

EDUCATIONAL INSTITUTE OF SCOTLAND**EIS RESPONSE TO EMPOWERING SCHOOLS
A CONSULTATION ON THE PROVISIONS OF
THE EDUCATION (SCOTLAND) BILL****Introduction**

1. The Educational Institute of Scotland, Scotland's largest education union, welcomes this opportunity to provide a written response to the consultation initiated by the Scottish Government on the Provisions of the Education (Scotland) Bill.
2. The EIS believes that any significant changes being made to how schools are governed should be predicated on evidence and analysis, rather than overstated assertions which mistake ambition for practice, evident again in the language deployed in this consultation. The experience of Scotland's teachers over the past decade has been one of a top-down approach to policy changes which has left them feeling frustrated, marginalised, and undervalued. It would be ironic if legislation purporting to "empower schools" had a similar outcome.
3. A strong message which has emerged from the Scottish Government's own International Council of Education Advisers has been the importance of encouraging a change of culture around how we do things, rather than focussing on organisational or structural changes. We need only review the lack of success around the creation of Education Scotland to underline the importance of this message.
4. Further, the experience of the proposed legislation around the "named person" scheme is illustrative of how an essentially common-sense approach to an educational challenge can be side-tracked by a legislative approach which has proved, in the case of "named person", to be more of a hindrance than an assist.
5. The EIS is clear that Scotland's education system is primarily a success story. We reject the doomsayers who wish to talk down what is being achieved in our schools. Equally, however, it is important to avoid any sense of hubris around the progress being made, as challenges undoubtedly exist.
6. In considering what should be contained within the Bill consideration should be given also to what is not being changed. For example, Scottish Government has acknowledged the critical role of the SNCT, and its corollaries, the 32 existing LNCTS; a consequence of this must be recognition of the status of local agreements reached between Councils, as the employers, and the Trade Unions, representing staff. This would be consistent with Scottish Government's support for the Fair Work Convention.

Our response below, explores further where some tension may lie between potential changes and existing agreements.

7. Finally, the EIS believes that the outcome of this consultation and the terms of any proposed legislation, should be firmly focussed on the need to enhance the status of teaching so that the current growing challenge around retention and recruitment is confronted rather than compounded. In this regard the lack of broader consideration around issues such as collegiality and distributive leadership, in a draft Bill aimed at empowering schools, is disappointing. It is a significant omission, for example, that nowhere in the proposed Bill is consideration given to teachers' professional voice – Headteachers, parents and pupils are all cited but teachers are not.

1. The Headteachers' Charter

8. The EIS recognises the important role that teachers in formal leadership roles play within school communities. One of the strengths of the EIS as a professional association is that we represent teachers at all levels, and in all sectors, and as such we have more members in leadership roles than any other organisation. In responding to proposals around the Headteachers' Charter, therefore, we are not replying only in a broad sense on behalf of teachers but have specifically canvassed the views of Headteacher and Depute members to inform our response.
9. The stated ambition of the Headteachers' Charter, to facilitate a greater role for Heads as leaders of learning, is one which no-one would disagree with. Most Heads would describe their current role as being precisely that. The issue to be discussed is how a Charter might act to enhance, or inhibit, such a role.
10. The barriers which currently act against this ambition are familiar to all teachers: lack of time, lack of resource; and lack of support.
11. The EIS does not believe that creating a statutory framework for the role of Headteachers as leaders of learning would address any of these barriers – indeed an oft cited concern of our Headteacher members has been that potentially legislation would see Headteachers submerged in even greater bureaucracy and more managerialist tasks than is currently the case. The EIS rejects a "managerialist" approach to the role of Headteachers and would caution against such a perspective gaining credence in the course of the consultation process.
12. This concern is exacerbated by the manner in which the Headteachers' Charter, however it is defined, appears to have become a proxy for a dispute between the Scottish Government and local authorities over the role of local authorities in supporting and running education as a local service. This is not helpful to schools, teachers nor pupils.
13. Within the proposals there is failure to recognise or acknowledge the important role which local authorities play in supporting schools and an underlying assumption, a mistaken one, that local authorities only act as a

fetter on unrealised creativity on the part of schools. In a recent EIS Headteacher and Depute survey only 15% of responses characterised local authority practice as being restrictive whilst the majority reported them as supportive or very supportive.

14. The EIS would acknowledge that the performance of Education Authorities across the country is uneven – a clear source of frustration for Scottish Government – and it is a matter of concern when we see major cities such as Aberdeen replace its Education Director with a second-tier appointment (a scenario which many well have been prompted, ironically, by the well intentioned legislative approach of Scottish Government to Councils requiring them to have a senior Education Officer). Concerns about some local authorities, however, should be addressed by specific intervention by Education Scotland or Government, rather than leading to a sweeping approach which fails to recognise and build upon the strengths which exist, some of which may be lost if Local Authorities are marginalised as a result of governance changes.
15. The EIS is not opposed per se to a Headteachers' Charter, or Code, which acts as a guide to good practice but would argue that this does not require legislation; rather, if it is perceived as being valuable, it should be part of an attempt to seek cultural rather than structural change. Almost 85% of EIS Heads and Deputes surveyed favoured this approach over legislation.
16. Moreover, the Institute would argue that an opportunity is being lost by focussing solely on the single post of Headteacher. Such an approach, which echoes an heroic leadership model, is at odds with everything that Scotland has been trying to achieve since the Teachers' Agreement for the 21st Century, as it fails to advance the notions of distributive leadership, collegiality, and leadership at all levels.
17. The EIS response to the initial consultation of the Governance review raised the prospect of the "democratic school". Regrettably, Scottish Government is failing to look beyond the post of Headteacher in its proposed reform.
18. The EIS would argue that rather than focussing so singularly on the formal role of Headteacher leadership the proposals should be seeking to entitle and empower teachers and schools more collectively, building on the declared, but not yet fully realised, ambitions of Curriculum for Excellence in areas such as collegial practice.
19. The EIS believes that the proposals represent a missed opportunity to explore what would really empower schools and teachers: collegial practice, teacher voice, professional entitlement, and a focus on cultural change, coupled with increased investment.
20. The EIS shares the widely held view that the introduction of comprehensive education was the most significant reform to Scottish education in the 20th century. It would be ironic indeed if this Bill has the unintended consequence of paving the way for its removal in Scotland. The model which seems to underpin some of the consultation thinking, marginalising the role of local

