages. The quality of education would be assured by the requirement for the teachers to meet the standards for GTC registration in their new subject.

We recently gave our support to a scheme to support oil and gas workers who want to retrain as teachers, which was supported by an investment of £12 million by the Scottish Government Transition Training Fund. This fund will support oil and gas workers to retrain as teachers in science, technology, engineering and maths (STEM) subjects.

We welcomed this investment as one means of tackling teacher shortages, whilst also continuing to ensure that only fully qualified teachers are deployed in order to maintain the very high standards of learning and teaching in Scotland's schools. We would stress that for retraining to be successful it needs to be properly and fully resourced.

Q19. To what extent are migrant teachers (whether from within the EEA or outside of the EEA) adequate substitutes for experienced teachers (whether from within the UK or outside of it)?

We are concerned with the implication in this question that migrant teachers may be less skilled and capable than other 'experienced teachers' -indeed the wording of this question suggests that migrant teachers are not 'experienced'. We can see no reason why migrants from within the EEA or outside it would be less capable. It is a matter for GTCS to determine whether teachers from outside Scotland satisfy the requirements to teach in Scotland and GTCS will determine whether such teachers can be fully registered or provisionally or conditionally registered. We recently welcomed the GTCS decision to introduce a new conditional registration category, which provided added flexibility to attract a wider range of teachers to teach in Scotland. We believe that it is essential that Scotland's high standards of teacher professionalism are maintained so that only appropriately qualified staff are deployed in our schools, but that the new rules for conditional entry to the register offer a practical solution to a challenging recruitment issue while also ensuring that the high standards expected of all Scotland's teachers can continue to be upheld.

We have serious concerns about many of the media narratives and political discourses about immigration in the UK, which are often xenophobic in nature, and can inflame racial tensions at community level and create a conducive context for racist attitudes and behaviours. We urge caution about implying that migrant teachers may be inadequate, as this could contribute to the xenophobic, anti-immigrant rhetoric which has been very prevalent in the UK in recent years, particularly in regard to the EU referendum and the 'Brexit' vote.

Q20. To what extent could shortages of teachers be addressed by the numbers of teachers who could re-enter the profession if they were incentivised to do so? What changes would have most impact on incentivising re-entry teachers?

Around 20% of teachers who are on GTCS Register are not teaching. Many will be on planned career breaks. While a number of Councils and Universities offered courses to support those returning to teaching a national programme would be beneficial and financially incentivising students on such courses would also be beneficial.

Q21. What proportion of newly qualified teachers do not go on to enter teaching as a profession? What is being done to reduce this number? Are there issues with the training offered to new teachers? What are these? Are there sufficient strong links between training establishments and schools?

In our response to Q7 above we identified the issue as being a problem at the end of the probationary period when new teachers have secured the Standard for Full

registration (SFR) but who choose to go elsewhere. One factor that can influence this is reluctance to accept short term or part time contracts.

Q22. What is being done to improve workforce planning to reduce a reliance on migrant teachers?

It is not the aim of Workforce Planning to reduce a reliance on migrant teachers. Workforce Planning is intended to ensure a sufficiency of teachers in training to maintain the workforce.

Q23. What is being done to reduce reliance on migrant teachers as a safety valve at times of peak demand/maximum shortage?

As above, the issue of Workforce Planning is not based on any assumptions about migrant teachers.

Further information

To discuss any aspect of this response please contact Jenny Kemp, National Officer (Education and Equality), e: jkemp@eis.org.uk; t: 0131 225 6244.

Please note that this response is made by the Institute and that evidence supplied may be attributed to the EIS.

The Educational Institute of Scotland

Scottish Parliament Equality and Human Rights Committee: Scoping session on bullying and harassment of children and young people in schools – 10 Nov 2016

Evidence from the Educational Institute of Scotland

Thank you for the opportunity to contribute to the scoping session on bullying & harassment.

The Educational Institute of Scotland (EIS) is Scotland's largest and longest-established teaching union with over 55,000 members in all sectors of education. We have a very active member-led Equality Committee, with sub committees taking forward action on Gender Issues, Anti-Racist Issues, and the Impact of Poverty on Education. We also have a vibrant LGBT Network, and a growing national network of Equality Representatives.

Our locus in this inquiry

We have a keen interest in bullying and harassment as it affects children and impacts on their learner experience. Also, as a membership organisation representing teachers, we are concerned about teachers' experiences of bullying, both as educators working to challenge it and support pupils, and as professionals at work who may be experiencing it themselves.

We note that the aim of the scoping session is to consider these 3 issues:

1. The nature and extent of prejudice and bullying in schools
2. How schools respond to bullying and how are they supported in that role
3. What needs to change to ensure schools can deal with cases of bullying and promote inclusivity in schools.

Q1. Nature and extent of prejudice and bullying

We define bullying in our Policy in Bullying and Harassmentⁱ as "Persistent, offensive, abusive, intimidating, malicious, or insulting behaviour, abuse of power, or unfair penal sanctions which make the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self-confidence and which may cause them to suffer stress."

Bullying among children and young people is still too prevalent in Scotland. We note that the 2014 respectme study of Bullying in Scotlandⁱⁱ, which gathered survey data from 7,839 children and young people aged 8-19, found that:

- 30% of children and young people had experienced bullying in the previous year, and "a number of children" (no. not specified) had more than one experience of bullying, with over 12,000 incidents described

- Only 10% of bullying was online only; 49% happened in person
- The vast majority of children who had experienced bullying knew the person bullying them (92%)
- The most effective anti-bullying initiatives are embedded within a positive ethos and culture and not focused on individual incidents
- Teachers are providing support to a high number of children who are bullied.

Our own work confirms that some forms of prejudice-based bullying are particularly emergent at present. Bullying arising from misogyny, racism, Islamophobia and homophobia are issues of serious concern to the EIS.

Misogynistic attitudes

Our recent report on misogynistic attitudes among children and young people, "Get It Right For Girls"ⁱⁱⁱ highlights various forms of gendered harassment which are now commonplace in schools e.g.

- Casual though often vindictive use of overtly sexualised and derogatory language - 'slut', 'skank' and 'whore' were widely used against girls or women staff
- Dismissive, contemptuous attitudes of some boys towards female pupils and staff, and towards their mothers; and mockery and derision when women and girls adopt non-stereotypical gender roles e.g. football fans
- Objectification of women and girls on the basis of their looks
- 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
- Overt sexual propositioning of girls and young women through to boys' pushing, grabbing and groping of girls
- Sending/sharing through social media sexual images of women and girls either with or without consent, and use of social media to target sexual innuendo at girls and young women

Although the focus of this report was on children's attitudes and behaviour regarding peers, our focus-group research indicated that there are significant issues regarding misogyny directed at teachers. One Secondary teacher told us, "A pupil in my class called me a 'fat f***ing whore.'" Another teacher had been called a 'feminazi' for raising concerns about misogyny.

Racism and Islamophobia

We are very concerned about the 'Prevent' duty contained in the 2015 Counter Terrorism and Security Act. (The duty for certain public bodies to have, in the exercise of their functions, "*due regard to the need to prevent people from being drawn into terrorism.*") 'Prevent' has been widely criticised, not least for creating conditions in which racism and Islamophobia will be exacerbated. We are particularly concerned about the degree of scrutiny to which Black and Minority Ethnic (BME) learners and families may be subjected because of this legislation and its implementation.

We know that, for example, when a Glasgow school was recently informed about Prevent, a support staff member then said, "We will need to keep an eye on

[Muslim pupil] now". There are other well reported incidents of race and faith-based discrimination. See e.g. the case studies in the "Preventing Education?" report.^{iv}

A further concern is that the current political discourse around immigration is creating a climate which will exacerbate bullying and harassment of refugee & asylum seeking children, and children from visible/audible ethnic minorities, who are or are perceived to be refugees or migrants. We will soon publish materials for teachers on the 'Myths of Immigration' to assist them in challenging this harmful discourse. We note that hate crime in Scotland increased after the 'Brexit' vote^v; we fear that current narratives about 'migrants' in e.g. the tabloid media put certain children at greater risk of bullying and harassment.

Homophobia, biphobia and transphobia

We recently surveyed our members about their experiences of homophobia and transphobia in education and found that 42% of respondents had indirectly experienced homophobia or transphobia, as an employee, in an educational establishment. 17% had directly experienced this.

Of those who had *indirectly* experienced homophobia or transphobia:

- 84% had heard prejudicial language about staff or learners e.g. insults or abuse, from learners
- 29% had seen homophobic/transphobic graffiti in the establishment
- 30% had witnessed bullying of staff or learners based on sexual orientation or gender identity
- 24% had witnessed discrimination towards staff or learners based on sexual orientation or gender identity.

Teachers' experiences of bullying

As a Trade Union, we believe that 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, and that 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 face daily.

Teachers are at risk of bullying and harassment from a wide range of sources: it can come from colleagues, management, students and pupils, members of the public or from parents. Multiple strategies therefore need to be put in place to prevent and challenge the harassment of teachers.

Q2. How schools respond/how schools are supported

Schools respond to bullying in a wide variety of ways, including but not limited to:

- developing and implementing establishment-level policies, created with involvement of pupils, staff and parents
- fostering of strong school ethos of tolerance and inclusion
- taking a curricular focus on bullying, for example within Personal and Social Education and the study of particular texts in English
- running themed weeks

- setting up buddy or peer mediation schemes
- enacting discipline policy where bullying behaviour is identified
- monitoring the number of bullying incidents
- deploying teachers on a voluntary basis and playground assistants and active breaks workers to supervise break and lunchtime activity
- engaging with parents on the issue
- providing additional support for children who have been bullied.

There is a wide range of policy to support this, including the GTCS standards for teachers, which directly address the themes of equality and social justice, in addition to the wellbeing of learners. Local authority employment policies on e.g. dignity at work would apply to teachers as employees experiencing bullying. Education Scotland also provides advice to schools on anti-bullying strategy as do third sector organisations.

It is important for teachers and lecturers to have opportunities to access quality professional learning on equality matters to enable them to respond effectively to prejudice-based bullying. The current austerity climate has led to budget cuts which has affected teachers' access to CPD. The lack of budget for cover and the shortage of supply teachers also affects uptake of professional learning.

School are also supported by L.A. policies and resources but these are under resourced and are not consistent. For example, we know that some L.A.s do not have an active anti-racism strategy in place.

Q3. What needs to change

1. There is scope for more content on equalities in Initial Teacher Education, so that teachers are better enabled to challenge prejudice from the start of their careers; and for more ongoing, career long equalities-focused professional learning opportunities.
2. Teaching needs to be a more representative workforce. For example, BME people and people with disabilities are currently under-represented in the Scottish teaching workforce.
3. School budgets, particularly for professional learning, should be increased.
4. Any new initiatives to target bullying, including prejudice-based bullying, should be adequately resourced, and take account of the pressures on teacher workload.
5. Local Authorities should have anti-bullying policies and should ensure that these are being developed into establishment level policies which take account of the specific needs and circumstances of the school.
6. In light of 'Prevent', it will be important for schools to monitor the numbers of racist incidents in educational institutions and take action if a pattern of increased incidents is noted, and to pay extra attention to safeguarding Muslim pupils or students, or pupils or students who may be perceived or misrecognised as Muslim, through a whole-school approach.
7. We encourage EIS members to make use of equality resources and to encourage open discussion of issues around racism, Islamophobia, sexism and misogyny, and homophobia and transphobia.
8. Given that the most effective anti-bullying initiatives are embedded within a positive ethos and culture and not focused on individual incidents, we encourage whole-school approaches to creating a positive, inclusive ethos.

- i* <http://www.eis.org.uk/images/EIS%20Policies/Bullyin%20&%20Harassment%20policy%202013.pdf>
 - ii* http://issuu.com/respectme/docs/bullying_in_scotland_2014_-_summary?e=0/12648674
 - iii* http://www.eis.org.uk/Gender_Equality/Get_Right_Girls.htm
 - iv* <http://www.statewatch.org/news/2016/jul/preventing-education-final-to-print-3.compressed-1.pdf>
 - v* <http://www.dailyrecord.co.uk/news/scottish-news/police-scotland-report-increase-hate-8688744>
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The Educational Institute of Scotland

Child Poverty Bill – Submission

1. Do you agree with the Scottish Government including in statute an ambition to eradicate child poverty?

- Yes
 No

The Educational Institute of Scotland (EIS), Scotland's largest teacher trade union, shares the view of the Scottish Government that poverty is not inevitable, and that it is directly linked to parental income as determined by conditions of employment and levels of social security benefits, and to outgoings as determined by living costs, including housing.

Government has the means to influence all such factors which are determinants of poverty. A government which wishes to act genuinely in the interests of social justice and equality, and with the intention of fully observing human rights, should include in statute the ambition to eradicate child poverty within the context of the wider ambition to eradicate poverty generally.

2. What are your views on making income targets statutory?

The EIS, as outlined above, believes that poverty, including child poverty, is a direct consequence of low income.

Individuals and families suffer poverty as a result of poor wages, insecurity of employment, and inadequate levels of social security benefits, against a backdrop of high living costs, especially in relation to housing.

Progress in tackling poverty cannot be made without addressing income deficit; therefore, intervention in the form of income targets and the careful monitoring of progress towards these, is essential.

The setting of such targets and subsequent monitoring facilitate the development of policy that is evidence-based and enable the requisite political accountability.

3. How do you think the role of the Ministerial Advisory Group on Child Poverty can be developed to ensure that they play a key role in developing the legislation?

It would appear from the Scottish Government website that the Group last met in August 2014. If this is accurate, an obvious step in the right direction would be the convening of regular meetings.

Given that child poverty and poverty are major socio-economic issues affecting Scottish society, the omission of representation of the trade union

movement (from the list of Group members recorded in the August 2014 minute) is stark.

The Group would benefit from the involvement of the STUC on matters related to employment, income and social security generally; and from the EIS as Scotland's largest teacher trade union and a long-standing campaigner on the issue of child poverty, specifically on matters related to the impact of poverty in education, particularly in light of the aims of the National Improvement Framework and the Delivery Plan for Scottish Education.

4. How can links between the national strategy and local implementation be improved? What could local partners do to contribute to meeting these national goals? This might include reporting and sharing best practice of developing new strategic approaches.

The national strategy and local implementation can be better linked through more carefully balanced configuration of the membership of the Advisory Group, coupled with regular meetings, as outlined in response to Question 3.

Links could also be improved through the identification of relevant areas in which information is already gathered and reported on by local partners, and means found of effectively sharing this information with ministers. Scottish Government should take full account of existing mechanisms for and timing of, information-gathering by local partners, and devise a process that does not impose additional burden upon them.

The ability of local partners to contribute to national goals is very much dependent on their funding, often as set by the Scottish Government.

However, there is potential for unity of purpose and commitment, for example, around payment of the Living Wage; all partners as employers could be involved in taking forward the Fair Work agenda; local authorities and housing associations as landlords have control of rents; local authority schools can avoid setting policies with regards to uniform, equipment and resources, school trips, social events and fundraising, that are challenging for families on low income; and local partners can respond to the need to maximise the access of people on low income to their social security and other entitlements.

In terms of sharing best practice, Scottish Government should create and fund opportunities, both real and virtual, for colleagues to come together for this purpose- conferences, webinars, and online hubs, would be useful, for example.

Given the size of the ambition to eradicate child poverty, it would be advisable for the Scottish Government to recruit suitably experienced additional personnel at national level to be assigned specifically to this remit, and whose role it would be to liaise closely with local partners; and to provide funding to local authorities to employ suitably experienced additional personnel who would be solely dedicated to working in this area at local level, and in close contact with their counterparts employed nationally.

The allocation of additional human resource in this way would generate and support the requisite activity locally and nationally, assist with information-sharing processes, and the sharing of practice, and would create a structure reflecting the collective nature of the endeavour.

- 5. What are your views on the income-based measures of poverty for Scottish child poverty targets? For example, are there any additional income based measures you think we should also use (and if so, why?) Are there any alternative examples of measuring income – for example, as uses in other countries – that you think could apply in Scotland?**

The EIS agrees with the 4 income-based measures as proposed. It is important that data is gathered in relation to the different manifestations of child poverty and that these data are considered both individually and collectively in order that policy and actions are reliably informed.

- 6. What are your views on the Scottish Government’s proposal for the levels of child poverty that the targets will be set at?**

The EIS broadly agrees with the underlying rationale- the ambition must be to eradicate poverty entirely in the longer-term, while aims must be realistic in the short-term.

However, child poverty levels currently sit unacceptably high at around 22%; it is frustrating that it will take 14 years- a decade and more- to reduce this to 10%, which remains an unacceptably high percentage.

While it is acknowledged that austerity policies determined by Westminster are exacerbating the issues of poverty and social inequality, and that many of the levers for change are reserved to Westminster, the EIS is of the view that Scottish Government must maximise control of those levers that are within its power and exert the full strength of its influence in all other areas, to tackle poverty in Scotland, including child poverty, effectively.

- 7. What are your views on the Scottish Government’s proposal to set targets on an after housing costs basis? For example, are there any disadvantages to this approach that we have not already considered?**

The EIS concurs with the view that targets should be set on an after-housing costs (AHC) basis for the reasons outlined within the rationale: AHC avoids underestimation of the numbers of children living in poverty. In addition, housing costs are very high in Scotland, as compared to international counterparts, making this a highly significant factor for those on low income in this country.

The counter-argument to AHC- that some people who are living in poverty may have higher housing costs than they need - is likely to apply to a very small percentage of people who are living in poverty while in better quality housing or in a more expensive area.

8. What are your views on the Scottish Government's proposal to set targets that are expected to be achieved by 2030?

As stated in response to a question 6, child poverty levels currently sit unacceptably high at around 22%; it is frustrating that it will take 14 years- a decade and more- to reduce this to 10% which remains an unacceptably high percentage.

That said, such targets are being set within the context of levels of overall poverty increasing, and child poverty increasing, and projected by the Institute of Fiscal Studies to increase by almost 50% by 2020, unless there is decisive intervention to reverse the direction of travel as determined by current austerity policies.