authorities whilst apparently enhancing the autonomy of the school, is one which could undermine the principles of our comprehensive system. Clearly that is not the intention of the current Scottish Government but equally when the Labour Party initially introduced Academies, it didn't intend for them to become the weapon of choice of a future Conservative Government to remove local authority control of schools. We need to future-proof our comprehensive model of schooling.

Question 1

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

21. It is disappointing that no rationale is given by the Consultation for the structural changes in governance being sought. Nor is evidence produced to demonstrate the need for the changes; for example, an assertion is made about what the Charter will achieve with no acknowledgment that many Headteachers already play that role nor analysis of what currently prevents such a role being played. The EIS supports promoting the notion of Headteachers as leaders of learning and teaching and of devolved management of schools but the need for a Headteachers' charter to achieve this is not grounded in evidence.
22. Curriculum for Excellence is predicated on the notion of schools being enabled to tailor their provision to best meet the needs of their pupils and to embrace the concepts of school community and collegiate practice. It is not clear to the EIS how legislation around a Headteachers' Charter will overcome any of the obstacles which may have hindered universal progress on the aspirations of CfE, which have been essentially related to lack of resources, support and time.
23. Notwithstanding the challenges of implementing major change in a period of austerity, the Consultation acknowledges that Headteachers exercise different levels of authority (in terms of financial decisions, staffing, staffing structures, curriculum design) in different local authorities. This demonstrates current flexibility in how schools are governed and led within local authorities.
24. The paper identifies variance in pupil attainment across schools and local authorities. The Consultation does not show causality, however, between these two variables (i.e. Headteachers that exercise full decision-making powers generate better pupil attainment). Nor does it examine the added value role played by some local authorities.
25. It might be inferred from the proposals around curriculum that Headteachers are routinely being prevented, by local authorities, from being innovative in this regard. Where is the evidence to support this perspective? If it has occurred in some Councils, then Scottish Government or its agency, Education Scotland, should be taking action to challenge such practice.

26. The point made in our introduction about professional voice is pertinent to this question. The Headteachers' Charter makes no reference to broader leadership functions and critically creates no responsibility around collegial practice. The absence of discussion around enabling professional agency for all staff makes the Headteachers' Charter top-down in its conception.
27. Successful change needs the support of the staff that are a key part of the Government's proposals. This change proposed by the Government risks being a top down process, as it is not being driven by the teachers.
28. It is a weakness of the proposals that no consideration is given to the different dynamics of the Headteacher role in different sectors. In a primary school, for example, the Headteacher may often be the only promoted member of staff in a school and she/he may have a significant teaching commitment. Operationally, the Headteachers' Charter becomes a different entity in this scenario as opposed to a secondary school where there will be an extended leadership team around the Headteacher post. The distinct sectoral requirements have not been examined.
29. This lack of detailed thought in relation to sectoral practice, reflects a more general malaise with the proposal in that the plans seem rushed with no modelling or piloting having taken place. The EIS would argue that such an approach, whilst initially time consuming, may have led to more considered proposals being brought forward. This lack of detail adds to our perception that the proposals seem rushed. Indeed, the absence of modelling or piloting, given the potential significance of this reform, is quite startling.
30. At the heart of teacher support for 'A Teaching Profession for the 21st Century', as well as a realistic assessment of what a competitive salary was, was the concept of collegiality. Many of the proposals contained in this consultation represent, whether deliberate or unintentional, a direct attack on collegiality and in practice, given the realities of resource shortages a new top down hierarchical culture, reflected in the apparent primacy of Headteacher autonomy.
31. It is worth reiterating the point made in our introduction about leadership styles. The Consultation portrays Headteachers in a heroic leadership model which is at odds with Scotland's education culture i.e. the charismatic motivator getting the best out of her/his staff as opposed to a model based on collegiality and distributive leadership. It should be noted too that evidence has emerged that the heroic model of leadership often results in short term results that are unsustainable, particularly when the "successful" hero is headhunted for their next challenge. Where is the evidence of a sustainable model of "heroic" management other than in occupations where remuneration levels are extraordinarily high?
32. Curriculum for Excellence guidance endorses the collegiate approach: "Teachers and practitioners identify what will be taught and how to best meet the needs of all learners. This is underpinned by a clear, shared understanding of progression and high-quality learning and teaching."

33. Further, the Consultation gives Headteachers the sole responsibility to make decisions. The EIS recognises the key role of Headteachers but also favours decision making to be distributive and shared within schools. Educational establishments should be inclusive places in every aspect of practice and should not be seen as personal fiefdoms. Collegial practice within schools would strengthen both leadership and governance.
34. Headteachers' decisions are currently accountable to local authorities. It is not clear who Headteachers will be accountable to if the Consultation's proposals are enacted.
35. The EIS supports the notion of Headteachers as the "leaders of learning and teaching". Giving primacy to this role is perhaps best achieved by seeking to strip away administrative functions from Headteachers – an unexplored area in terms of the consultation. There has been a significant reduction in the level of administrative support available to schools. Whilst a restoration of such support on the part of local authorities would be helpful, it is not clear from the consultation proposals, what Headteachers would no longer be required to do in order to have time for a more prominent pedagogical role.
36. The Consultation sets out the ambition of the Headteacher being the "lead decision maker" in how the curriculum is designed. The language here is significant, reflecting a power rather than a responsibility associated with the role. The EIS would use the phrase "lead decision making" to better reflect an inclusive and collegiate approach, whilst still acknowledging the important role of the Headteacher to provide leadership and facilitate distributive decision making. This notion underpins the CfE where educational decisions are supposed to be made by teachers to best meet the needs of their learners. We would assert again the importance of professional voice and the concept of teacher agency and the democratic school. It is essential that the expertise of all teachers is reflected in the leadership of curriculum and pedagogy.
37. Finland provides evidence of the importance of teachers being empowered – OECD Reports¹ from that country observe that *"Both regular class teachers (grades 1-6) and subject teachers (7-9) exercise an enormous degree of professional discretion and independence. While there is a national core curriculum in Finland, over the past 20 years it has become much less detailed and prescriptive."*
38. Teachers in Scotland have endured more than a decade of constant change in terms of curriculum and assessment. These have included:
 - delivering a whole new curriculum
 - delivering a new suite of national qualifications
 - teaching amended courses/unit specifications
 - implementing amended assessment procedures
 - delivering and having regard to new national initiatives such as GIRFEC, DYW, literacy etc,
 - delivering national standardised tests

¹ <https://www.oecd.org/pisa/pisaproducts/46581035.pdf>

- meeting refreshed GTCS standards with developments such as Professional Update.

Now there is to be a new wave of structural change through the governance review undertaken during the tightest budgetary context for many years.

39. Insufficient time has been allowed to prepare for, then implement and consolidate, and then review these changes – leading to the current low morale of the teaching profession. Future curriculum/assessment/reporting/teaching changes should be implemented more slowly.
40. In terms of the proposals an essential element of enhancing the pedagogical role of the Headteacher is the creation of time for Headteachers to spend on curriculum and pedagogical leadership and on the collaboration with other schools and partners. This will almost certainly not be achieved with current staffing resources as teacher shortages force provision of cover by Headteachers on a regular basis; enhanced management time would be possible only on the basis of the restoration of staffing levels to pre-austerity complements. Austerity driven cuts have significantly impacted on management capacity within schools.
41. Availability of teachers is crucial, also, to curriculum design; the current cover crisis and tight staffing standards are significant curtailments to curricular flexibility.
42. Greater autonomy at school level will generate the need for greater assurance of evidence-based support from beyond the school, including from the local authority, which in many cases is highly valued, to ensure that local decision-making is genuinely in the interests of quality education characterised by equity.
43. Increased funding for education will be required, also, to enable the development of and adherence to, progressive pedagogies to address the specific needs of learners from poor socio-economic backgrounds: increased teacher numbers, smaller class sizes, restoration and provision of specialist ASN provision all require increased resources. Such approaches are often labour-intensive, and this is where collaborative networks and local authority support can be critical.
44. Local authorities provide not only broader links to other services, such as social work, vital to an all-embracing approach to supporting students and their families, but also to opportunities such as those provided by Instrumental Music Tuition which require a degree of scale to be viable as part of our Education provision. Austerity pressures have led already to IMT services being cut; if schools are operating as individual units, instrumental music tuition would be confined, in the main, to schools with more affluent catchment areas thereby widening the attainment gap. IMT in schools in poorer areas would become more dependent on charity.
45. Local authorities play a critical role, also, in relation to facilitating and encouraging school/college partnerships, many of which are managed at

local authority level, ensuring a consistency of approach across relevant geographical areas. School by school arrangements may create significant issue in terms of access and participation if, for example, an arrangement for a small group of students did not prove to be cost effective at school level.

46. What appears to be lacking in terms of the Headteachers' Charter, and some of the other proposals around funding etc., is clear sight of where accountability lies. It seems to suggest a redesign of the accountability culture of Scottish education without explaining how this might work. What, for example, would be the role of the inspectorate and who would be held accountable where school performance is judged to be weaker than anticipated – the Headteacher or the local authority?
47. Currently, schools are accountable to their local authorities, which have a democratic mandate from the local electorate. Headteachers are accountable to the local authority and operate as employees of the local authority, with oversight from the centre. The EIS does not believe that a case has been made for fundamentally altering this arrangement.
48. In testing the robustness of potential new arrangements, it can be informative in assessing the potential impact of change to think not only in terms of success but also if things are going wrong. For example, in a scenario where we have "empowered" Headteachers facing challenge or even behaving inappropriately, it is difficult to discern where responsibility would lie for addressing such a situation.

Question 2

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

49. This question seems to assume that Headteachers (schools) do not currently have scope to work collaboratively within their cluster, when, clearly, they do. Perhaps, also, the terms 'school community' and 'collaboratively' should be defined more precisely as they risk being misinterpreted by individuals. 'Clusters' generally refer to groups of associated schools that carry out some functions together whilst 'school community' is a term that has greatest purchase in relation to individual establishments embracing staff, students, parents/carers, and the local people.
50. The aspiration contained within the question has been compromised already by the "mission creep" associated with the creation of Regional Improvement Plans – which side-line local authority plans and create an even more remote top-down arrangement than the current situation.
51. Scottish Government and Education Scotland assertions that this year's arrangements are simply to kick start the process sound particularly hollow in light of more than a decade's experience of schools being at the bottom of every initiative.