9. What are your views on the proposal that the Scottish Ministers will be required by the Bill to produce a Child Poverty Delivery Plan every five years, and to report on this Plan annually?

The EIS views this to be an acceptable approach though would reiterate the need to ensure that annual reporting dovetails with existing mechanisms at local level and does not place additional bureaucratic burden without requisite allocation of resource.

10. Do you have any suggestions for how the measurement framework could usefully be improved? For example, are there any influencing factors that are not covered by the measurement framework? Or are there any additional indicators that could be added?

The EIS would like to see other aspects of children's experience of school reflected in the measurement framework- incidence of hunger among school children and entitlement to and uptake of, free school meals; average cost of school uniform, coats and shoes for the poorest children; and the ability of children to access in-school and out-of-school learning activities that have associated costs.

11. Do you have any additional views on a Child Poverty Bill for Scotland?

The EIS believes that the introduction of the Bill alone will not deliver significant reductions in the levels of child poverty. Essentially, the success of the endeavour will be down to the construction of the associated delivery plan and the channelling of sufficient additional resources by Scottish Government and local partners towards the aims of the legislation.

The Educational Institute of Scotland

Scottish Government Consultation on the Draft *Gender Representation on Public Boards (Scotland) Bill*, February 2017

Response from the EIS

The EIS welcomes the opportunity to comment on the draft Gender Representation on Public Boards (Scotland) Bill. We have a keen interest in measures to tackle misogyny and promote women's equality, and equality for all people with protected characteristics under the Equality Act 2010.

Our most recent publication on sex inequalities, *Get It Right for Girls*, sets out our concerns about the dangerous consequences of misogynistic attitudes, including the under-representation of women in public life. In it we state that "there is a need to address [the] stark under-representation of women public life and the negative attitudes which inhibit women's much-needed participation. Gender balanced participation is essential for bringing about gender sensitive policy within our public institutions."

We therefore welcome and support the Scottish Government's plans to address women's under-representation through this Bill.

General remarks

We welcome the Scottish Government's decision to legislate in this area and introduce a positive action approach. Voluntary initiatives have not been sufficient to achieve equal representation. Legislation must now be the means by which greater diversity is pursued. The experience of Norway underlines this.

This also aligns with the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW), a legally binding international treaty, which has recommended quotas and special measures in its bill since 1981 (Article 4, paragraph 1):

"Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved."

Diverse boards reflect the full range of human experience: a homogeneous group, even a very competent one, cannot offer insights outside the collective realm of its experience, and because the members all resemble each other in the way they think, they don't know what they don't know, so valuable insights are missed.

This legislation is simply the right thing to do, to address centuries of inequality and make public bodies – which act for us all – truly reflective of the population they serve.

We anticipate that this legislation will encounter some difficulties. There may be some hostility and resentment -not only at the compulsory nature of the change but towards the change itself both by men and women. There remains an unwillingness by some who are in positions of power and influence to share it; some are unaware of the reasons why change should occur not just for the good of the organisation within which they work, but for the good of society as a whole; some do not believe in equality of opportunity but rather in competition and 'survival of the fittest'; some believe that we live in a meritocratic society, blind to the barriers that are in the way of certain groups to achieve merit. We strongly encourage the Scottish Government to hold fast to its purpose in this area and to argue continually against such attitudes, and challenge their inherent flaws.

Staff within public bodies and board members are likely to require intensive diversity training, and training on best practice in recruitment, in preparation for such change.

We note that the (UK) Government Equalities Office research findings 2009/1 on 'Increasing Diversity on Public and Private Boards'ⁱⁱ identified three main barriers to increased diversity on boards:

- individual (ongoing stereotyping, biased perceptions)
- interpersonal (lack of social capital, exclusion from influential networks, unwelcoming Board cultures)
- appointment process issues (unclear criteria, flawed selection practices).

We would suggest that this model may be useful to Boards as they take this agenda forward.

We wish to comment on all of the consultation questions, and do so below.

Question 1:

What, if any, comments would you make in relation to section 1 [Gender representation objective] of the draft Bill?

We fully support the objective of public boards of having 50% of non-executive members (NEMs) who are female, and 50% male; and the provision in section 1(2) pertaining to boards with an odd number of NEMs.

Women's under-representation in public life has serious consequences for policy-making; it is vital that women's many diverse lived experiences of, for example, caring, balancing work with domestic life, and of encountering sexism are reflected in the solutions we seek to current challenges. There is no substitute for first-hand knowledge of the issues and challenges faced by individuals who belong to disadvantaged groups.

Not only should women's experiences be reflected in decision making in order to achieve the best possible decisions, it is also vital to safeguard against gender blind budgeting and policy-making, to prevent demonstrably unfair outcomes which disproportionately disadvantage women. We know that women's services and jobs are often the first to be cut when women are under-represented in the fora that make spending decisions. For example, women comprise only 29% of MPs, and analysis by the House of Commons library that includes measures announced in the 2016 Budget finds that, cumulatively, 86% of savings in the

period from 2010-2020 will have come from women's pockets. This is up from 81% after the joint Autumn Statement and Comprehensive Spending Review in November 2015.ⁱⁱⁱ

It is also arguable that this objective will eventually create a 'new normal' in Scottish society. By encouraging equal participation, and involving more women on Boards, organisations will create role models for other women. The observation that "you can't be what you can't see" (made by Marie Wilson from the White House project) is relevant here. As more women see their peers taking part in public life, more women will be encouraged to put themselves forward.

Without the will to increase gender diversity on boards within an organisation, voluntary measures are unlikely to be applied. The will to shift the balance of power onto a more equitable footing within an organisation is unlikely to emerge without raising awareness of diversity issues, and without highlighting the negative impact of gender inequality versus the benefits that increased diversity will bring. We would expect legislation to create a gender representation objective to fast-track this awareness raising and consciousness of the benefits of diversity, as it will become an obligation rather than an option. We need to get to a point where it is the normal expectation that women will be equally represented in public bodies which make decisions which affect us all, particularly in a time of austerity when spending and policy decisions can have considerable impacts on women's life chances.

Question 2:

What, if any, comments would you make in relation to section 2 [Key definitions] of the draft Bill?

We are content with the definitions in the draft Bill.

Question 3:

What, if any, comments would you make in relation to section 3 [Duty when appointing non-executive members] of the draft Bill?

We support the creation of the duty in 3(2), subject to the provisions of 3(1), for the appointing person to act in accordance with section 4 with a view to achieving the gender representation objective.

Question 4:

What, if any, comments would you make in relation to section 4 [Consideration of candidates] of the draft Bill?

We support the process set out in section 4. Some critics might argue that giving preference to female candidates who have a male comparator who is equally qualified is demeaning to women or unfair to those men who miss out on posts.

In answer to that we would say that, at times, it is important to take positive action to redress the imbalances that have arisen from centuries of historical disadvantage.

We agree with the position of the Women 50:50 campaign that when people argue that women should advance on merit, they are essentially asserting that women are less able than men, and that is why there are fewer of them in positions of power.

The reality is that institutionalised inequality and sexist attitudes stop most women from reaching their full potential in public life. Sexism is endemic in our society. Financial barriers, income inequality, the gender pay gap, sexist attitudes, gender stereotyping, women's disproportionate share of caring responsibilities, the undervaluing of women's unpaid work, and media portrayals of women, to name but a few influences, all play a role in the sexism that prevents a fair number of women being involved in public life.

Therefore a process whereby decision making considers the merits of equally qualified candidates but with due consideration also of a gender representation objective aimed at securing equality seems to us to be a sensible approach, and aligned with the Scottish Government's aim of creating a fairer Scotland.

Question 5:

What, if any, comments would you make in relation to section 5 [Encouragement of applications] of the draft Bill?

This section is rather vague, and may need supporting guidance, to assist bodies who are not meeting their gender representation objective to fully understand the range of ways in which they can broaden their appeal and 'encourage person of the under-represented gender to apply to become NEMs'.

Organisations may unwittingly be excluding women by having marketing or communications materials which do not reflect diversity, or having inaccessible premises, or holding meetings at times which make it difficult for women with caring responsibilities to participate, or not offering childcare or support in meeting transport costs. It will be important for organisations to apply a gender-critical lens to the span of their operations in order to establish what barriers may exist.

Consideration should be given to offering guidance on routes back to work for women who have taken maternity leave or who have other caring responsibilities (e.g. for elderly or disabled parents) as they often get left behind in the promotion race and are therefore deemed too inexperienced to serve on boards. This could be done on the basis of partnership working involving trade unions, Scottish Government and public boards.

Question 6:

What, if any, comments would you make in relation to schedule 2 (introduced by section 7) [Application of Act to Certain Listed Authorities] of the draft Bill?

The EIS is not entirely clear as to why certain vacancies need to be disregarded in appointing certain board members, and clarification is sought.

Question 7:

What, if any, comments would you make in relation to schedule 1 (introduced by section 2) [Listed Authorities] of the draft Bill?

The EIS welcomes the inclusion of the Scottish FE colleges cited here, the inclusion of Scottish HEIs, and the other educational public bodies.

Question 8:

The draft Bill does not specify any requirement for reporting. Do you have any comments on reporting arrangements under the legislation, including timescales, location and content of reports?

We would wish reporting to be regular enough to enable progress to be identified and monitored, but not overly frequent as to become onerous. Reports should be placed on the Scottish Government website, and should contain enough data as to enable the monitoring of trends over time.

Scotland is a small country with closely networked public organisations, and it is highly likely that individuals will be able to identified from some reports; sensitivity will therefore be required in this regard.

Question 9:

Do you have any comments on the draft Bill, not already expressed in response to previous questions, including on how the Bill could be strengthened to deliver Minister's (sic) stated objective of gender balanced public boards?

The Bill could be strengthened by the inclusion of sanctions. We note that the draft Bill contains no provision for sanctions to be imposed on public bodies if there is non-compliance. We would recommend that further consideration be given to this, especially given the failure of voluntary measures to achieve the desired change, which perhaps suggests some resistance, which may then translate into ineffective implementation of this legislation. (We have seen that the Equality Act 2010 has not led to the cessation of discrimination, as evidenced by the number of tribunal cases, which is still high despite the introduction of prohibitive tribunal fees. There were more than 5,300 cases of Sex Discrimination in 2015/2016).^{iv}

We would suggest the creation of some kind of hearing system, in order that the full range of the facts relating to each case of non-compliance may be examined; and that sanctions applied should be specific to the reason for non-compliance rather than 'blanket' in nature, but could include e.g. temporary loss of financial and non-financial benefits by board members; annulment of board appointments; or verbal sanctions by regulatory bodies.

We also note that there are no targets for full implementation within the draft Bill. Other countries, including France, Norway and Canada, have set targets for their respective gender quotas, for example, by 2018, to have 30% gender parity on boards, and by 2020, to have 40% gender parity on boards. This dimension merits further consideration.

Question 10:

To help with the development of our Equality Impact Assessment, please provide any comments on the impact of the draft Bill on people who share certain 'protected characteristics' (age, disability, sex, gender reassignment, sexual orientation, race and religion or belief) or any further information you think is relevant.

Clearly, the principle impact of the Bill in terms of equality is in its furtherance of equality between men and women, and to an extent it may also have a beneficial impact on transgender women, as the definition of female includes people who identify as female. So, this Bill, if enacted, will certainly be of benefit to people who share sex and gender reassignment characteristics. It should also have a beneficial effect on women who are at risk of pregnancy/maternity discrimination, maternity status being protected under the Equality Act.

The Bill may impact on people who share certain other protected characteristics such as race and disability, if it inculcates a culture of Boards becoming more aware of equality and diversity issues, and more committed to diverse membership.

If, for example, Boards review their advertisement methods for vacancies, and their supporting materials, they may wish to take the chance to reflect a more diverse range of people, with the likely effect of attracting more candidates from a range of backgrounds. However, this is speculative. Without specific measures to attract e.g. more people from BME backgrounds or more people with disabilities, there is likely to be a continuation of the trend of white, able-bodied women becoming involved in Boards.

It will be important for Boards to take account of the full range of reasons why people with various protected characteristics have not historically enjoyed equal participation in decision-making structures. For example, for people with disabilities, the key issues may be physical access/mobility issues, but also social exclusion arising from perceptions of people's range of abilities and the historical under-valuing of disabled people's contributions. Disabled people are also more likely to live in poverty and thus may have more practical considerations than non-disabled candidates, such as expenses associated with travel to interviews.

Black and Minority Ethnic (BME) women are significantly less likely to be in positions of influence; unlikely to have access to the social and professional networks from which board members are traditionally recruited; more likely to be contending with the effects of poverty (with its resultant barriers to childcare) and high levels of social alienation.

Working class women likewise are significantly less likely to be in positions of influence; more likely to be contending with the effects of poverty (with its resultant inaccessibility of childcare); and unlikely to have access to the social and professional networks from which board members are traditionally recruited.

Lesbian, bisexual or trans women may feel excluded by gender stereotypes around the types of women who participate on boards, or by heteronormative workplace

cultures, or by having experienced discrimination and homophobia with a resulting loss of confidence.

Many women will have multiple protected characteristics, and will have experienced multiple disadvantage across the life course. It will be challenging for organisations to fully understand these issues, and mitigate against them, but in order to achieve a more equal society (the 'Fairer Scotland' to which the Scottish Government aspires) and policy which reflects the reality of people's lives, it will be necessary. The end fully justifies the means.

Dialogue and consultation with trade unions around women's experiences in the workplace could be illuminating.

Question 11:

To help with the development of our Business Regulatory Impact Assessment, please provide any comments on the costs and benefits of the draft Bill, or any further information you think is relevant?

There may be costs arising from the need to allocate resources for training (both in terms of time and money), to enable organisations affected by this legislation to fully understand the range of equality issues, the barriers (both overt and covert) to women participating in public life, the additional barriers experienced by women with multiple 'protected characteristics', and the business benefits of enhanced diversity at Board level. Training should ideally be provided for existing and prospective board members, and for employees of the relevant organisations.

There may also be a cost associated with organisations investing time and resources in improving their recruitment procedures.

Provision of child-care for women with children, or of appropriate care for women with other caring responsibilities e.g. for elderly parents, may be an additional cost; as may support with candidates' travel expenses, although these would ideally be provided routinely as good practice in widening participation, and taking account of the Equality Act 2010.

The benefits of the Bill are manifold; and related to the widely reported business benefits of diversity; and the positive impact on policy-making that is likely to arise from gender balanced boards.

i. http://www.eis.org.uk/Gender_Equality/Get_Right_Girls.htm

ii. Government Equalities Office, Research Findings 2009/1, Increasing Diversity on Public and Private Boards

iii. House of Commons Library Analysis for Kate Green MP, April 2016, cited in http://wbg.org.uk/wp-content/uploads/2016/03/WBG_2016Budget_Response_PDF.pdf

iv. See table ET.1, <https://www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-july-to-september-2016>

The Educational Institute of Scotland
Survey of EIS members: Equalities Training

1. The 2016 AGM passed the following resolution:

"That this AGM request that Council conduct a survey of the provision of Equalities training for teachers and lecturers throughout Scotland with a view to assessing the quality, accessibility and effectiveness of the training."

2. The Equality Committee was designated as lead committee for this resolution.

Methodology

3. A draft survey, which it was agreed would be conducted using the online tool surveymonkey, was considered at the Equality Committee meeting of 6 December 2016, and it was decided to amend the survey then issue it thereafter, further to discussions with Membership/IT about constructing a representative sample of the membership. (The decision to send it to a sample was as per the EIS protocol on member surveys, S6.3).
4. The intention was to send the survey to a membership sample which would be broadly representative in terms of members':
 - Age
 - Education sector
 - Gender balance
 - Geographical balance; and
 - Ethnicity

However, it is difficult to get a representative spread using five different criteria. We therefore gave a steer to Membership/IT that as the resolution wording mentions both teachers and lecturers, and includes the words "throughout Scotland" that sector and geography should be priority criteria.

5. The survey included a pre-amble to explain its purpose. The preamble said:

"At the 2016 EIS AGM, it was agreed that the EIS should conduct a survey of the provision of equalities training for teachers and lecturers throughout Scotland.

We know that teachers are reflective practitioners who are committed to self-evaluation, professional update and school/college/university improvement. This survey will help us understand more about your access to professional learning on equality matters.

In this survey, by 'training' we mean any kind of professional learning or CPD, whereby you attain new skills and knowledge, including for example

a one-day or multi-day course or a webinar, seminar or conference.

By 'equalities training' we mean training aimed at ensuring equal treatment of people regardless of their sex, race, religion, disability, pregnancy or marital status, sexual orientation, gender identity, social background etc.

This survey contains 11 questions and should take around 10 minutes to complete.

The closing date for this survey is Wednesday 8th March 2017.

Your input will be greatly appreciated.

The data gathered will be used by the EIS Education and Equality Department to report on the current status of equality training for educators in Scotland. For more information please contact Jenny Kemp, National Officer, Education and Equality (jkemp@eis.org.uk).

Thank you for your time."

6. The survey was issued on 9 February 2017. A reminder email was sent on 24 February, and prompted a spike in replies. The survey closed on 8 March 2017.
7. The survey was sent to 1,000 members. 65 people completed the survey. This represents a 6.5% response rate.
8. Responses came from all sectors, but 94% of responses were from school teachers, of whom 43% were primary teachers and 48% were secondary teachers. Only twelve FE/HE lecturers completed the survey, making general observations about that sector difficult due to the small sample. Of the tertiary sector respondents, 83% were from FE. Of the teachers who responded, 11.5% were promoted post holders, and 3% were probationers. No teacher from a Grant Aided Special School responded.