52. The EIS is against removing the Local Authority Improvement Plan, as a result of Regional Improvement Collaborative plans being established. Indeed, the creation of RIC Improvement Plans are likely to be seen as a constraint on school planning.
53. School Improvement Plans (SIPs) should be owned by the staff in the schools to which they apply; they should not be cast as being the domain of the Headteacher alone. Again, the language used in the consultation would seem to betray either the intent of Government or portray its misunderstanding of how SIPs should work. Time will be required to facilitate meaningful engagement, with all members of the school community.
54. School self-evaluation systems will be crucial to ensure that School Improvement Plans have sound foundations. These systems will need to be robust and this has significant increased training requirements to support all staff in terms of self-evaluation approaches.
55. How is collaborative working with other services to be facilitated? The whole GIRFEC approach, for example, depends on coordination between the services. Without a local authority role in School Improvement Plans there is limited scope for local accountability for local authorities.
56. The EIS acknowledges that much work is already undertaken through "cluster" arrangements (usually a secondary school and its associated primaries). If this model is to be expanded, much more detail is required as to how such school clusters would work – is it only Headteachers who need to collaborate with each other or does the practice extend beyond formal leadership? Are clusters to be mini-authorities? Research in this area should be instigated before it is considered for further roll-out.
57. More broadly, the consultation needs to give further consideration of how local democratic accountability will be maintained and enhanced.

Question 3

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

58. The most obvious response to this question is – what is the change? SIPs and WTAs are already in place and remain, however imperfect, as the main planning tools for both the improvement agenda and also for managing workload. The latter is subject to negotiation and agreement at school level and the EIS would oppose strongly any move to change this arrangement.
59. Scottish Government's improvement agenda remains as the national template; the only variable in the situation is the developing role of regional planning against local authority planning.
60. There is a danger that any potential pedagogical benefits of Regional Improvement Collaboratives will be lost if they become a further layer of management; this will be exacerbated if local authorities are forced to abrogate HR functions to parallel collaborative approaches.

61. In terms of the advantages and disadvantages of school improvement planning, the key points are listed below:

a. Advantages of SIP:

- Potential to deliver outcomes that are more bespoke to the needs of the school community.
- Potential for more effective workload control.
- Potential for greater buy-in from school community.
- School improvement plans seem to have primacy in the consultation document since there is no other improvement plan proposed.

b. Disadvantages:

- SIPs, in order to be realistic, require resource attachment-enhancement of the status of SIPs to 'primacy' has little meaning without accompanying enhancement of resources.
- Lack of clarity in terms of the relationship between SIPs and regional improvement plans.
- Risk that the School Improvement Plan reflects the views of the Headteacher and not the staff or school community.
- Risk that local authority resources cannot be coordinated across a range of schools.
- Risk that local authority-wide services may be frustrated or less efficient if different schools develop different working practices within a local authority.
- There will be increased workload at school level if LNCTs are by-passed.

62. The SNCT and LNCTs have a significant role in local authority schools:

- The SNCT seeks to control workload through the 35-hour working week.
- The SNCT requires schools' negotiating committees to conclude written Working Time Agreements, subject to guidance provided by each LNCT.
- Working Time Agreements also inform the targets, time, and resources in a School Improvement Plan.

63. The SNCT Handbook, in Appendix 2.18, outlines the current national, collective agreement on Working Time Agreements and how they can be used

to manage teacher workload and reduce excessive bureaucracy. Each LNCT has agreed monitoring mechanisms on Working Time Agreements. In preparing a Working Time Agreement, schools are required to consider:

- a. The time available for collegiate activities within the 35-hour working week.
 - b. The School Improvement Plan.
 - c. The lessons arising from the previous WTA.
64. These requirements are not set out in sufficient detail in the consultation document.

Question 4

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

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

65. There are clear advantages to schools and Headteachers and other promoted staff having a significant input into recruitment practices – the most obvious being in matching candidate skill sets to nuances of the post being offered in the context of the school's needs.
66. However, in asserting this basic premise the EIS sees no structural barrier to good practice operating in this area, as it does in a number of authorities currently. Again, we ask the question, where is the analysis of current arrangements? Against what benchmark is "greater input" to be measured as in some local authorities Headteachers, and other staff, have considerable input at present.
67. A clear disadvantage would pertain if the appointment process were not criterion led and both open and transparent. The language being used publicly around this proposal would seem to suggest that the Headteacher would be all powerful in regard to appointments – such an approach would be untenable. Clearly, appointments should not be made by single person appointment panels i.e. Headteachers alone: as well as being poor employment practice and contrary to public sector appointment processes, such an approach would leave individuals open to the risk of challenge based on equality legislation. Best practice must surely pertain in this area. The EIS could not support proposals to set aside current safeguards that promote or ensure equity.

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

68. Headteachers, in some local authorities, already decide on promoted post structures but this is inevitably curtailed by resource limits – in it is unclear

as to how a Headteachers' Charter would address this reality. The proposal lacks specificity and it is difficult to respond fully as a result as it is not clear as to what is allowed and what is not.

69. The EIS has a clear view that retaining the local authority as the employer of teachers, a view which the Cabinet Secretary has expressed, imputes certain responsibilities to the Authority which cannot be undermined by the provisions of a Headteachers' Charter. Implicit in this must be respect for the agreements and arrangements negotiated by LNCTs, as part of their delegated powers within the formal negotiating machinery of the SNCT.
70. Headteachers should not enjoy unfettered freedom in relation to staffing decisions, however. LNCTs have the powers to vary certain devolved conditions of service agreements and to reach agreement on a range of matters not subject to national bargaining. LNCT agreements must be respected. The key ones are the appointment procedures, particulars of employment, promotion procedures and lastly specific duties and job remits. Promoted post holders in schools are placed on the appropriate salary point, as determined by the job sizing process. Where a new post is being established or a vacant post reviewed, the specific duties and job remits should continue to be reviewed/agreed by the LNCT of the local authority. Once agreed, the job-sizing questionnaire should continue to be completed by the Headteacher and signed off by the job sizing co-ordinators representing the employer's side and the teachers' side of the LNCT.
71. The EIS has major concerns in this area as currently we are receiving complaints and cases in relation to PEF funded posts where LNCTs are already being undermined by schools/LAs not job sizing new/temporary posts as required by LNCT agreements – creating a series of potential employment tribunal cases.
72. The EIS believes that contractually binding SNCT and LNCT agreements should be adhered to and that the rights of teachers need to be sacrosanct.
73. We are clear, also, that basic employment law applies irrespective of who exercises any functions of the employer, as does existing guidance on ensuring equity.
74. There is a danger that this proposal changes the way in which staffing decisions are made, from a shared approach between local authority officers and the Headteacher, to the Headteacher alone. Such an approach places excessive control in the hands of one person, potentially without any check or balance. This is a risk, which is not mitigated by a distributive leadership model or responsibilities, and which undermines the concept that the employer carries out the hiring of staff.
75. The EIS would find it unacceptable if changes led to Headteachers becoming legally liable, as individuals, for decisions made around HR functions, raising the possibility of individuals being pursued by litigation. Tellingly, almost 90% of respondents to the EIS Heads and Deputies survey raised concerns around the prospect of schools assuming HR functions.

76. A Headteacher only appointments model may create perceptions amongst some staff in which some appointments or decisions by Headteachers are believed to be based on factors other than merit. This is a risky leadership structure as it is entirely reliant on the skills of the Headteacher – and is without mitigation of risks that comes with distributive leadership and is one which may lead to a variance in the balance of experience and expertise across schools, counter to the desire for greater equity. Moreover, it should be noted that there is a current deficit of representation of women and BME groups in our Headteacher profile. For example, in Secondary schools, women are 63% of the teaching workforce but only 40% of Headteachers; in Primary women are 91% of the teaching body but only 87% of Headteachers. If Headteachers were to appoint staff in their own image, these disparities will persist and may become more significant.

Question 5

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

77. The EIS supports devolved management of schools which allows for appropriate funding decisions to be made at school level. The EIS believes that such decisions should be carried out within a democratic school model, in which decision making is shared between staff. The EIS believes that major financial decisions should be made by School Finance Committees, chaired by the Headteacher – a view echoed in our Headteacher and Depute survey. Clearly the issue of scale is an important operational factor in this discussion but the principle of Delegated Management of Resources (DMR) schemes should apply wherever possible. A strong case could be made that a legislative framework around DMR schemes may provide Headteacher, and schools, with all the tools needed to achieve the broader aims which appear to lie behind the Headteachers' charter.
78. The EIS support for the DMR approach is predicated on the points made elsewhere in this submission around the empowerment of teachers, accountability, and the notion of the democratic school. Headteachers should not therefore be able, as individuals, to make significant unilateral funding decisions but should draw upon the expertise and experiences of their staff and indeed the broader school community.
79. The proposals set out the view that Headteachers will have the 'freedom to choose how their staffing budget is used' in a similar way in which 'Pupil Equity Funding (PEF) supports this approach with headteachers having the right to decide how to spend the PEF allocation'. Whilst the EIS supports the ringfenced additional money that PEF brings to schools, a recent EIS national survey on PEF has clearly demonstrated the dangers of Headteachers making unilateral decisions on pedagogical matters which is contrary to the collegiate notions set out the CfE. The survey's responses show that there is a wide spectrum in the way schools decide how PEF monies are allocated; from collective decision making by Headteachers/teachers to autocratic decisions by Headteachers with no staff input. It is difficult to see how good

management and leadership was encouraged by Headteachers' powers in PEF funding, and indeed a number of responses expressed the view that PEF monies were already being poorly used.

80. The EIS recognises that there is an obvious issue around administrative support and advice for finance matters, alongside the reality of austerity measures accentuating the need for public sector spending to be effective. Previous large scale DMR schemes, such as that operated by the former Strathclyde Region, have utilised local authority budget systems including audit arrangements. We would advocate a similar approach for future schemes.

Question 6

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

81. The EIS is not convinced that there is any great lack of transparency in terms of local authority expenditure, but a few simple measures would enhance the process: reinstating teacher trade union representation on Education Committees where they have been removed; further development of DMR schemes.

Question 7

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

82. The Headteachers' Charter appears to go well beyond what is required to simply promote the post as being the leader of learning in a school community. Concentrating on that acknowledged shared aspiration, however, the EIS would advocate the following:
- i. Readily available, good quality and evidence-based support from local authorities, regional collaboratives, Education Scotland, and universities.
 - ii. Additional teaching staff.
 - iii. Professional learning around collegiality and the democratic school agenda.
 - iv. Professional learning on poverty- the nature, causes and consequences, and on effective school-based interventions.
 - v. Professional learning on curriculum and pedagogy that will deliver high quality, equitable outcomes.
 - vi. Professional learning and support, perhaps from RIC, around collaboration and shared responsibility for outcomes across schools.
 - vii. Professional learning on community engagement.
 - viii. Support and professional learning in the recruitment and selection of staff.
 - ix. Professional learning on equality matters and legislation

- x. Appropriate support and challenge from the employer - the local authority.

2. Parental & Community Engagement

Question 8

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

- 83. Yes- the EIS welcomes the emphasis on a collaborative approach, one which is inclusive and gives appropriate entitlement to all parts of a school community, and is strongly supportive of more democratic schools in which decision-making is collegiate. Moving from a duty to 'inform and consult' to a duty to work in a collaborative way with parent bodies is welcome. The EIS is clear that this approach does not extend to operational matters as clearly teachers as employees share an agreed relationship with the local authorities as their employers. Collaboration and engagement with diverse communities, requires resource and time, however. Workload and resource implications of any new duties need to be fully considered.
- 84. The EIS welcomes, also, change to the definition of parental involvement to a broader concept of parental engagement which reflects the range of home learning/learning that happens outside of school and takes better account of parental circumstances.
- 85. Consideration will need to be given to the time resource required for undertaking a review of parental engagement strategies every three years.
- 86. The EIS supports the intention to better reflect the provisions of the Equality Act within the new legislation and guidance.