Headline findings

9. The survey findings were extracted from surveymonkey. The headline findings are that:
 - In response to being asked, "Have you had any kind of equality training during your teaching / lecturing career?" 58% of members said that they had had some form of equalities training in their teaching career but **42% had not had any equalities training**
 - 56% of respondents felt that they had had enough equalities training during teacher training, but **38% felt that they had not had enough**

- **Fewer than half** of respondents had had training on the Equality Act 2010. 40% had received training on this legislation, but **60% had not**.
- **More members have had training on disability/additional support needs than on any other protected characteristic** under the Equality Act 2010.
- The **most common barrier** to accessing training is **workload, with 70% of respondents citing this as a barrier**. The next most common barrier **is the lack of cover** to get out of school/college/university.
- The **most common means of accessing equalities training** was as part of an **in-service/inset day or twilight course (61%)**. The next most common was during an **Initial Teacher Education course (23%)**. A fifth (20%) of respondents answered 'other', and in the comments field, stated that they had accessed training during Headteacher meetings, Department meetings, or courses provided by the local authority. Other means of accessing training had fairly low take-up rates:
 - 7% of respondents had attended a conference on equalities matters
 - 18% had attended a seminar
 - 10% had attended a short course delivered by a third sector partner
 - 5% had taken part in a short course delivered by a trade union
 - 13% had attended a short course delivered by another provider
 - 15% had taken part in online training.

Participation in equalities training

Members were asked about their participation in training, and the topics covered, using the protected characteristics under the Equality Act 2010 to structure the question, but with the addition of 'social background (e.g. affected by poverty)', as this is an important equalities issue not reflected in the legislation.

More members have had training on disability/additional support needs than on any other protected characteristic under the Equality Act 2010.

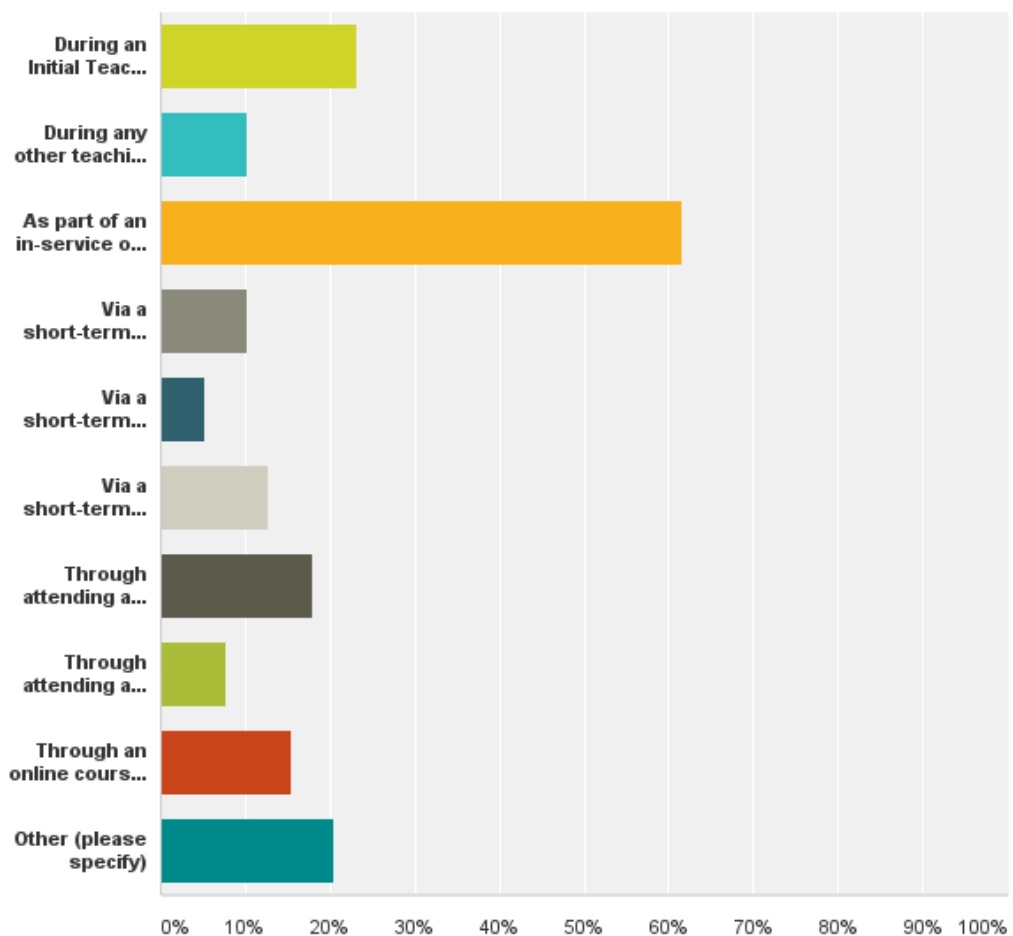
The protected characteristic about which members are least likely to have had training is marital status.

The breakdown by protected characteristic was:

- Disability / Additional Support Needs - 82%
- Race and ethnicity - 79%
- Social background (e.g. affected by poverty) - 66%
- Sex- 63%
- Gender identity (e.g. transgender issues) - 61%
- Religious belief (e.g. Islamophobia, Anti-Semitism) - 55%
- Sexual orientation (e.g. LGBT, homophobia) - 55%
- Pregnancy and maternity - 32%
- Age – 34%
- Marital status - 29%

Q5 4. Have you had equality training? (tick all that apply)

Answered: 39 Skipped: 26



In response to a broad question seeking to elicit whether provision of equalities training is sufficient, **"Have you had as much equality training as you would like?"**, respondents were fairly evenly split, but with a small majority implying that they wanted more, with **43% saying yes, and 57% saying no.**

Fewer than half of respondents had had training on the Equality Act 2010. 40% had received training on this legislation, but **60% had not.**

Only around a third of respondents commented on a question about the major equalities **topics** about which they wished to learn more. From the responses, recurring themes were:

- Disability/additional support needs
- Sex equality issues, e.g. girls in science and engineering, women into management, pregnancy & maternity, flexible working hours, work life balance
- The Equality Act
- Social background
- Sexuality and transgender issues ("dealing appropriately with pupils who identify as not being male or female, or pupils who have gender identity issues")

Four respondents wanted to cover all topics:

- *"major equalities training in every aspect as everything is so complex in day to day teaching"*
- *"I'd like to learn more about equalities training in all of the above areas"*
- *"all of above list"*
- *"update on all areas of equality"*

Barriers to accessing training

The findings in relation to barriers to accessing training were that:

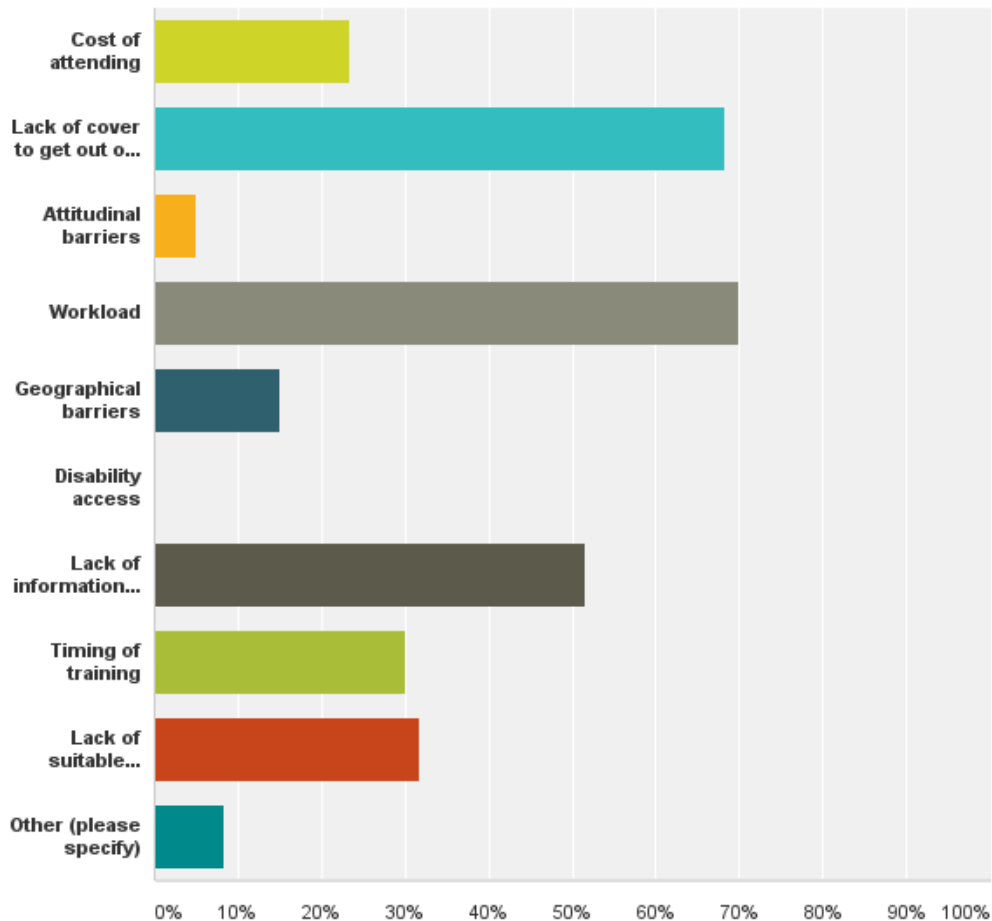
- The **most common barrier to accessing training is workload, with 70% of respondents citing this as a barrier.**
- The next most common barrier **is the lack of cover** to get out of school/college/university. **A lack of cover was cited by 68% of respondents.** Other barriers include:
 - Lack of information about opportunities – 52%
 - Lack of suitable courses – 32%
 - Timing of training – 30%
 - Cost – 23%
 - Geographical barriers – 15%
 - Attitudinal barriers – 5%

Other reasons for having difficulty accessing training were also cited:

- "I don't get offered any courses because I work part time"
- "Local Authority Courses not open to Independent Sector"

Q10 9. What are the barriers to accessing equalities training? (tick all that apply)

Answered: 60 Skipped: 5



Quality of training

Overall, **68% of respondents would describe all or some of the equalities training they have received as high quality.**

We also found that:

- 15% of respondents would describe all the training they have accessed as high quality;
- 53% would say some of the training was high quality;
- **32% would not describe it as high quality.**

General comments

Respondents were asked to make any other general comments about equality training. The comments made showed a divergence of views. Only one member (a Primary teacher) expressed the view that there should be less equalities training. Others were clearly supportive and interested in receiving equalities inputs, but concerned about the way in which it is (or is not) provided, citing issues such as lack of time, resistance to compulsion, no equalities input during teacher training, lack of opportunities, and the basic nature of the content. One member raised the question of whether awareness of equalities was inherent to teaching. One member (a Primary teacher) had had comprehensive training, including during Initial Teacher Education and on seven of the characteristics mentioned.

The comment made were as follows:

- *"I have never heard mention of any sort of equalities training for teachers"*
- *"Is this not already part of who and what we are as teachers?"*
- *"I qualified many years ago and there was no equalities input on my course. I would hope that good quality equalities training now forms part of all ITE programmes."*
- *"No time is allocated - lecturer is expected to go in own time or time taken from other activities."*
- *"Equalities training should be done in consultation with all staff in the establishment. Properly researched information about the knowledge and skills of those staff in employment."*
- *"I have found that any equalities training that is labelled "compulsory" has a negative response."*
- *"I am astounded by the ignorance bigotry and resistance of some colleagues. Likewise with managers with additional arrogance on top."*
- *"It has been comprehensive."*
- *"More information should be shared with teachers about training opportunities as I feel there are very few, especially as a supply teacher who has only recently become a permanent member of staff."*
- *"Never had an opportunity to engage in any."*
- *"We should have much less of it."*
- *"Training is always at a basic level."*

Differences by sector

The data was analysed to identify sectoral trends. The key findings were that:

- In general, primary teachers were more likely to have equalities training than secondary teachers, and to have had sufficient equalities content during Initial Teacher Education.
- The topics covered differed somewhat, with primary members most likely to have covered disability/ASN, race, and social background, whereas secondary colleagues had covered primarily gender identity, sexual orientation and disability.

- There was a significant difference in terms of race equality training, a gap of over 30% between sectors, with primary colleagues significantly more likely to have been trained on this.
- The barriers to accessing training were very similar across sectors, with lack of cover and workload both cited by similar proportions of members
- No primary teachers had accessed online training, compared to just over a fifth (21%) of secondary teachers.
- FE lecturers were much more likely to have had equalities training than school teachers – 100% had accessed some kind of training, compared to around half of teachers.

Notable findings in terms of promoted post holders (who comprised only seven of the respondents, which is too small a sample from which to draw firm conclusions) were that:

- They all (100%) said that ITE had not included sufficient information about equalities
- The most common means of them accessing training were, a short course delivered by another provider (50%), a short course delivered by a charity or community group (25%) and an in-service day (25%)
- Promoted post holders were more likely than any other respondents to have undertaken online training; a quarter (25%) had undertaken online training on equalities
- All (100%) had undertaken training on race and disability matters, and on disability/ASN, and 50% had covered all the other protected characteristics, plus social background, with the exception of marital status.
- Half (50%) had had training on the Equality Act.
- The barriers they experienced were different to those experienced by colleagues not in promoted posts; 50% cited workload (compared with an average of 70%) and 33% lack of cover (compared with 68%).
- The main barriers they cited were lack of information (100%), lack of suitable courses (83%), and timing (50%).

Sectoral data summary

Primary teachers:

- 58% had had some kind of equalities training during their career
- 56% said that sufficient information about equalities issues was provided during their teacher training
- 69% had accessed equalities training during an in-service day
- A quarter (25%) had been to a short (e.g. one-day) course about equalities and 13% had been to a conference on equalities matters
- No primary teachers had accessed online training
- Disability/ASN was the topic that more people had been trained on than any other, with 93% of primary teacher respondents having had equalities training on this aspect
- Race and social background were the next most common topics, with 87% having been trained on these aspects
- The next most common were religious belief (73%), sex (73%), gender identity (53%), and sexual orientation (40%)
- 75% of primary respondents had not had training on the Equality Act

- 40% had had as much equalities training as they would like, with 60% saying they had not
- Lack of cover was the key barrier to accessing training, with 72% citing this; 64% cited workload; and 52% cited lack of information about opportunities.

Secondary teachers:

- 45% had had some kind of equalities training during their career
- 50% said that sufficient information about equalities issues was provided during their teacher training
- 64% had accessed equalities training during an in-service day
- Half (50%) had been to a short (e.g. one-day) course about equalities and 7% had been to a conference on equalities matters
- 21% had accessed online equalities training
- Gender identity and sexual orientation were the topics that more people had been trained on than any other, with 85% of secondary teacher respondents having had equalities training on these aspects
- Disability and social background were the next most common topics, with 69% and 62% having been trained on these aspects respectively
- The next most common were race (54%) and sex (54%), with religious belief having been covered by 46% of respondents
- 69% of secondary respondents had not had training on the Equality Act
- 39% had had as much equalities training as they would like, with 61% saying they had not
- Lack of cover was the key barrier to accessing training, with 73% citing this; 69% cited workload; and 58% cited lack of information about opportunities.

FE lecturers:

- 100% had had some kind of equality training during their teaching / lecturing career
- The vast majority (89%) said that sufficient information about equalities issues was provided during teacher training
- 100% had had training on race equality; 80% on disability/ASN; and 60% for the majority of other protected characteristics including sex, gender identity, sexual orientation, and religion.
- Four fifths (80%) had had training on the Equality Act.
- The same proportion have had as much equalities training as they would like.
- Workload was cited as a barrier to accessing training by 100% of FE respondents; a lack of cover by 63%; and timing of training by 50%. None cited lack of information, which was a key concern of school teachers.

Too few HE lecturers replied to enable meaningful analysis of that sector.

Conclusions and recommendations

Although the sample is relatively small, this survey points to clear issues regarding

teachers' and lecturers' access to equalities training, particularly regarding the Equality Act, about which 60% of all respondents had not received training, despite it being a key piece of anti-discrimination legislation, with broad application, and relevance to many EIS priorities including anti-racist education, BME teacher under-representation, tackling misogyny, LGBT inclusion, and supporting refugees and asylum seekers. All teachers should be conversant with this legislation. It is recommended that further discussions take place with Initial Teacher Education providers and teacher leadership agencies, including the Scottish College for Educational Leadership, about how to address this deficit.

Overall, nearly half (42%) of teachers had not had any equalities training as part of their career. Given the diverse needs of the learning population in Scotland, and the need to enhance the diversity of staffrooms and ensure that educational establishments are inclusive workplaces and learning environments that reflect the populations they serve, this is deserving of attention and discussion. It is recommended that discussions with various partners, particularly local authorities, take place to explore these findings.

Workload issues and the cover crisis are continuing to prevent teachers from accessing the Professional Learning that they need and want. These should remain priority campaigning areas for the EIS.

In-service days remain an important means of accessing equalities training. EIS members are entitled to participate in collegiate discussions with senior management colleagues to agree the content of these days, in the context of wider discussions about the School Improvement Plan and Working Time Agreements.

Since more than half of respondents mentioned lack of information about opportunities to undertake training, and this appears to be a particular concern of school teachers, the EIS should endeavour to publicise opportunities wherever possible, and should encourage Local Government in particular to make increased efforts to provide and publicise opportunities.

The Educational Institute of Scotland

Flexible working arrangements for teachers and lecturers as applied within local authorities, colleges and universities throughout Scotland

The 2016 AGM passed the following resolution:

"That this AGM call upon Council to conduct a gendered analysis of flexible working arrangements for teachers and lecturers as applied within local authorities, colleges and universities throughout Scotland, and to report the findings."

Process

To pursue this resolution, we issued a Freedom of Information request to local authorities, colleges and universities. We asked six questions:

1. How many teaching/lecturing staff you employ, disaggregated by gender?
2. How many members of teaching/lecturing staff in your employment work part-time. I would like this data disaggregated by gender.
3. How many members of teaching/lecturing staff in your employment have a flexible working arrangement in any form (e.g. term-time working only, flexitime, compressed hours, part-time, job-share, working from home etc.)? I would like this data disaggregated by gender.
4. How many requests from teachers/lecturers to change their working pattern (in any direction e.g. from full-time to part-time or vice-versa) you have received in each of the last 3 years? I would like this data disaggregated by gender.
5. How many of the above requests were agreed or denied? I would like this data disaggregated by gender.
6. If you have a policy on flexible working arrangements for your employees. I would be most grateful to receive a copy of any relevant policy.

We received 65 substantive responses:

- **28** from Local Authorities (out of 32) – 4 did not reply
- **23** from FE Colleges (out of 25) – 2 did not reply
- **15** from Universities (out of 18) – 3 did not reply.

Data from each of these has been collated and analysed, paying close attention to different patterns between genders, and the reasons which may underlie these, as per the resolution request to conduct a gendered analysis.

Background to this motion

This motion arose from anecdotal evidence that some local authorities were demonstrating inflexibility when it came to female employees' requests to change their work pattern, particularly when seeking to change from part-time to full-time hours, with a resultant impact on their income and pension, potentially creating long-lasting income inequality. This issue may be exacerbated in a time of local authority budget cuts. It was decided to seek more information about educational establishments'

likelihood of granting requests to change work pattern, and their general approach to flexible working.

Flexible working: the legal context

Flexible working is a way of working that suits an employee's needs, e.g. having flexible start and finish times, or working part-time. This can help employees to accommodate caring responsibilities, but may also be sought due to factors such as religious observance or interests outside the workplace, such as volunteering or studying.

All employees have the legal right to request flexible working, not just parents and carers. This is known as 'making a statutory application'. Employees must have worked for the same employer for at least 26 weeks to be legally eligible to make a statutory application, but employers have discretion to discuss and agree flexible working requests with employees at any time.

Employers must deal with requests in a 'reasonable manner', meaning they must assess the advantages and disadvantages of the application, hold a meeting to discuss the request with the employee, and offer an appeal process. If an employer doesn't handle a request in a reasonable manner, the employee can take them to an employment tribunal. An employer can refuse an application for flexible working if they have a good business reason for doing so. A good business reason can be drawn from the following list:

- the burden of additional costs
- an inability to reorganise work amongst existing staff
- an inability to recruit additional staff
- a detrimental impact on quality
- a detrimental impact on performance
- detrimental effect on ability to meet customer demand
- insufficient work for the periods the employee proposes to work
- a planned structural change to the business.

Flexible working in practice

In practice, teachers report that employers often meet flexible working requests with resistance, even where a policy exists. People can also be dissuaded from asking for a changed work pattern where they are aware of a negative attitude towards requests, which may mean that the data we gathered on requests for a changed pattern is of limited use.

Increasingly, in recent years, employers have sought to use extremely flexible arrangements for less than benign reasons. For example, colleges and universities have been noted for employing people on 'zero hour' contracts, which are generally understood to be contracts between an employer and a worker where the employer is not obliged to provide any minimum working hours, and the worker is not obliged to accept any work offered. These create an insecure and vulnerable workforce, with few employment rights. So, it should be stressed that having high numbers of part-time

staff is not necessarily indicative of a positive working culture. It may in fact be indicative of an increasing culture of casualisation and precarious work.

This can be especially the case when people are juggling multiple part-time (often temporary) contracts, and feel they do not have the choice of full-time/permanent work. There are multiple benefits of part-time and flexible work, which can enable employees to balance life and work, and particularly can enable women to balance work with childcare or elder care, in a society in which they still have more responsibility than men for these tasks, but employers' use of part-time contracts may be driven by other factors that are not related to staff wellbeing/work-life balance, and that should be borne in mind.

Part-time posts may also become entrenched during a time of austerity-driven budget cuts, when there is less resource to expand capacity, and again, caution should be exercised when drawing inferences from the high-levels of part-time staff in some authorities/colleges/universities.

It should also be stated that for 'flexible working' to be a meaningful concept, it has to mean the flexibility to change working pattern from time to time, not just flexibility within day to day hours. In school teaching, it used to be the case that people from could move with relative ease from a full-time post to a part-time contract (say, 0.3) and then move back to part-time when they no longer required reduced hours, e.g. women with young children who wanted to return to full-time contracts once their children were older. That appears to have changed. Some local authorities are known to have demonstrated inflexibility when it comes to female employees' requests to change their work pattern, in effect locking women into part-time contracts, with a resultant impact on their income and pension, potentially creating long-lasting income inequality. It was hard to ascertain to what extent that is the case from the information provided by authorities.

Definitions: Part-time working

One of the most common types of flexible working used in education is part-time working. For clarity, a part-time worker is someone who works fewer hours than a full-time worker. In Scotland, a school-based full-time teaching post is 35 hours per week, and a part-time post is some variation of that, with part-time staff working anything from 2-4 days per week for the most part. Colleges and universities have a variety of arrangements.

Findings: data

The data received from local authorities, colleges and universities appears to indicate some significant gendered differences in terms of flexible working arrangements for teachers and lecturers across Scotland.

Local Authorities

- For teachers employed by local authorities, it is far more common for women than for men to work part-time. On average, 11% of male teachers work part-time; compared to an average of 29% female teachers working part-time. The

average for males is slightly skewed by the high proportion of part-time males in the Shetland Islands (45% in the, compared with 3-10% for larger, more urban authorities). In 26 out of the 28 authorities that replied, fewer than 20% of male teachers worked part-time, and in 18, the proportion was less than 10%.

- In local authorities, male part-time teaching staff form a very small proportion of all teaching staff (an average of 2%). The high is Shetland, which has 9% of all teaching staff being male and part-time. The low is 1%, a figure seen in eight authorities. Female part-time teaching staff form a larger proportion of the overall teaching workforce in authorities: an average of 22% of all teaching staff. In some smaller authorities, this figure is even higher, e.g. in Shetland Islands, part-time women comprise 46% of the entire teaching workforce. In Aberdeenshire the figure is 37%, and in Dumfries and Galloway the figure is 33%. The authority with the lowest proportion of part-time women is Glasgow with 2%, considerably lower than the norm. Falkirk is the second lowest, with 12%. In fifteen authorities, more than a fifth of all teaching staff are women in part-time roles.
- In terms of the data provided, there appears to be virtually no gender difference in success attaining changed working hours for teachers employed by local authorities. Nearly all of the authorities who provided data on this granted 100% of all women's requests for flexible arrangements – the average was 98%, with only one authority having a lower rate of approving requests (88% in East Renfrewshire). 100% of men's requests were granted in those authorities which provided this information. However, the majority of authorities did not hold this data centrally, with many citing the discretion of line managers to make informal arrangements with staff. It is therefore hard to discern whether the anecdotal evidence we have, about teaching staff meeting with inflexibility when making requests, is borne out.
- Only one authority provided detailed information in its response on the number of teachers seeking to change from part-time to full-time and vice versa. East Renfrewshire Council, noted above for having the lowest reported rate of approving changed working pattern requests, reported that in the past three years, 84 female teachers had sought to change from full-time to part-time, whereas no males had; and 11 females had sought to go from part-time to full-time, but no males had. 78 women were granted a change from full to part-time, 5 women were denied this. 10 women were granted the request to increase their hours to full-time, and one was denied.

FE sector

- In colleges, part-time working appears to be more evenly spread between men and women. The proportion of male teaching and lecturing staff working part-time varies very widely, from a low of 20% to a high of 71%. Several colleges had around half of all male lecturing staff working part-time. The average for the sector was 40%, which is much higher than for male school teachers. Part-time working is even more common for female teaching and lecturing staff: 63% of women lecturers on average are working part-time, with very high levels in most colleges (100% in one college, 87% and 82% in others; and the

lowest proportion still being a significant 31%). Eighteen of the colleges who replied had over 50% of women lecturing staff in part-time roles.

- In colleges, male teaching staff working part-time as a proportion of all teaching staff sits at an average of 18%. For women, that figure is 34%.
- For colleges, there is a very marginal gender difference in access to changed hours, with 99% of women being granted their requests in all but two cases, with the two that differed granting 96% and 97% of requests. Whereas, the average figure for male staff is 95%, and there is more variation here. One college only granted 67% of men's requests for flexible working, and one granted 75% of men's requests. Most colleges that provided data met 100% of requests; however most did not hold this data centrally.

HE sector

- In universities, the data we received indicates that on average, 28% of male teaching and lecturing staff work part-time, compared with an average 42% for female teaching and lecturing staff. There is wide variation however.
- For males working part-time, the high is 72%, (which may suggest an alternative means of classifying the data being used in that institution, as it seems surprisingly high, and it skews the average somewhat). The low is 7%. Nine institutions out of fifteen analysed had fewer than 30% of male teaching staff on a part-time working pattern, and only two had more than 50% of men working part-time.
- For females working part-time, the high is 86% and the low is 13%. Six institutions had fewer than 30% of women in part-time roles, and three had more than 50% (with three having 49% of women in part-time roles).
- In universities, in terms of proportion of total teaching workforce, males working part-time comprise an average of 14% of the workforce; and females working part-time comprise an average of 21% of the workforce.
- Requests for flexible working are granted in nearly all cases, with a notable exception of one institution which granted 67% of men's requests and 91% of women's. Most institutions do not hold this data centrally, and treat these arrangements as a matter of local discretion at faculty/school level.

Findings: policy

We received 16 policies about flexible working from colleges; 24 from local authorities; and 12 from universities. These appear to show a wide variation in the approaches being taken. Even in terms of nomenclature, there is wide variation – some organisations have a policy specifically on flexible working, some refer to 'alternative ways of working', some have a 'Family Matters' policy, or a 'Smart Working'/Work Life Balance policy, and some provided only their policy on maternity and parental leave,

suggesting a narrow interpretation of flexible working and the circumstances in which it would be needed or wanted.

This is concerning, as perceiving flexible working only as related to maternity rights may perpetuate notions of women as primary carers, and perpetuate the pattern of women being under-represented in full-time roles.

Only one local authority which responded did not provide a policy.

Two authorities reported that the relevant policy (in one case a "Smarter Working Scheme" and in another a Flexible Working policy) did not apply to teachers, but was for other authority staff. Only one mentioned a flexible working policy specially for teachers; and two shared their teacher job-share schemes.

Three colleges stated that they have no formal/written policy on flexible working, and one stated that its policy was in development. One stated that it follows statute on this rather than having its own policy.

Three universities made no mention of a policy document in their response or specifically stated that they have no formal policy.

Overall, it appears that there is a very varied approach to policy in this area.

Flexible working approaches beyond part-time

Data on flexible working arrangements beyond part-time working (e.g. job-share, altered daily hours, working from home) was very limited, and in general was not held centrally by respondents. Some responses provided confusing data which seemed to suggest they did not understand the distinction between part-time working and flexible working more broadly. Many responses noted that teaching staff work term-time only, and interpreted this as a form of flexible working arrangement.

The information that was provided about this indicated wide variations in approach. One authority reported that it has 11 female teaching staff working in job shares, but only two others mentioned job sharing in their comments. One college reported that it had some teaching staff who did home working. Another reported that all teaching staff can access working from home informally. One mentioned its Time Off In Lieu (TOIL) policy as an aspect of flexible working. One university mentioned staff working compressed hours.

Alarming, one local authority response (Western Isles Council) indicated concern about the volume of requests for part-time working, and intimated that it may need to turn down future requests, which would suggest a poor understanding of the law around considering flexible working requests reasonably.

Fit between policy and practice

The policies provided by authorities known anecdotally to have demonstrated limited flexibility for women in particular were examined, and there appeared to be a discrepancy between the policy intention and the practice as reported by EIS members. This concurs with reports from members that sometimes councils with

thorough written policies may yet have a negative attitude towards part-time or flexible work.

Conclusions

In general, the data gathered shows that flexible working, mostly in the form of part-time work, is widely used across the education sector in Scotland. It appears to be most prevalent in FE colleges, but is also common in universities and for school teachers.

The findings are consistent with what we know about women's lives, and the likelihood of them taking having more responsibility for caring, either for children or for elderly relatives, than men do. The high cost and limited availability of childcare/elder-care can mean some women choose part-time work to enable better management of these commitments. Women also take more responsibility for household chores and unpaid domestic work: women do almost 40% more housework than men on average, according to Office of National Statistics data.

Further, women may at times choose to work part-time because of health issues, e.g. those caused by the menopause. Menopause is a good example of a time when employer flexibility about changing work pattern temporarily would be ideal; but it is hard to discern from the data we have whether this happens in practice.

Working part-time can have a significant long-term impact on women's lifetime income, both in terms of earnings, but also pensions. Many women who worked part-time for a chunk of their teaching career, e.g. to raise a family, now need to work for longer due to pension shortfalls. The higher pension age, which is likely to keep increasing, means that more women are working for longer, and that requests for more flexibility, including part-time work, are likely to increase, particularly as older women may have multiple caring responsibilities, often for elderly parents and children or grandchildren at the same time. In these circumstances, a positive attitude towards flexible working will be important, to help meet women's needs, which will change over time as their responsibilities outside of work change.

There may be issues underlying the prevalence of part-time working in the education sector about women accessing management roles, and the compatibility of those with part-time work.

The increasing trend towards casualisation in the FE and HE sectors, and the use of temporary part-time and 'zero hours' contracts is of concern, and should continue to be monitored.

It appears that across education sectors, requests to change work pattern are generally looked upon favourably, and that there is not significant gender difference in this. However, we don't know whether the requests reported were for more or fewer hours, or for some other change to the working pattern, so we can draw limited assumptions from the data gathered.

In terms of written policy statements, it appears that there is some good practice across the sector, with most organisations having written and easily accessed policies

to cover flexible working, but with some gaps. Line manager discretion at a local level, which was widely cited, can be helpful *if* policies are consistently applied, and managers are sufficiently aware of the legal context, including both laws around flexible working but also the Equality Act 2010. However, this level of discretion does open up some possibility for discrimination. It may be that more training and support on this is needed.

The Educational Institute of Scotland

Homophobia and transphobia in education: member survey

Suggested title: Take Pride in LGBT Inclusive Education

Introductory remarks

"Scotland has come a long way in its attitudes to LGBT equality, but there is still much progress to be made. As recently as 2010 the Scottish Social Attitudes Survey found that 18% of people thought that gay men and lesbians were unsuitable as primary teachers, with 31% feeling the same about transgender people.

Thankfully, the 2016 social attitudes data shows some improvement, but it is deeply concerning that 13% of people still think an LGB person would be unsuitable for primary teaching, and a fifth (20%) would object to a transgender teacher.

The International LGBT Association has declared Scotland the best place in the world to be gay, in terms of the legal rights and protections conferred by the state, but full equality for LGBT people remains an aspiration rather than a reality. As our survey findings show, many teachers still experience LGBT discrimination. Casual use of homophobic language remains highly prevalent.

The Equality Act 2010 provides important legal protections, but too many people are unaware of the rights it confers. All teachers, including those who are gay or transgender, or who might be perceived as such, deserve equal treatment at work, and should be protected from discrimination.

Schools, colleges and universities cannot eradicate prejudice, but they play an important part in promoting inclusive education, and they should be safe, discrimination-free workplaces for staff.

I commend this report to you and urge our members to play their part in making Scotland a place where LGBT discrimination is not tolerated."

Contents

EIS members' experiences of homophobia and transphobia	page 2
Policies supporting LGBT inclusive education	page 8
The legal context	page 10
Recommended actions	page 11
EIS LGBT Network	page 12
Useful contacts and links	page 13

EIS members' experiences of homophobia and transphobia

In 2016, the EIS undertook a survey of members about teachers' and lecturers' direct or indirect experiences of homophobia and transphobia in education. We also held a focus group with some of the respondents, drawn from different sectors of education.

We did so knowing that within wider society, prejudice and discrimination towards people who are lesbian, gay, bisexual and transgender remain prevalent. Unfortunately, this can be the case in nurseries, schools, colleges and universities, both for teachers/lecturers and for young people who are LGBT.

The EIS opposes all forms of inequality and discrimination and supports an inclusive education system. Undertaking a survey of our members' experiences of homophobia and transphobia was one means of us exploring the scale of the challenge regarding homophobia (now more commonly referred to as LGBT discrimination) and identifying actions for tackling prejudice.

Notably, only 23% of those who completed the survey identified as LGBT, demonstrating that this topic is of interest to the wider union membership and across the teaching profession, and is not an issue of interest only to equality/LGBT activists.

The survey findings demonstrate that, while a great deal of progress has been made in the journey towards LGBT inclusion, and a less discriminatory society, some unacceptable attitudes and behaviours remain. Homophobia is still experienced by people working in the education sector, despite many initiatives to address it. Such prejudice requires to be put under the spotlight to enable progress towards equality to continue.

This report will examine the current climate in educational establishments regarding the prevalence of homophobia; the legal and policy imperatives for equality; and the ways in which educational establishments can play their part in promoting a more equal society in which LGBT discrimination is not tolerated.

Headline survey findings

Through our survey of EIS members, which covered the early years sector, primary and secondary schools, and FE and HE, we found that:

- **23%** of all respondents **identified** as LGBT; only 2% didn't wish to say
- **17%** of respondents had **directly** experience homophobia or transphobia
- **42%** of respondents had **indirectly** experience homophobia or transphobia, e.g. overhearing prejudicial language, witnessing bullying or assaults etc.
- Hearing **prejudicial language** was the most prevalent form of indirect homophobia, with non-inclusive **curricular content** the next most prevalent
- **38%** of respondents thought that their establishment **did enough** to tackle homophobia and transphobia but overall **61%** did not know or thought it did not do enough (**32%** said that their establishment **did not** do enough and **29%** said they **didn't know** if it did enough)
- **40%** **didn't know** if their establishment had a **policy** on tackling homophobia and transphobia. Overall **73% of respondents answered no or don't know** compared with 27% yes, less than a third.
- **30%** of respondents had undertaken **training or CPD** on LGBT issues, including during Initial Teacher Education
- **42%** of respondents had not had any **training or CPD** on LGBT issues and **7%** did not want any training or CPD on these issues
- **14%** of respondents had not had **training or CPD** but would like some; and **1%** had signed up for planned training
- Over **80%** of respondents were from schools, with about 10% from the college sector and the rest spread across early years and HE.

Direct experiences of homophobia/transphobia

We asked members if they had directly experienced homophobia or transphobia, as an employee, in an educational establishment. We found that 17% of respondents had directly experienced homophobia or transphobia.

Attitudes

Sadly, members had experienced a wide variety of homophobic behaviour. Many members spoke about learners' attitudes; ("pupils being homophobic towards me"); but worryingly, colleagues' attitudes were also widely remarked on.