Question 9

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

- 87. The real necessity is investment of time and resources; legislation alone cannot be a panacea. The best parental engagement legislation will only be accompanied by the best practice if it is properly resourced and if implementation is supported both from the centre (QIOs etc) and at school level.

Question 10

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

88. The general duties to engage collaboratively etc. should apply equally to ELC settings but there is a need also to avoid excessive bureaucracy and the replication of structures that can wittingly or unwittingly exclude more marginalised parents (e.g. overly formal Parent Councils).
89. The EIS notes with interest Scottish Government's intention to extend the same ambitions to Early Learning & Childcare (ELC) in this regard but it is falling short of doing so in terms of ensuring that teachers are in place to deliver the curriculum, support and assess children's learning, and to support transitions.

3. Pupil Participation

Question 11

Should the Bill include a requirement that all schools in Scotland pursue the principles of pupil participation set out in Chapter 3?

90. The EIS is supportive of pupil voice and participation, particularly as part of a wider focus on democratic school principles. Building pupil confidence and self-esteem can be facilitated by inclusive measures informed by these concepts, as well as aiding more effective decision making. Again, as employees, teachers have certain basic rights, such as a degree of personal confidentiality, and these should not be infringed upon by ill-conceived participation of pupils in areas which are essentially operational.
91. The EIS would comment that the research relied on in Chapter 3 is weak; it may show a correlation between pupil participation and pupil outcomes, but it does not show causality. More robust evidence is needed if we are to use research to drive statute or policy.

Should this be included in the Headteachers' Charter?

92. The EIS does not believe that this should be included in a legislated Headteachers' Charter as the number of duties on Headteachers is already extensive and potentially overly-burdensome. We are opposed to a Charter, in any form, which adds to the already unacceptable workload burden of formal leadership posts such as Headteacher.

Question 12

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

93. The EIS regards a general duty as being sensible but does not believe that this should be conferred on Headteachers. We would advocate local authorities having responsibility for supporting schools to develop these principles in the first instance, as local authorities currently have a statutory duty to have 'due regard to the views of children and young people when making decisions that affect them'. Arguably 'participation' should be an element of the 'adequate' education that local authorities have a duty to provide, with a view to 'developing children's and young people's talents and abilities to their fullest potential'. This may be done, for example, by extending membership on local authority Education Committees to pupils.

4. Regional Improvement Collaboratives

Question 13

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

94. The EIS has recognised previously the potential for Regional Improvement Collaboratives to fill the gap which has been created, by the impact of austerity measures on local authorities, around the provision of pedagogical support to schools and for collaboratives to enable the "leading from the middle" agenda. We warned, however, against the danger of creating a new level of bureaucracy or management. Whether legislation is either desirable or required to achieve this objective would seem to have been overtaken by the voluntary agreement reached around the Regional Improvement Collaboratives (RICs). In noting the creation of the six RICs the EIS continues to support collaboration between local authorities and with Education Scotland in a RIC in terms of supporting pedagogy and improving attainment.
95. The need for statute appears to be redundant, therefore. The Institute recognises that effective collaboration is not forced but inspired by mutual interest that emerges naturally. Again, cultural change is what is being sought, rather than simply structural.
96. Legislation is not the best approach to achieve this.
97. The EIS recognises that there has to be some level of organisational structure to support collaborative practice at a regional level, e.g. advisory support but it is essential that such regional structures are predicated on supporting operational efficacy rather than creating yet another layer of governance in an already heavy top-down management framework.

98. Care needs to be taken to ensure that the RICs do not create an additional large layer of educational bureaucracy far removed from schools. Further, it will be a challenge for RICs to maintain the close and knowing relationships that exist between schools and their local authorities, especially if RIC staff cover more geographical areas than a single local authority. In particular, RICs need to avoid transgressing into matters already covered within LNCT structures.
99. The EIS believes that any offer of an enhanced support package to schools must include better resources and more staff if it is to succeed in bringing about significant improvement. Simply re-distributing current local authority and Education Scotland staff into a new structure may not of itself raise attainment or result in greater equity. Moreover, owing to the structure of local government post 1994 it is the larger authorities that have managed to retain the support structures that have some depth. Redistribution of existing resources could mean that larger local authorities lose out.

Question 14

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

100. No; the EIS does not support the top down approach inherent in a Regional Improvement Plan. RICs should work collaboratively to support local authorities and schools to deliver their local improvement plans. It would seem sensible for the RICs to have an improvement agenda constructed from areas of common priority in local improvement plans – but this is essentially an operational imperative rather than a Regional Improvement Plan which becomes the context for SIPS. Notwithstanding the Consultation’s graphic clearly showing SIPS flowing upwards into the RIPS, experience suggests that the Government’s proposals need to ensure that SIPS, are properly used to inform the RIPS (i.e. from the bottom up) and not vice versa. RICs need to ensure that schools do not lose the support they currently receive for their individual needs.
101. The suggestion of annual publication implies recognition of the need for transparency which, in order to be meaningful, should be closer to rather than further away from the seat of democratically elected local power. Local authority improvement plans are more effective in ensuring such a relationship.

Question 15

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

102. The EIS is opposed to replacing local authority reports. This appears to be early “mission creep” on the part of Scottish Government around the operation of the RICs, which is regrettable as it may serve to undermine trust in the support function of the collaboratives.

103. Whilst the EIS believes that RICs need to report on their performance annually, to their constituent bodies, the focus of improvement planning should remain with local authorities. The EIS believes that RICs must have a reporting line to local authorities – for they serve the school communities they work with.