"The Headteacher has been discriminatory (publicly in the staff-room"

Assumptions

Some respondents commented on the assumptions made by colleagues.

"As an unmarried female technical teacher it is assumed that I am gay, by parents, students and staff"

"my work colleague regularly makes comment, rarely positive, about my sexual orientation: most recently relating to "drag artistes" and asking how I enjoyed doing it I never have and never would"

"assumptions that we are not, or have never been parents - " you don't understand, you don't have children""

"As a single, childless woman in her thirties, I have been warned against forming a lunch-time LGBT club in case parents take offence and accuse me of being gay / grooming."

"it was remarked on that people had never expected me to be a rugby player"

Casual abusive comments

Harmful, prejudicial language was a dominant issue. Several members commented on the minimisation of offensive comments as jokes or 'banter', or drew attention to old-fashioned language. Some respondents had experienced comments being made which caused offence but were not intended to do so:

"colleagues have said 'you'd never know you were gay', meaning it as a compliment"

Some respondents had been told they were "too sensitive".

"Mainly older employees that don't really see how some language has changed from 'their' day and can now be offensive."

"throwaway comments in general conversation have been made"

"Ignorant comments by colleagues and abuse from pupils"

"Negative comments...Comments from students - mainly about appearance (I don't present in a 'feminine' way)"

Career development

Some respondents commented on the ways in which they perceived that their careers had been affected by homophobia, or about negative experiences on placement.

"Feel I have suffered discrimination in terms of gaining a promoted post. Not in every PT job I went for certainly- but for some I feel homophobia affected my chances. Eventually I gave up applying."

"used as the reason why I didn't get a job by a group of staff as gossip"

"As student teacher my class teacher made several comments about my sexuality when she found out my dissertation was about homophobia."

Indirect experiences of homophobia/transphobia

We asked members if they had indirectly experienced homophobia or transphobia, as an employee, in an educational establishment, e.g. hearing prejudicial language, or witnessing bullying. We found that 42% of respondents had experienced this. The major concerns expressed by respondents were about homophobic language, and about the omission of LGBT people's experiences and concerns in the curriculum.

Prejudicial language

Hearing prejudicial language was the most commonly experienced form of indirect homophobia. Pupils'/students' language was widely described as problematic. Some abusive terms have become common parlance.

"the (poor) use of language by pupils is very noticeable as many derogatory phrases are seen as 'everyday'."

"Have often seen/ heard term "that's pure gay!"."

"The pupils have a tendency to use derogatory language e.g. "that's so gay", "you look gay", meaning bad."

"Homophobic language is a huge issue everywhere. To tackle it teachers need to feel empowered and confident, otherwise it is just me challenging it all the time."

"Pupils continually using the word 'gay' as a derogatory term."

Inclusive curricula

Several respondents commented on the lack of an inclusive approach to LGBT issues across the curriculum.

"There is no curricular area which is inclusive of LGBT learners. Even the sexual health and relationship education programme."

"Have NEVER heard homophobia mentioned/ tackled at any assembly in 21 years of working in Glasgow. Just not visible enough."

"2 LGBT pupils brought up the lack of sex ed for LGBT pupils in my schools which was dismissed with "we're not here to encourage you to have sex". They were asking for sexual health information, not a step by step guide..."

"Most novels/short stories/ plays in English depts focus on heterosexual characters / relationships only."

Changing times?

Some respondents spoke of gradual improvements to policies, replacing of out-dated materials, and a decline in prejudicial attitudes, but also commented that policy change has not led to significant change on the ground. Focus group participants also spoke about a shift in learners' attitudes over the years, with a more liberal, tolerant and accepting culture developing in many schools than was previously known, especially comparing teachers' experiences of learner attitudes with their own experiences when attending school as pupils. One focus group member highlighted the Equality Act 2010 as having introduced improved practice.

It was noted that some sectors have experienced significant changes, e.g. the reorganisation of FE in Scotland, which has caused a generational change and significant shifts in staffing. It was suggested that this could perhaps be one factor which has contributed to more positive staffroom attitudes towards LGBT people in that sector.

We elicited some good practice happening across Scotland, e.g. several schools working towards an LGBT charter; staff dealing appropriately and consistently with the use of prejudicial language by pupils; and children talking more openly now about family members who are LGBT. Some survey respondents felt that times had changed for the better, and that LGBT equality was now more on the agenda.

"I feel children are far more open minded and accepting now than when I first started teaching 27 years ago. Within staff there are several people who have LGBT family members and there doesn't appear to be any judgement or negative attitudes towards this."

Other positive developments mentioned by survey respondents and focus group participants included:

- Posters conveying inclusive messages being displayed in schools
- The local council having a robust policy on homophobia
- LGBT teachers becoming role models in promoting an inclusive approach
- An FE student completing a gender transition successfully and happily
- More 'openly gay' leaders e.g. at college principal level
- A school working with an LGBT sports charity to tackle homophobia and discrimination in PE
- A 'rainbow week' in nursery, celebrating different families
- A school sub-group on sex and gender issues
- FE lecturers teaching modules about challenging prejudice.

However, some respondents felt that things had got worse over the last ten years.

"Children daily insult each other by calling each other gay bob, lesbo etc. Incidents are dealt with at the moment but some children's use is deliberate and calculated bullying of children they don't like."

"Homophobia is not something we are really encouraged to talk about. LGBT pupils leave our school with no information other than the feeling that they are alone and not normal."

"I feel that despite not directly or indirectly experiencing homophobia or transphobia I believe there to be a lot of subtle prejudice and closed-minded attitudes towards LGBT+ people and the surrounding equality issues."

Focus group participants were concerned about an assumed conservatism among parents, which perhaps sometimes constrained the use of inclusive approaches; and missed opportunities to enable staff to act as positive role models, due to caution about staff being open about their sexuality. The general consensus, however, was that times have changed, and that there is less LGBT discrimination in Scotland's educational establishments now than in previous years.

Confidence and clarity

Uncertainty about where LGBT issues sit in educational establishments was a key theme of the survey responses. Likewise, several respondents spoke about the need for teachers to have more confidence, and more backing. Some respondents who were critical of the current situation cited a lack of training, a lack of policies, and a lack of resources. One respondent noted that FE college data collection did not differentiate by sexual orientation, and so little was known about the experiences of LGBT students.

"There still remains enormous uncertainty about how much we should discuss these issues/ answer questions. Frequently the perception is that only pastoral care are qualified to speak about these things and only within PSE."

"Many staff members still seem afraid to openly discuss LGBT related issues. As such, derogatory language used by some children often remains unchallenged in issues of discipline. Many staff members are uncomfortable due to their lack of confidence about what to say and seem unsure of policies and what could get them 'into trouble.' As such much goes unchecked and unchallenged."

Professional Learning

Despite many years of campaigning against LGBT discrimination, and changes in attitude of government, society and employers towards LGBT people, fears and myths are still all too easily exploited. This makes the need for high quality Professional Learning on LGBT issues, both during Initial Teacher Education or tertiary education equivalents, and throughout a teacher's career, evident. However, our survey found that **42% of respondents had not had any**

training or CPD on LGBT issues, and worryingly, **7%** did not want any training or CPD on these issues.

We know that there are many barriers to Professional Learning in the current economic climate, including workload, budget cuts, diminishing CPD budgets, teacher shortages, and a lack of supply teachers which creates impediments to securing time away from school/college.

However, our research suggests that a significant factor in educators accessing LGBT themed Professional Learning is the priority which is given to this issue. Focus group participants reported that matters such as fire safety, health and safety, and child protection were at the top of the hierarchy, then issues identified as likely to be of interest to inspectorates, with equality issues the lowest priority. Changes to qualifications increased the likelihood of training being required in this area; with less time available for equalities training.

Focus group participants expressed concerns about poor quality, online training, which can create a 'tick box' mentality without addressing the issues in depth; and about training which considers all equality matters together but without examining specific issues pertaining to different groups. Concern was also expressed about the lack of detailed content in Initial Teacher Education. Several of the focus group members had had no equalities content at all during their teacher education, and only low quality online training on equalities after qualifying.

Policies supporting LGBT inclusive education

There is a wide range of legislation and policy to support educators in creating a more inclusive environment through their day to day practice in educational establishments.

It is also important to know that as well as many imperatives for doing this work, there are no impediments to doing it. Section 28 of the Local Government Act, which prevented open discussion about LGBT issues, was repealed in 2000. It casts a long shadow, and has shaped the way in which LGBT issues are addressed in education even after its repeal, but it is vital for educators to know that it is no longer relevant, and that an array of policy levers exist which support the promotion of equality and human rights.

Policy levers

Curriculum for Excellence - several experiences and outcomes support LGBT inclusive education; in particular, the Health and Wellbeing outcomes support school teachers in ensuring that schools and classrooms are LGBT friendly.

Getting it Right for Every Child - this important policy, which is underpinned by legislation (the Children and Young People Act 2014),

helps teachers in their day to day teaching in the classroom when discussing LGBT issues.

The Equality Act 2010 – a crucial piece of legislation which covers those who identify as having one of the nine ‘protected characteristics’; age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage or civil partnership, pregnancy or maternity (see legal context section).

How Good is Our School 4 - this inspection framework includes an increased focus on Equality. Quality Indicator 3.1 – Ensuring Wellbeing, Equality and Inclusion, specifically mentions sexual orientation. HMIE believe that ‘inclusion and equality leads to improved outcomes for all learners’ and learners, parents and carers, staff and partners feel treated with respect’ regardless of gender or sexual orientation. They believe best practice allows children to ‘explore diversity’ and be ‘knowledgeable about equalities and inclusion’.

Education Scotland - provides a toolkit for teachers on dealing with homophobia and homophobic bullying in Scottish schools.

How Good is Our Early Learning and Childcare - an inspection framework, focused on the early years sector. HGIOELC has a strong focus on Family Learning, which should take account of all types of family.

UN Convention on the Rights of the Child - protects children’s human rights, and provides a foundation for ensuring the participation of children in decisions affecting them.

General Teaching Council for Scotland Standards - these must be met in order to become and remain a fully qualified teacher in Scotland, Standard for Full Registration. One of the values which GTCS recognises as being core to a teacher is: “Committing to the principles of democracy and social justice through fair, transparent, inclusive and sustainable policies and practices in relation to: age, disability, gender and gender identity, race, ethnicity, religion and belief and sexual orientation.”

The standards also reference “being trusting and respectful of others within the school” and “Providing and ensuring a safe and secure environment for all learners within a caring and compassionate ethos and with an understanding of wellbeing.”

National Approach to Anti-Bullying - a new version of this framework is expected to be issued in 2017 and to specifically address LGBT discrimination and various forms of prejudice-based bullying

Scottish Government policy on relationship, sexual health and parenting (RSHP) education - “It is important that RSHP education

addresses diversity and, for example, reflects issues relating to LGBTI young people or children with LGBTI parents” – from Conduct of RSHP Education in Schools, Scottish Government, 2014

Scottish Government delivery plan, “Delivering Excellence and Equity in Scottish Education” – this plan focuses on closing the attainment gap, notes that “there are wider issues which can affect children’s attainment and equality of outcomes”, and says “we are intent on delivering equity for all children”, which must therefore include all LGBTI children or children from LGBTI families.

Parental Involvement Act 2006 – this obliges schools to involve parents, which can be an important dimension of providing LGBTI inclusive education, particularly as some parents will identify as LGBT, and learners will have many different types of family.

Denominational schools

Denominational schools are covered by the same equality, human rights and children’s rights legislation that bind every school, whatever its faith. All schools, including denominational schools, want all their pupils to learn and grow in an environment that is free from any kind of bullying and discrimination, and should take proactive steps to create an environment where every pupil is treated with respect and can be themselves.

The Scottish Catholic Education Service (SCES) has highlighted that schools should help children and young people “...*learn about themselves as God’s children, about the beauty and dignity of their bodies, their gender and their sexuality which God has gifted to them...*” and about “*personal relationships which are respectful, responsible and loving towards others.*”

SCES also recognise that children “*come from a diverse variety of family contexts, which teachers must take care to avoid making comments which might appear to imply moral judgements*”.

There is specific guidance available for people who want to promote LGBT inclusive education within faith communities. (See links section).

The legal context

When discrimination does happen in workplaces it is the responsibility of teachers and management to challenge such behaviour. The principal legislation offering protection against prejudiced or discriminatory treatment is the Equality Act 2010.

Within the Equality Act, sexual orientation, gender reassignment and marriage and civil partnerships are termed ‘protected characteristics’. Protection is provided by the Act to those who are lesbian, gay, bisexual or heterosexual; those who are transgender, having undergone, undergoing or proposing to

undergo gender realignment; and those who are in a same-sex marriage or civil partnership.

All public sector bodies have a responsibility 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) encourage good relations between those who share a protected characteristic and those who do not.

The terms of the Act apply to educational establishments of all religious denominations and none, though the co-existence of the Education (Scotland) Act, 1980 as it relates to faith schools should be noted. This piece of legislation remains alongside the Equality Act 2010 and sets out the right of the Catholic Church or other denominational body to approve all appointments within schools which are conducted in its interest, on the grounds of religious belief and character.

Four forms of discrimination are prohibited by the Act. These are direct discrimination; indirect discrimination; victimisation; and harassment.

Harassment could include using homophobic language, verbal abuse, graffiti, malicious gossip or 'outing' someone at work when it has not been their choice to disclose details of their sexuality or gender identity in the workplace. So-called 'banter', which is homophobic in nature, constitutes harassment.

For more information on the Equality Act and your legal rights to protection from discrimination and harassment, refer to the EIS LGBT policy and the policy on Bullying and Harassment.

Recommended actions

We know that EIS members take pride in teaching and in providing inclusive education. We recommend that our members use the 'PRIDE' approach to develop their approach to challenging LGBT discrimination, and promoting an LGBT inclusive environment in their educational establishment.

P – Policy and partnerships: ensure that your establishment has an active and up-to-date policy on tackling LGBT discrimination and prejudice-based bullying, and preventing LGBT discrimination against staff and learners; and work in partnership with relevant agencies who can support the implementation of the policy through providing advice, resources etc.

R – Reporting: ensure that all incidents of LGBT discrimination are recorded, including verbal and physical bullying incidents.

I – Inclusive education: embed equality across the whole establishment and across the curriculum. LGBT staff and learners should see their lives reflected in materials about families, for example. Posters and displays around the school can show LGBT members of the school community that they are acknowledged and welcome. RSHP should include information of relevance to LGBT learners. Health and Wellbeing work should include consideration of LGBT people and their specific needs and experiences. Clubs and societies can provide safe spaces for LGBT pupils to discuss issues affecting them.

D – Discussion: hold regular and open discussions about LGBT issues across all aspects of the curriculum; and discuss how to take forward this agenda through your trade union at your LNCT or Branch meetings.

E – Evidence: use data to inform policy and planning. This could include data on prejudice-based bullying incidents; attainment and achievement; attendance; student retention; staff grievances and disciplinaries etc. You can also draw on evidence from partner organisations' research.

EIS LGBT Network

The EIS has an active LGBT Network, for members who identify as LGBT+ and for allies for LGBT inclusion. In recent years Network members have run stalls at events, spoken at and attended conferences, attended Pride in Edinburgh and Glasgow, and held national events for members on LGBT inclusion topics.

For more information see <http://www.eis.org.uk/Equality/LGBT.htm>

Useful contacts and links

Further advice is available from the following website sources:

www.eis.org.uk	EIS policy and advice
www.eis.org.uk/images/equality/LGBT/LGBT%20Guidelines%20.pdf	EIS advice on Equality Law as it applies to LGBT people
www.eis.org.uk/images/EIS%20Policies/Bullyin%20&%20Harassment%20policy%202013.pdf	EIS advice on workplace bullying & harassment
www.stuc.org	General trade union policy and advice
http://onescotland.org/	Scottish Government Equality resources & campaigns including LGBT issues
www.acas.org.uk	Advice for employers/employees on policy & legislation, including discrimination law
www.equalityhumanrights.com	Information on equality and human rights legislation and policies/campaigns
www.lgbtyouthscotland.org.uk	Advice, support and information for young LGBT people in Scotland, and those who work with them
www.stonewallscotland.org.uk	Advice, policy, and campaigns for LGBT equality
www.equality-network.org	News, updates, policy, support, advice, links for LGBTI issues especially legal issues
www.scottishtrans.org	Advice, policy, support, news and information on transgender and intersex equality
www.mermaidsuk.org.uk/	Advice for young people on gender identity
www.gtcs.org.uk	Information about standards, values and registration in the teaching profession in Scotland
www.stonewall.org.uk/sites/default/files/working_with_faith_communities.pdf	Advice for conducting LGBT equality work with faith communities

The Educational Institute of Scotland

Supporting older women members in the workplace: guidance for EIS representatives

Contents

Introduction	page 1
Definitions: Who are 'older women'?	page 2
Legal context	page 3
Issues affecting older women at work	page 4
Specific issues in educational establishments	page 7
Supporting women from diverse backgrounds	page 8
Advice to EIS Members	page 8
Advice to EIS Representatives	page 8
Advice to Local Association/Branch Secretaries	page 9
Further reading	page 9
Annex A: Working through the menopause	page 11

Introduction

This guidance aims to set out the issues women can face in the workplace as they age, and to offer guidance on supporting those women to enable them to enjoy fulfilling, healthy working lives, free from discrimination, in which their contribution and experience are recognised and valued.

The EIS celebrates the contribution of women who have taught for many years, and the insight and experience they bring to their workplaces. That rich experience should be respected and valued by everyone working in the education sector. Sadly, that is not always the case. In the education sector, as in wider society, women can encounter age and sex discrimination, sometimes in combination. These are issues affecting many women aged 50-64 at work.

The Scottish Commission on Older Women reported in 2015 on the issues impacting on women aged 50-64 in the workplace today, finding that:

- Over 74% of women in Scotland are in paid employment, with a significant number of those being over 50
- Women over 50 today are healthier and can expect to live longer lives
- Older women need to work and want to work, but they also often have caring responsibilities for partners, for elderly parents and for grandchildren
- Public policy and employer practices rarely support this, e.g. there is no statutory right to leave for carers

- Employment practices often fail to take account of the changes that take place across the whole life cycle
- Older women report additional stresses and feeling undervalued as a result of this
- Black and Minority Ethnic older women's experiences are hard to capture, due to their 'near invisibility' in official statistics.

The Commission stated that "*statistics on the increasing number of older women in employment are encouraging*" but "*they mask widespread and serious on-going challenges of pay inequality, job insecurity, underemployment, a lack of opportunities for development and career progression, and both implicit and explicit age discrimination that leaves many older women feeling vulnerable in the workplace.*"

Definitions: Who are 'older women'?

This guidance arose from an AGM resolution about supporting 'older women'. The Scottish Commission on Older Women report, "Older women and work: Looking to the future", published in August 2015, defined older women as aged 50-64. However, the term 'older women' varies greatly in perception, policy and statistics. In most instances throughout this guidance, the age band 50 – 64 is used to capture the experiences of those in late working life, and over 65 for those who are entitled to receive a state retirement pension.

However, many women over 50 do not feel 'older'; and some women self-define as older well before they reach the age of 50 (especially if they have had children and are perceived by colleagues as 'older'). Some women would prefer to be referred to as mature, experienced or wise, due to the negative connotations of the word 'older' in an ageist society, in which youth is revered. Some women will continue working well beyond the age of 64, especially as the pension age changes.

Another factor to be considered is whether women identify as being menopausal or perimenopausal. The perimenopause is the start of transition towards menopause, and begins some years before the menopause itself. It usually starts in a woman's 40s, but can sometimes start in her 30s.

The menopause is a natural part of ageing that usually occurs between 45 and 55 years of age, as a woman's oestrogen levels decline. In the UK, the average age for a woman to reach the menopause is 51. However, around 1 in 100 women experience the menopause before 40 years of age. This is known as premature menopause or premature ovarian insufficiency.

This guidance therefore, whilst largely aimed at supporting members aged 50-64, will be of relevance to a wide range of members, some of whom will fall outside

of this age bracket. EIS Representatives should use their judgment as to whether this guidance applies to the members whom they are supporting.

Legal context

The Equality Act 2010 provides important legal context for supporting older women members. It designates both age and sex as 'protected characteristics', the characteristics which are explicitly protected from discrimination by this law.

The Equality Act created a Public Sector Equality Duty, which obliges public authorities to have due regard to the need to eliminate discrimination, harassment, and victimisation, as well as advancing equality of opportunity and fostering good relations between those with and without protected characteristics.

Older women may be susceptible to discrimination and it is important for Trade Union reps to locate their experiences within equalities legislation, where relevant. For example, some menopausal women may experience particularly severe symptoms which mean that they would be classified as disabled under the Equality Act 2010, depending on the severity of the symptom and their effect on day to day activities. If that is the case, the employer is under a legal duty to make 'reasonable adjustments'.

Also, as the menopause affects only females, any detrimental treatment of a woman on grounds of her menopause could amount to direct or indirect sex discrimination under the Equality Act.

When supporting older women members, a starting point should be to consider whether they have experienced direct or indirect sex, age or disability discrimination, or harassment or victimisation, as described by the Equality Act.

Issues affecting older women at work

The issues that affect older women in the workplace can be summarised as falling into four main areas:

- 1. Health related issues**
- 2. Professional esteem issues**
- 3. Gender role issues**
- 4. Financial issues**

Health related issues:

- **The impact of the menopause.** The menopause is the time when a woman stops having periods, sometimes referred to as 'the change of life'. It is a natural part of ageing that usually occurs between 45 and 55 years of age, although sometimes earlier. It can cause a range of physical and mental symptoms, which vary enormously across the population, from mild to very debilitating. Some symptoms may be sufficiently debilitating as to necessitate 'reasonable adjustments' to working arrangements under Equality Law, and others will require more temporary, minor adjustments. The menopause is very rarely discussed at work and many managers will have no awareness of the issues involved. This means that many women feel that they have to hide their symptoms and are less likely to ask for the adjustments that may help them. (For more information on working through the menopause see Annex A at pages 11-13).
- **Health and safety issues,** such as inadequate access to toileting and washing facilities. Older women may need more frequent access to toilets, or may, due to erratic periods, need access to washing facilities. Building design does not always take into account the number of female staff who require toilets in close proximity to classrooms.
- **Tiredness** due to the physical and mental demands of the job, and to sleep deprivation. The menopause can cause insomnia and night sweats, which can exacerbate pre-existing tiredness. This can also be exacerbated by having caring roles outside of work.
- **The impact of conditions which affect more women than men,** e.g. chronic pain and arthritis. Women are at significantly higher risk of nearly all types of arthritis except gout. This is particularly true for osteoarthritis of the knees. The rate of osteoarthritis in women increases rapidly after menopause. Women are also more likely than men to experience chronic pain, caused by conditions such as fibromyalgia, osteoarthritis, chronic fatigue syndrome, and endometriosis.
- **Mental health issues, including stress and anxiety,** especially when juggling multiple responsibilities, such as caring for children and elderly parents alongside work responsibilities. The HSE reports that almost 60% of people suffering from work-related stress are women. Research has also found that women face additional workplace pressures, such as not being valued or promoted, unequal pay, and being judged for their dress/appearance; and that women's stress levels are more likely to remain high after work, particularly if they have children at home. Sometimes, older women can find themselves the oldest member of staff in an educational establishment, often working alongside a very young workforce, with limited understanding of the issues, such as menopause, that older women experience, and limited sympathy. This can cause stress, anxiety, and a sense of isolation.
- **Absence management issues.** Employers' absence management policies do not always take account of the health implications of the menopause,

and members may find asking for menopause-related sick leave acutely embarrassing, particularly if the Headteacher is a younger male. There are also certain types of health screening which impact more on older women, e.g. mammograms. Absence management policies should not discriminate on the grounds of age or gender, but many older women find that, in practice, policies are inflexible and do not take account of their needs.

"I didn't feel supported as a young mother, and I don't feel supported now that I'm at the other end...I can't even get time to go to the dentist"

Judith, 54 - Primary teacher, East of Scotland

Professional esteem issues:

Many of the challenges facing older women working in educational establishments are common across the education workforce: the challenges of managing a large workload, within a Working Time Agreement, in a time of rapid change, with less time for collegiate working, and often in inadequate or poorly designed facilities e.g. open plan classrooms which are too noisy, or new build schools with no staffrooms, too few toilets, long corridors and heavy doors.

However, there are some issues which are disproportionately experienced by older women in the education workforce. These include:

- **Reduced access to Professional Learning:** assumptions can be made about how valuable this will be to staff whose careers are perceived to be ending in the foreseeable future; often these can be founded on stereotyped attitudes about what Professional Learning opportunities older women staff would value, e.g. assuming that they will not want to take part in learning about digital technologies.
- **Reduced access to promotion** opportunities, and assumptions made about lessened ambitions. Many older women report having assumptions made about their career intentions, and being excluded from development opportunities which are targeted at younger members of staff. When older people apply for promoted posts, they may experience discrimination. Research on employment practices across the workforce has found that older women experience greater discrimination in hiring than older men and younger women.
- **Challenging relationships with colleagues,** especially younger colleagues who may perceive older women as less fit, competent or dynamic; who may be less rigid aware of the Working Time Agreement; or who may undervalue older women's experience and judgment. Older women members report such behaviours as colleagues laughing when they are experiencing menopausal symptoms, re-allocating tasks without consultation, or assuming that good classroom management was because the teacher had been allocated an 'easy class' rather than due to years of

experience. A lack of shared facilities such as staffrooms can exacerbate these issues as this can inhibit regular, open discussions.

- **Questioning one's professional competence**, especially when changes are made to the education system. Members report feeling overwhelmed by the pace of change. With anxiety and short-term memory and concentration lapses being a common menopausal symptom, this can be exacerbated by trying to keep pace with ever-changing systems and processes, and lead to older women questioning their own abilities.

"Once you are over 60 you are written off"

Selma, 63 – Primary teacher, North East Scotland

Gender role issues:

- **Balancing caring responsibilities with work**, often caring for ageing or disabled parents, e.g. parents with dementia, at the same time as having parenting responsibilities for older children or grandchildren. Women comprise 95% of lone parents, so older women with caring responsibilities will not always be sharing these with a partner. Women often struggle to access the flexible working arrangements that would facilitate easier balancing of these responsibilities.
- **Balancing unpaid labour with work**. Research by the Office of National Statistics has found that women carry out an overall average of 60% more unpaid work than men. Women put in more than double the proportion of unpaid work when it comes to cooking, childcare and housework, and on average do 26 hours of unpaid work per week. Overall, 36 to 45 year olds carried out the most unpaid work, however, people aged 46 to 55 provide the highest share of unpaid transport, and those in the 56 and over age group delivered the highest level of adult care, and also did the most cooking and laundry. Balancing multiple responsibilities can add to stress and fatigue.
- **Misogynistic and ageist attitudes** that can leak from society into the workplace and lead to e.g. inappropriate 'jokes' about ageing, or the repetition of gender stereotypes. Older women can be described in misogynist language such as 'old biddie', 'old wifie', or 'battleaxe', and may be subject to stereotypes about women being less good at using technology or better at certain pastoral duties.

"We are the sandwich generation, caring for ageing parents, and for teenagers. It is very difficult to get time off for appointments for ageing parents".

Sue, 51 - Additional Support Needs teacher, Central Scotland

"I feel like I'm driving about five cars all at once"

Joan, 51 - caring for older parents and FE lecturer,
West of Scotland

Financial issues:

- **Income inequality.** Women typically have less income, fewer savings, and greater reliance on social security benefits than men. Twice as many women rely on benefits and tax credits as men. Women who have worked part-time for some or all of their career, often due to caring responsibilities, will have a lower income over their lifetime, with resultant impacts on their financial security in later life.
- **Issues arising from the increasing pension age.** The pension age has been increasing steadily since the 1995 Conservative Government's Pension Act, which included plans to increase women's SPA (State Pension Age) to 65, the same as men's. The 2011 Pension Act advanced this. The changes were implemented with little or no personal notice, faster than promised, and with no time for women to make alternative plans. Retirement plans have been shattered with devastating consequences. Now many women face the prospect of working well into their sixties. To women who have had their pension age moved as they head towards the end of their careers, this can be profoundly unsettling, and can also create severe financial stress.

"I won't leave work until I'm 66 whether I want to or not [because of the pension age changes]."

Irina, 63 - Primary teacher, East of Scotland

Specific issues in educational establishments

Whilst there are pressures on all older women at work, there are specific issues for older women teachers/lecturers, which EIS reps and employers should take particular cognisance of. These include:

- Unsuitable or too few **toilet facilities** in new school buildings which have been designed around the children's and not the staff needs
- **Classroom obligations**, meaning that teachers needing to take a break for health-related reasons (e.g. experiencing a hot flush due to the menopause) cannot, as they can't leave children unsupervised, especially as teacher shortages mean that there are fewer colleagues available to cover classes
- School **facilities which undermine collegiate time**, e.g. no central staffroom, meaning there is less sharing of experience between colleagues
- A **lack of resources** for basic equipment/reasonable adjustments, such as fans
- An increasing **culture** in some sectors of education of learners as consumers, requiring immediate access to lecturers, which exacerbates teaching/lecturing staff stress levels
- An increasing **expectation that new technology should be used**, and that all communication will be digital, e.g. school developments shared on social media platforms, with no concomitant investment in training, excluding those colleagues who lack skills or equipment to participate
- The **expectation that staff will participate/demonstrate certain skills**, e.g. in Physical Education, which is not always possible as people age
- The **inadequacy of work-stations** in many classrooms, which can be especially challenging for teachers with osteoporosis caused by menopause
- **Poor audibility** – as hearing ability can often diminish with age, large open-plan/team-teaching or noisy working environments can be more problematic, especially when working with younger children who may be less clearly spoken
- An expectation that teachers will be able to attend voluntary twilight training/CPD, and **inflexibility around the provision of Professional Learning** where this is arranged without due reference to working time agreements and collegiate discussion
- An expectation that where **training or meetings** are postponed and subsequently re-scheduled that teachers will be able to attend at short notice
- The **removal of machines for dispensing sanitary protection products** from some educational establishments, and the poor provision of these in others
- The move towards **'hot-desking'/multi-campus working** in some sectors, meaning women employees lacking a private space, e.g. a desk drawer, in which to store sanitary protection items or items of assistance during the menopause e.g. a fan or a change of clothing.

Supporting women from diverse backgrounds

Women are not a homogenous group. There may be specific issues to consider in regard to supporting older women with other protected characteristics under the Equality Act 2010 (e.g. women with disabilities, women from BME backgrounds, women who are gay or transgender), so policies and support should take cognisance of that.

For example, lesbian women may face stereotyped assumptions about them having fewer caring responsibilities than other women, or women with disabilities may find that these worsen as they age. BME women face stereotyped assumptions about their religious and cultural backgrounds, e.g. whether they need time off for religious festivals.

There can also be specific issues for women working in rural or remote areas, including isolation, and more guarded approaches to open conversations about women's health issues.

It is important to be mindful of the multi-layered experiences of women from different groups, and when in doubt about the potential impact of a policy or approach, to consult those affected, and seek Equality Impact Assessment.

Advice to EIS Members

All teachers and lecturers are advised to:

- Participate in Professional Learning on gender equality issues
- Make use of gender equality education resources to challenge all forms of sex discrimination, including discrimination against older women
- Ensure that sexist and ageist incidents, and incidents of disability discrimination, are reported and recorded using appropriate formal procedures
- Be aware of the added vulnerabilities of certain groups, such women experiencing the menopause.

Advice to EIS Representatives

EIS representatives are advised to:

- Raise issues pertaining to older women at work with employers
- Take account of the specific needs of older women members in any discussions of policies such as Absence Management, Flexible Working, Dignity at Work or Health and Safety
- Advise members as to their legal rights to protection from sex and age discrimination and, where relevant, disability discrimination (see Menopause guidance at Annex A)
- Work with the Local Association/Branch to promote gender equality initiatives, that challenge misogyny, and promote a more gender-equal workplace in which regular open discussions about gender issues are the norm, and women are not embarrassed to raise issues affecting them
- Promote collegiate working whenever possible and encourage all members to value the rich experience brought by older and more experienced members to educational establishments.

Advice to Local Association/Branch Secretaries

EIS Local Association/Branch Secretaries are advised to:

- Discuss this advice with the local Executive Committee/Committee of Management/Board of Management, and any appropriate action that it may wish to take
- Discuss within LNCTs/JNCTs or other negotiating fora the effectiveness of current gender equality strategy, policies and approaches in operation within the authority/college/university
- Ensure that the local authority/college/university has robust mechanisms in place for reporting, monitoring and responding effectively to sexist and ageist incidents and incidents of sex, age and disability discrimination
- Discuss how those at greatest risk of sex, age and disability discrimination are being supported in the workplace
- Encourage the provision of Professional Learning for staff on gender, age and disability equality matters
- Seek to influence the content of locally developed policies, including through the use of Equality Impact Assessment, taking into account the specific needs and experiences of older women members, and consulting them where relevant
- Engage with EIS Equality Reps in developing work in this area
- Emphasise the importance of a respectful, trusting and collegiate learning environment
- Seek further advice as required from Area Officers or EIS HQ.

Further reading

British Occupational Health Research Foundation, 2011 research (University of Nottingham) - Women's experiences of working through the menopause:

http://www.bohrf.org.uk/downloads/Womens_Experience_of_Working_through_the_Menopause-Dec_2010.pdf

TUC menopause guidance:

http://www.tuc.org.uk/sites/default/files/TUC_menopause_0.pdf

UK Government - Help and Support for Older Workers:

<https://www.gov.uk/government/publications/help-and-support-for-older-workers/help-and-support-for-older-workers>

Age Action Alliance employer toolkit:

<http://ageactionalliance.org/employer-toolkit/>

Scottish Women's Convention – older women's conference:

<https://www.scottishwomensconvention.org/content/resources/Older-Womens-Conference-Report.pdf>

Scottish Commission on Older Women, full report:

<http://www.stuc.org.uk/files/Womens%20page/Older%20women%20report/SCOW%20Report%20FINAL%20Embargoed%20200815.pdf>

Menopause information (NHS):

<http://www.nhs.uk/Conditions/Menopause/Pages/Symptoms.aspx>

NUT – Teachers working through the menopause: Guidance for members in England and Wales:

<https://www.teachers.org.uk/files/menopause-a4-for-web--9968-.pdf>

FBU: Good Practice Guidance for Menopause:

<https://www.fbu.org.uk/publication/fbu-good-practice-guidance-menopause>

ACAS guide to Age Discrimination: Age and the Workplace:

<http://www.acas.org.uk/media/pdf/e/4/Age-and-the-workplace-guide.pdf>

Equality and Human Rights Commission – age discrimination:

<https://www.equalityhumanrights.com/en/advice-and-guidance/age-discrimination>

WASPI campaign (Women Against State Pension Inequality):

<http://www.waspi.co.uk/>

Pensions advice (UK Government):

<https://www.pensionsadvisoryservice.org.uk/>

EIS pensions advice:

http://www.eis.org.uk/Pensions/Pension_Updates.htm

EIS Gender Equality resources:

<http://www.eis.org.uk/Equality/Gender.htm>

Annex A: Working through the menopause

Why is the menopause a workplace matter?

The menopause is an occupational health issue of growing importance. Women make up almost half the workforce, and there are an estimated three and a half million women over the age of 50 currently in work. That number will rise as the retirement age for women increases. It is also an equality issue.

The menopause is the time when a woman stops having periods, sometimes referred to as 'the change of life'. Periods usually start to become less frequent over a few months or years before they stop altogether. Sometimes they can stop suddenly.

The menopause is a natural part of ageing that usually occurs between 45 and 55 years of age, as a woman's oestrogen levels decline. In the UK, the average age for a woman to reach the menopause is 51. However, around 1 in 100 women experience the menopause before 40 years of age. This is known as premature menopause or premature ovarian insufficiency.