Question 16

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

104. Yes; the OECD describes the Finnish education system as one that has undergone “Slow and Steady Reform for Consistently High Results”. We would do well here in Scotland to adopt this as a mantra.
105. Specifically, the workload and bureaucratic burdens associated from too frequent reporting, divert attention from learning and teaching, are a drain on the system and act as inhibitors to progress.
106. The EIS would advocate a return to a 3-year planning cycle with consideration being given to resolving the current mismatch between national planning and timescales for consideration and implementation at school level.

5. Education Workforce Council for Scotland

Question 17

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

107. The EIS is firmly opposed to any dilution of the role and independence of the General Teaching Council for Scotland. We fail to understand why the Scottish Government feels compelled, or even entitled, to interfere in the running of what is a legally constituted independent body. As an active participant in Education International, the EIS has noted the high regard the GTCS is held in internationally. We are baffled as to why the Scottish Government wishes to do away with a Scottish success story such as the GTCS.
108. The EIS, along with others in the education community, met with some puzzlement, the clear shift in the Scottish Government’s tone from tentative to determined between the publication of the Next Steps document in June 2017, which had indicated the intention to consult separately on the proposal of an Education Workforce Council (EWC), and the publication of this consultation document, which refers to the change almost as a fait accompli. On what basis has such a shift occurred? What evidence has emerged during the intervening five-month period that the replacement of the GTCS, an

internationally respected, teacher-led and teacher-funded professional regulatory body, by a generalist alternative, will enhance teacher professionalism in the interests of quality learning and teaching, leading to greater equity of outcomes for Scotland's children and young people?

109. In relation to college lecturers, in particular, there appears to be a lack of cohesion in the approach of Scottish Government which has tasked the College Development Network (CDN) with refreshing existing professional standards for lecturers but has failed to outline how such a development interfaces with the work of the GTCS, the National Joint Negotiating Committee and now the proposals around an Education Workforce Council.
110. The OECD has identified the two most important in-school factors to the realisation of equity and excellence within an education system- the quality of school leadership and of teacher professionalism. The GTCS, through the standards for each career stage has defined and set high standards of teacher professionalism spanning early career to leadership and management. Through the coupling of Professional Update with Professional Review and Development, the GTCS has encouraged growing teacher engagement with and explicit demonstration of, the standards, for the benefit of the children and young people who learn in Scotland's schools.
111. The creation of an EWC as proposed will end the GTCS' exclusive custodianship of teachers' professional standards, which are among the highest in the world. The creation of a generalist EWC, in which teacher representation is significantly diminished and which will focus on a multiplicity of disparate objectives pertaining to other professionals, will stall the dedicated progress that Scotland has made towards the enhancement of teacher professionalism in the interests of high quality education characterised by equity of outcome. This makes no sense at a time when the Scottish Government's stated ambition is to close the poverty-related attainment gap and to raise attainment for all.
112. Scottish Government itself cites evidence of the relationship between teacher quality, educational outcomes and GTCS focus on standards and professional learning; it seems absurd to dilute this focus,
113. With the disappearance of the GTCS within an EWC, and the loss of its distinct identity as the custodian of the professional standards and the regulator of the teaching profession, teacher professional voice will be muted to a large degree as the existing functions of the GTCS are merged with those pertaining to other sections of the education workforce. This is out of kilter with a fundamental principle of CfE which is the strengthening of teacher autonomy and professional voice.
114. Furthermore, such a move is likely to diminish the status of teaching in the perceptions of those who might otherwise have considered teaching as a career. At a time when we are seeking to enhance the status and attractiveness of teaching as a profession in order to recruit high quality graduates, the Scottish Government is proposing to label teachers as 'education workers'. This is hardly an endorsement of the professionalism

required of those who are at the forefront of the national drive towards greater equity and excellence.

115. The EIS is in no doubt that the loss of GTCS registration as a kitemark of high teacher quality and a prominent shaper of teacher identity will inflict some damage on teachers' professional identity, and potentially on the status of the teaching profession in wider society.
116. At present, GTCS registration is a pre-requisite for teaching in Scotland. The GTCS has played a crucially important role in ensuring the quality of initial teacher education courses, applying among the highest standards in the world to the accreditation process. It seems to the EIS little coincidence that the attack on the GTCS has come after a period when it has been resolute in upholding professional standards in the face of the Scottish Government's flirtation with Teach First, and at a time when it is pursuing further "fast track" approaches to initial teacher education. The EIS is clear that the GTCS must continue to act as staunch gatekeepers to the teaching profession in Scotland as assurance of high quality educational experiences for our children and young people.
117. Unsurprisingly, given the valuable role that the GTCS has played to date, no one in Scottish education has publicly called for its disbandment and its replacement by an Education Workforce Council. At best, the proposal seems an erratic and risky move, with much good work and expertise likely to be lost with the loss of the GTCS. Such short-sightedness and ill judgement will not deliver what are the valid aims of enhancing teacher professionalism and providing a similar service to that offered by the GTCS to other sections of the education workforce.
118. The EIS is of the view that investment in the whole of the education workforce is to be welcomed but not at the expense of a discrete focus on teacher professionalism and not paid for by teachers' subscriptions past or present. The needs of other groups of workers would be better served by support for, and investment in, existing bespoke regulatory bodies, such as the SSSC, or the creation of new ones funded other than from teachers' subscriptions.
119. Arguably the Scottish Government is seeking to acquire maximum benefit for other sections of the education workforce that GTCS provides for the teaching profession, for minimum additional financial outlay and at the cost of sacrificing the present GTCS. GTCS is already an established, high functioning organisation with strong experience in professional standards and regulation. It would appear that the Scottish Government is looking to take the opportunity to extend such functions to all sections of the education workforce by borrowing heavily from the existing infrastructure and expertise of the GTCS, calculating that this will require significantly less investment from Government than setting up a series of new bodies or increasing support to the CLD Standards Council.
120. The EIS has previously highlighted the issue of the Scottish Government running its projects at the expense of GTCS, which is 90% funded by teachers' subscriptions- Professional Update being one example (albeit that this was for teachers). In this case, it would appear that the Scottish

Government is quite simply aiming to 'piggy-back' their wish to regulate the wider education workforce on the GTCS. This, by the GTCS' own calculations, will be hugely costly, and from the EIS perspective, presents significant risk of teachers being short-changed as change-over and set up costs, potential accommodation costs, additional staffing costs, rebranding costs, additional ICT costs, costs associated with collection of differential fees, greater operational costs, and potentially greater taxation costs, mount up.