Some women may experience particularly severe symptoms which mean that they would be classified as disabled under the Equality Act 2010, depending on the severity of the symptom and their effect on day to day activities. If that is the case, the employer is under a legal duty to make 'reasonable adjustments'.

Also, as the menopause affects only females, any detrimental treatment of a woman on grounds of her menopause could amount to direct or indirect sex discrimination under the Equality Act.

Symptoms and impact of menopause

Menopause can result in intermittent symptoms, including:

- 'hot flushes' and sweating including night sweats
- increased susceptibility to fatigue and stress
- low mood or anxiety
- short-term memory or concentration problems
- insomnia
- dry skin and eyes
- heavier or more unpredictable periods
- recurrent lower urinary tract infections
- osteoporosis.

Menopausal symptoms can begin months or even years before a woman's periods stop and last around four years after their last period, although some women experience them for much longer.

Some women may require time off for medical appointments and/or treatment. Sometimes, when menopause results from medical intervention, as opposed to occurring naturally and gradually, it can be a sudden and acute change, requiring more extensive leave, due to the severity of symptoms.

Research has found that over half of working women experiencing menopause do not disclose their symptoms to their manager; and where women have taken time off work to deal with their symptoms, only half of them disclose the real reason for their absence. Women should experience no detriment because they may need time off due to the menopause, but many feel anxious that this will not be the case.

The majority of women feel they need further advice and support at this time. Many of the symptoms of menopause, including heavy and painful periods, hot flushes, mood disturbance, fatigue and poor concentration pose significant and embarrassing problems for some women, leaving them feeling less confident. Hot flushes and sweating can also cause embarrassment for women teachers dealing directly with pupils, parents and colleagues. Many women are not comfortable disclosing their difficulties to their managers, particularly if those managers are younger than them, or male. Trade unions have an important role in addressing these issues and supporting members at this time of change.

What can help?

EIS reps can ensure that employers are made aware of the range of ways in which they can be sensitive to the needs of menopausal women in the workplace. They can suggest measures such as:

- access to temperature controls/ ventilation (e.g. fans) /open windows
- access to cold drinking water
- access to flexible working arrangements, as needed – this may be only on a short-term basis
- access to part-time hours, if desired, sometimes on a short-term basis
- gender-sensitive absence management/sickness absence policies and procedures
- policies to promote gender equality and tackle negative attitudes to older women more generally
- adequate workplace sanitary facilities with private washing and changing facilities
- adequate sanitary disposal facilities
- considering menopause related issues in H&S risk assessments
- training for managers on how the menopause can affect women, and on what adjustments may be necessary to support colleagues at this time
- inclusion of issues such as the menopause in wider occupational health awareness campaigns, demonstrating a positive attitude to the issue and that it is not something that women should feel embarrassed about
- making guidance on the menopause freely available in the workplace
- ensuring that appraisal and capability policies and procedures are not applied in such a way as to discriminate unlawfully against women teachers going through the menopause
- ensuring that 'reasonable adjustments' are considered for women whose symptoms qualify as a disability under the Equality Act.

What can women experiencing menopause do?

Women experiencing menopause can help themselves by wearing natural fibres (man-made fibres exacerbate hot flushes and sweating), carrying a bottle of water

and eating regularly and healthily (research has shown that a balanced diet can help alleviate symptoms). Women can also consult their GPs about management of the menopause. Pharmacists can advise on vitamins and supplements which may help alleviate symptoms.

Women should be honest about reasons for sickness absence, so as to ensure they are legally protected from discrimination. Women with concerns about unfair treatment, including for example capability procedures arising during menopausal symptoms, should raise these with their EIS representative.



The Educational Institute of Scotland

Teachers' Payslips

1. Introduction

- 1.1 The following resolution was approved by the 2016 Annual General Meeting:
"This AGM calls upon the Salaries Committee to campaign for the right for all teachers to be given a hard copy payslip."
- 1.2 The Committee agreed in the first instance to seek information from local association secretaries. A summary of responses is appended (Appendix A).
- 1.3 The Committee also took advice from an advising solicitor in terms of the current legal position, as set out in section 8 of the Employment Rights Act 1996.

2. Responses from LA Secretaries

- 2.1 The Salaries Committee has received 27 responses from Local Association Secretaries. 18 Councils currently operate electronic payslips while others propose to move to such a system.
- 2.2 The responses from LA Secretaries are set out in Appendix A.
- 2.3 LA Secretaries have identified a number of issues relating to electronic payslips. The principal concerns relate to difficulties with remote access, secure printing arrangements and the requirement for members to be able to facilitate paper copies for insurance, bank or mortgage providers.
- 2.4 Remote access problems are particularly problematic for those on long term absence or maternity leave.
- 2.5 The presentation and clarity of electronic payslips has also been identified as an issue but this is beyond the scope of this paper.

3. Legal Advice

- 3.1 Section 8 of the Employment Rights Act 1996 states that "an employee has the right to be given by his employer, at or before the time at which any payment of wages or salary is made to him, a **written** itemised pay statement".
- 3.2 The objective of the legislation is to ensure that employees are aware of all of the deductions that have been made from their pay at each payday. If they are unable to see those details on payday they can make a complaint to an employment tribunal.
- 3.3 Our legal advice is that the word "given" is significant. A member has a right to be given a written pay statement. It is widely accepted that "given" can be interpreted to include pay slips being issued in an electronic format. HMRC support this interpretation. However, an employer may come into difficulty in demonstrating that a pay slip has been "given" if, for example,

an employee does not have computer access temporarily or does not know where to find the payslip.

- 3.4 Employees may find it particularly difficult to access their payslips electronically whilst they are off sick or on leave. This may be a crucial time for checking for deductions and a paper pay slip delivered to their home address would resolve this issue.
- 3.5 In short, our solicitors advise that there is no legal right for a member to receive a paper pay slip unless they are unable to access electronic pay slips for any reason and without a paper pay slip the employer will not have "given" them their written itemised pay statement.
- 3.6 If a member is not "given" a pay slip as they were on sick leave, for example, or do not have access to the intranet to download their pay slips, they can make a complaint to the tribunal. If the tribunal considers that the statutory requirements have not been met, the employer can be required to repay to the member up to 100% of all of the deductions they were not notified of during the 13 weeks prior to the date of the complaint, even if they were legitimate or statutory deductions (section 12(4) of the Employment Rights Act 1996).

Conclusions

- 4.1 The legal advice indicated that the prospect of securing a "hard copy" payslip for all members is unlikely given the HMRC guidance.
- 4.2 However, Local Association Secretaries should raise with Councils a number of key negotiating points around electronic payslips. These should include:
 - (a) the requirement for secure remote access to electronic payslips
 - (b) the requirement for secure in house printing for those who wish to print hard copy payslips
 - (c) clear arrangements for those on absence or family leave to have access to hard copy payslips during leave. This should include paper payslips to those who do not have a means of remotely accessing Council intranets
 - (d) a commitment to provide hard copies upon request to allow members to satisfy the requirements of external bodies such as mortgage providers.
- 4.3 The Committee should keep the matter under review with a commitment to pursue legally circumstances, as set out in paragraph 3.6 above where a member is not "given" a payslip during sick leave or family leave.

Recommendation

- 5.1 This paper should be issued to Local Association Secretaries for information.

Aberdeen City

Re the above motion. In Aberdeen City 179 teachers currently receive an electronic payslip. ACC had hoped to roll this out over a year ago but then they discovered the poor access that teachers had to the Zone (Council Intranet) and had to go back to rethink. We had consistently pointed this issue out to them but the move to electronic payslips brought it into sharp focus. Currently 1,880 teachers have still to move to this system. If teachers are absent they will have access to their payslips via YourHR Anywhere (a web based system which allows access from anywhere) so ACC expect the need for paper copies to be minimal but they can easily switch paper copies on/off until the printing contract ends. After that they could be printed by payroll and sent by post. Any staff member can request paper copies from payroll for mortgage or other purposes. The payslip is exactly the same as if the employee printed it themselves. ACC corporate figures show that over the past 3 years only 50 such requests have been received annually.

Aberdeenshire

Aberdeenshire are moving to e payslips in early 2017 for teachers but they will be given the option to retain a hard copy one.

Angus

Angus Council make paper copies of payslips available.

Argyll & Bute

Argyll & Bute have moved over to paperless payslips for all teachers accessed through 'My View'(council intranet) a couple of years ago. This has meant savings for the council and was an area we were reluctant to forcibly challenge as it would have soured our relationship with other public service unions who were experiencing the threat of redundancies. There were concerns/complaints initially regarding access due to the security protocols but these have diminished. Since then we have had a pilot scheme on home access and this will be rolled out within the authority. Staff can request paper copies from Payroll.

Clackmannanshire

Clacks uses e-payslip system. The system sends staff their payslip via a password (that they set) protected pdf that is emailed to an account of their choosing. Staff can also login to the HR system through the intranet to print off copies or they contact HR/payroll if they require.

There had been some initial concerns over the introduction of this but thus far I haven't actually received any complaints about it. I do have a concern over staff using their school/GLOW email account for this as they could have problems accessing this when they move on.

Dumfries and Galloway

We get electronic payslips. However, supply teachers don't and nor do those absent for more than one month. Paper copies can be printed in school from the secure website. However there have been instances of mortgage and other loan providers refusing such print offs. D & G Council will provide paper copies in such cases for a charge.

East Ayrshire

We are moving to electronic payslips in the future, no timescale yet. We have highlighted our concerns about staff accessing this if they are off long term - there were some technical issues around accessing the same information at home. So far we have been reassured by HR that our concerns are being looked into. If the issue is not resolved we will have to push for an alternative. Can't take any further action at this time.

East Dunbartonshire

I have not been involved in any detailed discussions about how this scheme will operate. It is however, Council policy. I have been given assurances about confidentiality, although no doubt we will end up trying to close the stable door at some point in the future. As EDC is trying to roll this out for all of its' employees, there are practical problems where some workers do not have access to computers at home or at work. This may be delaying the implementation. It is seen as a saving. For a small Council, we have already endured over £60M worth of cuts to the budget in the last 6 years! EDC would welcome any alternative suggestions as to how to save money. Preferably, without raising class sizes, reducing teacher numbers or removing our national conditions from the EIS perspective! Not sure that they view it that way!

East Lothian

East Lothian is phasing in electronic payslips and has done this across a couple of departments. At the moment, they have not considered Education as there is a problem with school staff accessing the local Intranet.

Falkirk

The situation in Falkirk is that all employees receive a hard paper slip, although staff are encouraged to go paperless and online. There is no pressure to do this.

Glasgow

GCC uses an online system which is problematic as it can't be accessed outside of school network. As I understand it those on sick leave, maternity etc. will receive paper slips. Some problems before summer of those needing paper slips for mortgage but this is resolved fairly quickly.

Highland

In Highland we are issued with electronic payslips, however these can be accessed via the internet, albeit not via a straightforward process, to allow printing of hard copies.

Inverclyde

In Inverclyde we moved away from paper pay slips a few years ago with only those who do not have access to a Council computer getting a paper one. The paper ones would go to someone on maternity leave or long term sick. Anyone who requires a paper one can contact HR and get one. It is hoped to allow home access to everyone on their own devices but this has not been fully rolled out yet due to IT problems. Another concern that teachers have is the reduction in the number of printers in schools. This means that someone can press the print button on their computer and then have to go to a central printer location to pick up their pay slip in an area open to all members of staff."

Midlothian

In Midlothian all teachers still receive paper copies of their pay slips. Some time ago the Council at LNCT wanted to take us down the electronic road and we strongly resisted for all the reasons others have listed below. They haven't come back to us (yet) but if they do we'll continue to resist.

Moray

Moray payslips are accessible on-line from home. Hard copies can be printed and as far as I am aware are accepted as evidence for external purpose – no concerns raised by members.

North Ayrshire

North Ayrshire currently uses hard copy payslips. I believe there may be plans for an online system, but these are not at an advanced stage.

North Lanarkshire

Following NLC's migration to the iTrent HR & Payroll system earlier this year, there has been an incremental roll out of the related "mySelf" functionality which will include the ability to receive electronic payslips. It has not yet been rolled out to include the biggest group of council workers (i.e. teachers), but the plan is to have them on the system by January 2017 (it was originally planned for August 2016 but that timeline has slipped).

The latest update from the Council states as follows:

"Move to ePayslips – January 2017

From January 2017 staff who currently have **mySelf** access will only receive an electronic payslip. We will no longer provide you with printed payslips if you have a mySelf account.

mySelf is our employee self-service application which allows you to see your electronic payslip as soon as your pay has been processed.

Further emails will be sent in the countdown to the move in January, including guidance on how to print a copy of your payslip should you need it."

In no previous communications or discussions with the employer to date has it been intimated that registering with mySelf is compulsory which would, therefore,

imply that if someone wished to keep receiving a hard copy of their payslip then they can do so by not registering to use mySelf. Whether that option will continue to be available to teacher employees in the New Year, however, remains to be seen once they eventually have access to the system.

Orkney

Orkney still issue paper payslips; there's been no word of a change.

Renfrewshire

Renfrewshire Council still issue paper copies of payslips.

Scottish Borders

In Scottish Borders we moved to paperless payslips several years ago. This was not something which we were happy with but we were informed that this was corporate policy and there was nothing that we could do about it. It still causes problems and some of our members would prefer the option of a paper copy. Many member do not actually check their payslips each month - just assume that they have been paid correctly if their bank statements are similar to what is expected.

Shetland

We moved to paperless payslips for permanent staff some time ago in Shetland. Staff are able to request paper copies if they require them, I have no reported concerns from members.

South Ayrshire

South Ayrshire still issue paper copies of payslips.

South Lanarkshire

SLC do have arrangements for absent teachers to get pay slips.

Stirling

Subsequent to my previous email re payslips, I've learned recently that Stirling will be introducing a new HR/Payroll portal early in '17 and payslips will go paperless. I've emailed the head of payroll with my concerns around teachers' accessing their pay details, especially during holiday periods, and he confirmed this should be straightforward as it will require internet, not intranet, access. Concerns around security – as ever – remain.

Pay slips: These continue here to be hard copy.

West Dunbartonshire

In west Dunbartonshire we moved to paperless on line payslips a few years ago and it has caused numerous problems.

The main issues are

1. The technology available to teachers is totally inadequate, both in hardware and in Internet access capability.

2. The information on the payslip is limited and doesn't give the annual salary. In general teachers are very unhappy with the systems!

West Lothian

The current system (HR21) is not fit for purpose. It cannot be accessed from home, meaning that teachers have no access to payslips during holidays if their school is shut without entering a council building. The system also times people out after 10-20 seconds, which means they do not have enough time to access the information they need.

If the system could be accessed from home and if the software worked more efficiently there would not be any real issue here.

Western Isles

Electronic payslips are standard issue for all teaching staff unless staff opt to receive a paper version. There is no additional charge for this.

The Educational Institute of Scotland

E-learning Initiatives

Introduction

- 1.1 The following resolution was approved by the 2016 Annual General Meeting:
"This AGM instructs Council to investigate and report on the work load and contractual implications for teachers and lecturers of e-learning initiatives."
- 1.2 In its initial consideration of the resolution the Committee agreed to seek further information from Western Isles Local Association the resolution was moved and seconded by members of that Local Association.
- 1.3 The LA Secretary provided a committee paper "e-Sgoil nan Eilean Siar" (November 2015) and a response from Western Isles Local Association incorporating members' views of the initiative.
- 1.4 The Committee noted an EIS-FELA paper setting out policy and guidance for branch negotiations on "Blended Learning, Online Learning and e-Learning" (issued December 2011).
- 1.5 The context for this paper is guidance for all Local Associations since it is likely that e-learning initiatives will become more prevalent in senior stages in the future both within Scottish Councils and across Scottish Councils.

e-Sgoil nan Eilean Siar

- 2.1 The Council's paper set out the context and background for the initiative, identifying a number of barriers to equity of access to courses/certification in the Western Isles. The Council aimed to deliver subjects through direct teaching input or an on-line platform.
- 2.2 The Council's initial focus would be on
 - Courses where it had not been possible to recruit staff
 - Advanced Higher
 - Subjects only available at one school at Senior Phase
 - Gaelic Medium Education
- 2.3 However, the pilot also committed to develop Developing Young Workforce and Initial Teacher Education, in partnership with Lewis Castle College-UHI. The initiative also provides capacity for working in partnership with other Councils.
- 2.4 To facilitate the programme e-Sgoil nan Eilean Siar established education staffing including a Headteacher, adult education staffing, multi-media and IT staffing along with seconded staff from school as required.
- 2.5 The Council determined that across its 4 secondary schools a common timetabling structure would be in place.

EIS Western Isles Members' Views on e-Sgoil Initiative

- 3.1 While the Local Association welcome and support initiatives that improve and enhance learning experiences and opportunities for young people the LA also identified a number of concerns.
- 3.2 The LA identified two models in practise. A teacher was delivering remote lessons to pupils within the Council area. Another teacher in the Council area was delivering Gaelic lessons remotely to pupils in another Council area.
- 3.3 The LA raised a number of key issues with the Council. These included a demand the programme should be piloted before being further developed and that it should be funded from additional budget with additional IT support including high quality technological infrastructure. It also demanded that teachers involved should participate on a voluntary principle with backfilling on that part of the post which is required for e-learning. Finally, the LA wished the e-courses piloted to relate to the senior phase but was opposed to common timetabling across schools.
- 3.4 In addressing the terms of the resolution the Committee recognise that a number of broad principles should be set out since e-learning may evolve in different way across Councils. Therefore, the Committee has resolved that this paper should form guidance to assist all Local Associations.
- 3.5 However, there is one comment to set out in relation to the programme in Western Isles. The Council's proposal sets up a staffing structure led by a Headteacher. The additional staffing structure is welcome and educational leadership is welcome. However, any such promoted post although covered by SNCT terms and conditions is not likely to be suitable for job sizing and the salary should be determined on a felt fair basis with reference to the advice set out in Joint Secretaries' letter relating to non-school based promoted posts (October 2004).