121. Scotland should learn from the recent experience from Wales. The EIS has consulted with colleagues in Wales about the change which occurred in Wales after an EWC was established. It is with regret that the Wales NEU initially supported the move, believing that it would raise standards in relation to the employment of classroom assistants. What has happened, however, as the EIS understands it, is that the creation of the Education Workforce Council in Wales is facilitating a move to para-professional teaching of classes- that is, classroom assistants being cast in the role of class teacher. This has been difficult to challenge effectively in the context of teachers and classroom assistants belonging as 'education workers' to the same professional body.
122. Of significant concern, also, is that the EWC in Wales is focussed primarily on disciplinary matters rather than the broader emphasis being on professional standards. This has had financial and human resource implications for both employers and unions, and has had a negative impact on individuals who have found themselves the subject of what have often been unfounded, malicious complaints and counter-complaints.

Question 18

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

123. The EIS believes that GTCS should be maintained as a separate, independent, and autonomous body focussed primarily on school teachers and college lecturers. The EIS has campaigned for other groups, such as Instrumental Music Teachers, to be registered with the GTCS but an overreach in this regard, such as envisaged by the inclusion of all education workers, would marginalise the focus on teachers and pedagogical practice, to the significant detriment of the education service. To reiterate, the purpose, integrity, and credibility of the GTCS should not be comprised.
124. As previously stated, the EIS is not against professional registration for other staff within schools and colleges in their own registration bodies. These bodies may be similar in type and structure to the GTCS – and could work with and learn from the GTCS, for example to build similar professional frameworks. If an EWC is established, therefore, it should have a focus on sections of the education workforce other than teachers, who already have a world-renowned professional regulatory body which functions well in the interests of the profession and its ability to deliver high quality education.

Question 19

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

125. No; the EIS believes that they are fundamentally flawed as they are predicated on a proposition we are opposed to. The EIS wishes to see the continuance of all the GTCS's existing functions as they pertain to the teaching profession, as outlined in detail above.

The GTCS is an independent body, paid for by teachers' subscriptions. It has a democratically elected teacher majority on its ruling Council. The proposals in the consultation not only and quite deliberately remove this practitioner majority, they remove the electoral process and replace it with Scottish Government appointees to a Board. The stated rationale for this is to 'sustain confidence in its independence'. The hypothesized aim of the Education Workforce Council - to provide 'independent' advice to the Scottish Government on a range of matters - is highly questionable when it seems obvious that the Scottish Government is seeking to exert control.

126. The creation of an Education Workforce Council along these lines amounts to the dismantling of what is currently a democratic governance framework to be replaced with an appointed board which will be malleable to government influence, thus rendering the GTCS vulnerable to politicisation. There has been no suggestion that public confidence in the GTCS as a regulator has been threatened by its independent status or by the fact that teachers hold a majority of one on Council. Rather, the GTCS has an internationally renowned reputation and its work has been strongly endorsed by the International Council of Education Advisers. There can be no reason for the proposed governance model other than that the Government wishes to exercise complete control over teachers' professional standards and regulation. Quite simply, the EIS regards it as bitterly ironic that a consultation on "empowering" the profession should contain such a naked power grab on the part of Scottish Government.

Question 20

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

127. The functions are appropriate as they are but should not apply to teachers or college lecturers whose professional standards and registration should continue to reside with the GTCS.

Question 21

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

128. The EIS has championed within the GTCS the cause of other highly qualified professional groups with teaching responsibilities such as College lecturers

and Instrumental Music Teachers and would argue that these groups should remain within the ambit of the GTCS as it is currently constituted. If the Scottish Government wish to extend registration to other education professionals, however, it should consider forming or changing other professional registration bodies, to complement (as separate but parallel bodies) the GTCS.

Question 22

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

129. The EIS believes that it is good practice for all professional registration bodies to be required to consult before fee increases are applied.
130. Some of the education workers that the Scottish Government wishes to regulate are relatively low paid and this must be borne in mind. Attempting to regulate groups with significant salary differences, into a single body reliant on member subscriptions, would bring to the fore major challenges around parity of fees.

Question 23

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

131. A basic principle of any professional body should be practitioner control of the ruling body, self-regulation being a hallmark of professionalism. This is best facilitated by election from the members.
132. Current governance arrangements for the GTCS abide by this standard and allow for a teacher majority on the ruling Council – elected by teachers. Within these arrangements the electoral categories ensure broad representation, including specifically college lecturers.
133. Under the new proposal, this would be replaced by a Government appointed Board (similar to SQA). The EIS regards this as an erosion of democratic accountability, coupled with more power being centralised to Scottish Government.
134. We believe there should be an adherence to the principle of democracy.
135. We would challenge, also, the absence of any evidence-based thinking in the Government's proposal.

Question 24

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

136. Given that the EIS is vehemently opposed to the destruction of the current General Teaching Council for Scotland, we believe that any new body should be named in a way which distinguishes it from the GTCS and which doesn't imply that teachers fall within its parameters.