Principles to be addressed

- 4.1 E-learning initiatives in schools are likely to relate to online learning supported by video conference to class sets or to distance learning where a teacher will lead self-directed learning of students working at their own pace.
- 4.2 One of the major issues to be considered by Councils is the organisation and management of timetable arrangements. At a time when governance arrangements are under scrutiny by Scottish Government it should be recognised that e-learning will require communication across schools and a budget commitment at Council level to support staffing and technology to promote the development.
- 4.3 The EIS is clear that extant individual statements of particulars and locally agreed job descriptions and remits should not be varied and that teacher staffing for e-learning should be on the voluntary principle. However, it is recognised that when recruiting new members of staff a Council may have a requirement to appoint on the basis that part of the role will be to deliver e-learning. LNCTs will have to agree the specific job description and remit.

- 4.4 The teachers' contract has to be observed and any e-learning involvement has to be capable of being delivered in the 35-hour working week and within the Working Time Agreement of the host school of the e-learning teacher.
- 4.5 Delivery of e-learning through video conferencing to timetabled classes is class contact time and class size maxima as set out in the SNCT Handbook must be honoured.
- 4.6 Where distance learning packages are developed and require few, if any, video conferencing arrangements the WTA for that teacher should reduce maximum class contact time to allow additional time for preparation and correction. This should be clearly "costed" at the offset and set out in writing.
- 4.7 The e-learning teacher is solely responsible for the delivery of education. The health and safety of pupils receiving lessons remotely and the management of discipline is the responsibility of the school and not the e-learning teacher. The supervision of classes can only be undertaken by registered teachers.
- 4.8 The frequency, timing and nature of reports should normally be governed by the arrangement in the e-learning teachers' host school. That may lead Councils to give greater thought to coordination across secondary schools.
- 4.9 Provision should be made for video conferencing to facilitate parental liaison. This must take account of the hours for parental liaison set out in the Working Time Agreement in the e-learning teachers' host school.
- 4.8 There has to be clarity on line management for the e-learning teacher for that part of their role when delivering e-learning.

Recommendation

- 5.1 This policy should be issued to Local Association Secretaries/Branch Secretaries for information and provided on the EIS Website.



RESPONDENT INFORMATION FORM

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

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

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

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

Information for organisations:

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

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

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

X Yes

No

CONSULTATION QUESTIONS INDEX

1. Introduction
2. Chapter 1 – The legislative and policy context
3. Chapter 2 – Rights and responsibilities
4. Chapter 3 – NHS board and education authority agreements and policies
5. Chapter 4 – School level arrangements
6. Chapter 5 – Circumstances where a school may need to make special arrangements for supporting children and young people with healthcare needs
7. Annexes A & B – Guidance on the use of emergency salbutamol inhalers and other condition specific information
8. Annexes C and D – Other relevant legislation, other useful guidance documents and useful organisations
9. Paracetamol (and the use of other non-prescription medicines in schools)
10. Guidance Structure
11. General

CONSULTATION QUESTIONS

(If you are responding to this consultation electronically, to complete tick boxes, please double click on one of the boxes above and select the default value as 'checked').

1. Introduction

The introduction provides information on what the guidance is about, how the guidance should be used, the status of the guidance and principles that should be applied in supporting the healthcare needs of children and young people in schools.

- Is the information provided in the introduction clearly set out? Please tick the box that applies.

Yes No Don't know

- If you selected no, please provide details of additional information which should be included or removed and a brief reason for it.

Yes. The Educational Institute of Scotland (EIS) welcomes the opportunity to contribute to this consultation. The EIS is the largest teachers' union in Scotland, with 55,000 members and 80% of teachers and lecturers (from nursery to further and higher education) in membership.

The overwhelming majority of schools in Scotland are under the control of 32 local education authorities. In each local education authority, there is a system for managing health and safety and for conducting risk assessments.

- Are there any areas missing, requiring strengthening, or which are not required? Please tick the box that applies.

Yes No Don't know

- If you selected yes, please provide alternative suggestions or indicate the areas which should be removed.

Page 6 What is the status of this Guidance?

The EIS recommends that the following sentences are removed.

“While this guidance makes general references to legislation, it is not an authoritative statement of the law. Interpretation of the law is a matter for legal advisers and ultimately the courts. Readers may wish to take legal advice regarding any particular set of circumstances.”

While these may be statements of fact, they are not particularly welcoming nor will they put readers at their ease. In addition, the wording is potentially alarmist at a time when all service providers will wish to reassure parents/carers and pupils that no child will suffer a diminution in her/his educational experience whilst taking prescribed medication during the school day. Finally, readers and users will want all the legal advice that they may require to be provided within the one comprehensive document.

If it is not possible to remove these sentences, then the EIS recommends that the Guidance is amended to contain some positive assurances to suggest that the Guidance will be a factor to be taken into account in any court hearing and, accordingly, adherence to the guidance is recommended.

Page 7. Second Bullet point first line.

Insert the word “support” between “School” and “staff.”

2. Chapter 1 – The legislative and policy context

This chapter of the guidance sets out the legal and policy framework which directly affects the provision of healthcare support in schools.

- Does this chapter provide sufficient reference to the relevant policy and legislative provisions? Please tick the box that applies.

Yes x No Don't know

- If you selected no, please provide details of additional information which should be included or removed and a brief reason for it.

Page 11 Para 14 does not address sufficiently what is a complex issue. Discrimination is not always unlawful and some actions are permissible if the treatment is a proportionate means of achieving a legitimate aim. Also, in Para 15, it would be beneficial to expand on the concept of reasonable adjustments. Reasonable adjustments may be required where a disabled person is put at a substantial disadvantage compared to others. Also, readers should be reminded that disability discrimination occurs when there is a failure to make a reasonable adjustment for a

disabled person. Consideration should also be given to providing a definition of a disabled person in, for example, the following terms.

“A person is disabled if she/he has a physical or mental impairment which has a substantial and long-term adverse effect on her/his ability to carry out normal day-to-day activities.”

Consideration should also be given to adding “harassment” and “victimisation” as additional bullet points.

- Does the information provided under each heading in this section adequately explain how the legislation or policy applies in relation to provision of healthcare or administration of medicines in schools? Please tick the box that applies.

Yes No Don't know

- If you selected no, please provide suggestions or additions that should be made and a brief reason for it.

The EIS sees no reason for the inclusion of the word “Generally” on Page 13 Para 27.

It is our understanding that Health Visitors are the named person until the child starts primary school.

3. Chapter 2 – Rights and responsibilities

This chapter outlines the framework of responsibility and accountability that NHS boards, education authorities and schools have when putting in place arrangements for supporting the healthcare needs of children and young people at school.

It reflects the importance of collaborative working to provide support and enable children and young people with healthcare needs to participate fully in their learning and in the life of the school.

- Are there any areas missing, requiring strengthening, or which are not required and could be removed? Please tick the box that applies.

Yes No Don't know

- If you selected yes, please suggest ways in which this section might be improved.

Page 19 to 20 Paras 52 to 55 The School Management Team

Further consideration should be given to the situation in small primary schools. The pupil census 2016 supplementary data which accompanied the Summary Statistics for Schools in Scotland Number 7 published in December 2016 highlighted the fact that of the 2031 primary schools in Scotland, 654 (or nearly one third) had fewer than 99 pupils. In these schools, it is unlikely that there will be a school management team of any significant size and that most decisions surrounding the administration of medicines will be taken by the head teacher in consultation with the parents and health practitioners.

Source: <http://www.gov.scot/Topics/Statistics/Browse/School-Education/dspupcensus/dspupcensus16>

Page 21 Para 64

The wording on Page 21 Para 64 contrasts with our understanding of the requirements under the original Administration of Medicines in Schools 2001. If this wording is included, we see significant scope for ambiguity and confusion and this must be addressed before the guidance is released. 2001. The 2017 update states:

“All other school staff have a duty of care to the children and young people. As such, they should be aware of how to respond to an emergency situation. It is not expected that teachers will routinely administer medication or support children and young people’s healthcare needs.”

This wording does not accurately reflect the current contractual position of teachers and/or the majority of staff in schools. Any decision to agree to administer medicines must be a matter of individual choice and judgement. Wording similar to the wording from the 2001 arrangements should be used instead to avoid ambiguity. For example:

“Some support staff may have meeting the health care needs of pupils as part of their duties. For the majority of staff, however, there is no legal duty that requires them to administer medication; this is a voluntary role. Teachers’ conditions of employment do not include giving medication or supervising a pupil taking it. All staff who provide support for pupils with health care needs, or who volunteer to

administer medication, need support from the Headteacher, health service professionals and parents, access to information and training, and reassurance about their legal liability.”

Consideration should also be given to moving this revised paragraph from Para 64 and including it in the Introduction.

4. Chapter 3 – NHS board and education authority agreements and policies

This chapter sets out that NHS boards must ensure that they have strategic joint agreements in place with the relevant education authority which determines the respective responsibilities of each in relation to supporting the healthcare needs of children and young people in schools in their areas (outlining local protocols and procedures, including training). These strategic joint agreements will reflect or form part of the local arrangements in place for children’s services planning and should reflect the principles of Getting it Right for Every Child.

- Are there any areas missing, requiring strengthening, or which are not required and could be removed? Please tick the box that applies.

Yes No Don’t know

- If you selected yes, please suggest ways in which this section might be improved.

On Page 23 Para 69 the EIS recommends that there should be reference in the policy framework regarding how this guidance will apply to children and young people from travelling cultures.

Page 24 Para 70 Allocation of support staff

In the absence of agreed arrangements between the school and the child’s parents that medicines will be administered or that administration will be supervised, it would be incumbent on the parents to make their own arrangements for the administration of any medicine using, if necessary, the support of the health authorities.

Page 24 Paras 71 to 73 Training

A teacher who agrees to volunteer to administer drugs in an emergency situation must be given full training by the relevant health authority and that this training must be updated on at least an annual basis. It is also recommended that the health authority provides formal certification for all staff concerned to include all basic training and refresher/update courses and the date(s) of completion.

Page 24 Para 74 Common conditions

Regarding 'diabetes,' the EIS would recommend that the guidance should list Type 1 and Type 2 separately. There are two very different issues with Type 1 diabetes since this is the one which will require more careful monitoring and support in terms of insulin injections and risk of hypos.

Page 25 Para 75 Education Authority Indemnification/Insurance

“As far as possible” should be deleted from this paragraph. There should be an absolute requirement for every local education authority to provide every volunteer teacher and support staff employee with a formal statement of indemnification signed both by the teacher/support staff employee and a representative of the education authority. In fact, it is difficult to foresee how schools will be able to recruit and retrain volunteers without indemnification.

5. Chapter 4 - School level arrangements

This chapter sets out that schools should consider the NHS Board and EA joint policy framework on supporting the healthcare needs of children and young people and adopt or reflect this in any of the local policies and practices that are put in place by any individual school or cluster of schools. This will ensure that the arrangements in place at school are consistent with other schools in the area, and appropriate to the local context of the school and the school community.

- Are there any areas missing, requiring strengthening, or which are not required and could be removed? Please tick the box that applies.

Yes No Don't know

- If you selected yes, please suggest ways in which this section might be improved.

Page 29 Para 88 Insurance

The requirement for teachers to possess public liability vehicle insurance seems to be somewhat unnecessary (and probably prohibitively expensive) when simple additional “business usage” on their motor vehicle insurance would suffice.

Page 30 Para 91 Named Person

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 and Healthcare 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.

Page 30 to 31 Dealing with medicines safely

Add new Para 98 and renumber subsequent paragraphs or add the following to Para 97

"Schools should not store surplus or out-of-date medicines. Parents should be asked to collect the containers for delivery back to the pharmacist, and should routinely collect medicines held by the school at the end of each term. If parents do not collect all medicines, they should be taken to a local pharmacy for safe disposal."

Page 34 Para 114 Refusing medication

This paragraph refers to a child below the age of legal capacity in terms of refusing medication but is silent where the child is over the age of legal capacity. There are pupils in Secondary schools who would fit into this category and additional advice covering this cohort should be included.

6. Chapter 5 – Circumstances where a school may need to make special arrangements for supporting children and young people with healthcare needs

The policy framework as agreed by NHS boards and EAs on supporting the healthcare needs of children and young people in schools should be adopted or reflected in any of the local policies and practices that are put in place by any individual school or cluster of schools. This will ensure that the arrangements in place at school are consistent with other schools in the area, but are also appropriate to the local context of the school and the school community.

- Are there any areas missing, requiring strengthening, or which are not required and could be removed? Please tick the box that applies.

Yes No Don't know

- If you selected yes, please suggest ways in which this section might be improved.

No additional comments here.

7. Annexes A & B – Guidance on the use of emergency salbutamol inhalers and other condition specific information

Annex A provides guidance to education authorities and schools in Scotland on the use of emergency Salbutamol Inhalers to accompany the guidance to NHS boards, education authorities and schools on 'Supporting the healthcare needs of children and young people at school'. Annex B contains other condition specific information.

- Are there any areas missing, requiring strengthening, or which are not required and could be removed? Please tick the box that applies.

Yes No Don't know

- If you selected yes, please suggest ways in which this section might be improved.

Yes. Page 41 Para 25 Asthma Inhalers

Many teachers (and users) will have real concerns about the sharing of any inhalers given the risk of bodily fluid transfer. Although cleaning is mentioned, the EIS recommends that further specific cleaning advice and/or advice on the use of disposable mouthpieces is included in the Guidance.

8. Annexes C and D – Other relevant legislation, useful guidance and useful organisations

Annexes C and D provide additional information/ resources to support the guidance.

- Do these Annexes provide appropriate supplementary detail? Please tick the box that applies.

Yes No Don't know

If you selected no, please provide details of additional information which should be included or removed and a brief reason for it.

Consideration should be given to including details of the Anaphylaxis Campaign provides a wealth of detailed information on its dedicated website www.anaphylaxis.org.uk This website is thorough, well-researched and easy to use.

Anaphylaxis is the name given to a severe allergic reaction. Evidence suggests that the incidence of anaphylactic shocks has increased in recent years.

Source: <https://www.allergyuk.org/allergy-statistics/allergy-statistics>

As most people are aware, allergies to peanuts and tree nuts are the most common trigger for such reactions. However, several other allergens can cause anaphylaxis especially among children and young people. These include egg, milk, fish, sesame, soya, penicillin, latex, kiwi fruit and insect stings. Anaphylaxis can be life-threatening if it is not treated quickly with adrenaline. Accordingly, consideration should be given to expanding this Guidance to include a comprehensive section on this healthcare issue. The section would cover the following: supporting children and young people at risk of severe allergic reactions; drawing up individual health care plans; access to medication; administration of medicines and special circumstances (school visits/sporting events).

9. Paracetamol (and the use of other non-prescription medicines in schools)

Paragraph 109-112 of the guidance sets out:

Paracetamol (and the use of other non-prescription medicines in schools)

109. Children and young people in schools sometimes ask for painkillers (analgesics) or other non-prescribed medication at school such as antihistamines. However, schools should not hold non-prescribed medication. If a child or young person suffers regularly from acute pain or symptoms, such as a headache, period pain or hay fever, parents may provide the school with non-prescribed medication alongside clear and appropriate instructions and consent for the medication to be (often via the completion of a standard form). Alternatively, parents (or where appropriate the young person) may ask for the medication to be prescribed by a GP.

110. A member of staff should supervise younger children taking the medication and ensure that the individual's parents are informed on the day the medication is taken.

111. Some children and young people with the maturity and capacity to carry and self-manage their own non-prescribed medication and symptoms (for example, for period pain, occasional headaches, minor viral illnesses, coughs, sore throats or hay fever) should be allowed to do so. In such circumstances, it is recommended that only medication that can be purchased by a pharmacy should be carried and that children and young people carry as little medication as possible in the original pack or bottle. It is recommended that children and young people should carry as little medication as possible in the original pack or bottle - normally only enough for a single school day (although this may not be possible for liquids or sprays). Blister packs, for example, can be cut to ensure only a single day's medication is carried.

112. It should be noted that children under 16 should not be given or take aspirin, unless prescribed by a doctor¹. Further, codeine should not be provided to children under 12 as it is associated with a risk of respiratory side effects, and is not recommended for adolescents (12 to 18) who have problems with breathing².

This is a particularly difficult balance to strike, is the guidance on this particular issue appropriate? Please tick the box that applies.

Yes No Don't know

- If you selected no, please provide details of additional information which should be included or removed and a brief reason for it.

School staff should **never** volunteer to give non-prescribed medicines to children unless:

- there is specific prior written permission from parents; and
- it is carried out in accordance with the employer's policy.

N.B. Children under 16 should never be given aspirin or medicines containing ibuprofen unless prescribed by a doctor.

¹ <http://www.nhsinform.co.uk/health-library/articles/a/anti-platelets-aspirin-low-dose/introduction/>

² <https://www.gov.uk/drug-safety-update/codeine-for-cough-and-cold-restricted-use-in-children>

10. Guidance Structure

Does the structure help the reader to follow/use the guidance effectively? Please tick the box that applies.

Yes **No** **Don't know**

- If you selected no, please explain your answer.

Yes. It is very clear.

- Is there anything in the body of the document that you would like moved to an annex or anything in an annex moved to the body of the document? Please tick the box that applies.

Yes **No** **Don't know**

- If you selected yes, please provide details of the changes you would wish to see.

Yes. The revised paragraph from Para 64 should be moved and included early in the Guidance in the Introduction. Any revised paragraph must reflect the contractual reality that teachers' conditions of employment do not include giving medication or supervising a pupil taking it. Any decision to agree to administer medicines must be a matter of individual choice and judgement.

11. General

Is the guidance helpful? Please tick the box that applies.

Yes No Don't know

- If you selected no, please explain your answer.

Yes

- Are there any other comments you would wish to make about the draft guidance in supporting the health care needs of children and young people in schools?

The EIS recommends that a template be provided as part of an appendix to provide a very clear outline of the essential information required to be incorporated into any policy. This would encourage equity across health boards and local authorities given to vital nature of the guidance.

Thank-you for responding to this consultation.

Please return a completed copy of respondent information form by email to HNIS@gov.scot or by post to HNIS, Support and Wellbeing Unit, Area 2C South, Victoria Quay, Edinburgh, EH6 6QQ.