
ARGYLL AND BUTE COUNCIL

COUNCIL

COMMUNITY SERVICES: EDUCATION

25TH JANUARY 2018

EMPOWERING SCHOOLS - A CONSULTATION ON THE PROVISIONS OF THE EDUCATION (Scotland) BILL

1.0 EXECUTIVE SUMMARY

The Government's plans for realising the vision of improving the education and life chances of our children and young people and to close the gap in attainment between the most and least disadvantaged children and to raise attainment for all is set out in Education Governance: Next Steps – Empowering Our Teachers, Parents and Communities to Deliver Excellence and Equity for Our Children.

The latest set of proposals, *Empowering Schools – A Consultation on the Provisions of the Education (Scotland) Bill* were published on 7 November 2017 with a closing date for comments of 31 January 2018. A summary of the key points are included in this report.

The consultation document sets out a number of themes for consideration. These are:

- A Head Teachers' Charter (Questions 1-7);
- Parental and Community Engagement (Questions 8-10);
- Pupil Participation Questions (Questions 11-12);
- Regional Improvement Collaboratives (Questions 13-16), and
- The introduction of an Education Workforce Council for Scotland (Questions 17-24).

There is much in the general deliberations of the Cabinet Secretary's proposals that is to be welcomed:

- (i) A shared ambition to improve education and the life chances of all children and young people;
- (ii) Ensuring Head Teachers have as much freedom as possible in curriculum design, pedagogical priorities, staff recruitment and budget allocations within their schools, and more access to high quality professional support;

- (iii) Enhanced career opportunities for teachers and a promise to “transform the support available to teachers and practitioners at every level in the system” (page 1 of Consultation document);
- (iv) The emphasis on collaboration between schools and between local authorities as exemplified by the Northern Alliance;
- (v) The commitment to update the legal definition of parental involvement via Parent Councils to include parental engagement in their own children’s education outside of school, and
- (vi) The decision, following negotiations with CoSLA, to change the leadership of the Regional Improvement Collaboratives (RICs) from Regional Directors, appointed by Scottish Government and reporting to Education Scotland, to Regional Leads appointed by agreement of the Chief Executives of the local authorities that make up the Collaborative.

There are though, a number of continuing significant general concerns:

- (i) The role of the Education Authority is diminished, and the overall impact of the proposals remains to centralise control of educational improvement, with a consequent loss of democratic accountability at local level;
- (ii) The promise to schools of “world class educational support from Local Authorities” in the Foreword to the document (page1), therefore establishes unrealistic expectations of what is both intended and feasible;
- (iii) With HMIE remaining embedded in Education Scotland, there is no external scrutiny of a key element of Scottish Education;
- (iv) The combined effect of removing responsibility for school improvement from the Local Authority and embedding HMIE in a Scottish Government agency, removes important checks and balances in the system;
- (v) The consultation documentation is silent on the likely costs of implementation;
- (vi) The *Next Steps* report was light on mention of pupils - this latest consultation is very clear on the need for pupil engagement but lacks detail on the practicality of achieving its aims;
- (vii) The potential risk of fragmentation of schools and education from the rest of integrated children’s services, undermining the delivery of GIRFEC, and
- (viii) The new Education Workforce Council (EWC) could add further fragmentation to the children’s services workforce.

This report provides information on and seeks approval of Council to provide a response to the Scottish Government consultation *Empowering Schools A Consultation on the Provisions of the Education (Scotland) Bill* due to be submitted by 30th January 2018.

1.1 RECOMMENDATIONS

It is recommended that the Council:

- a) Agree and approve the submission of the *Empowering Schools – A Consultation on the Provisions of the Education (Scotland) Bill* consultation response to Scottish Government by 30th of January 2018.

**EMPOWERING SCHOOLS - A CONSULTATION ON THE PROVISIONS OF THE
EDUCATION (Scotland) BILL**

2.0 INTRODUCTION

- 2.1 The main purpose of this report is to provide information to, and seek approval of Argyll and Bute Council to submit a response to the Scottish Government consultation *Empowering Schools – A Consultation on the Provisions of the Education (Scotland) Bill* which is due by 30th January 2018.
- 2.2 The Government's plans for realising the vision of improving the education and life chances of our children and young people and to close the gap in attainment between the most and least disadvantaged children and to raise attainment for all is set out in Education Governance: Next Steps – Empowering Our Teachers, Parents and Communities to Deliver Excellence and Equity for Our Children.
- 2.3 The Scottish Government proposals for changes to the governance of Education, follow a wide-ranging consultation that ran from September 2016 to January 2017, generating 1154 written responses in addition to the views of 700 people who took part in face to face consultations. A summary of the views gathered can be found at – *Empowering Teachers, Parents and Communities to achieve Excellence and Equity in Education: An Analysis of Consultation Responses* on the Scottish Government website.
- 2.4 The latest set of proposals, *Empowering Schools – A Consultation on the Provisions of the Education (Scotland) Bill* were published on 7 November 2017 with a closing date for comments of 31 January 2018. A summary of the key points are included in this report.
- 2.5 A parallel consultation on school funding closed on Friday 13 October. A response from Scottish Government is due in the summer of 2018. Although education governance and funding form two streams of work, they are clearly inter-connected.

- 2.6 The *Empowering Schools – A Consultation on the Provisions of the Education (Scotland) Bill* consultation seeks views on the Scottish Government's future approach to the provision of Education.
- 2.7 In order to respond to the consultation Education Services met with and took the views from the following groups:
- Head Teachers;
 - Representatives of the Head Teacher Advisory Group;
 - The Education Budget Working Group, and
 - The Joint Services Committee (JSC).

Head Teachers have been encouraged to share the consultation with Parent Councils. Parent Council Chairs have been issued with the link to the online consultation response.

3.0 RECOMMENDATIONS

- 3.1 It is recommended that the Council:
- a) Agree and approve the submission of the *Empowering Schools – A Consultation on the Provisions of the Education (Scotland) Bill* consultation response to Scottish Government by 30th of January 2018.

4.0 DETAIL

- 4.1 In September 2017, COSLA Leaders agreed to an approach of regional collaboration which left democratic accountability clearly with Scottish Local Authorities and their officers. Currently, in their role as Education Authorities, Scottish Councils hold the statutory responsibility for the provision and delivery of education, for performance and improvement of individual schools, as well as the cumulative authority, as the employer of all staff within a school setting, and more. The consultation document suggests a series of changes to this Authority. The consultation states that the primary focus of the Bill is to create a school and teacher led education system and therefore to empower schools and school leaders. The consultation is set out in a series of questions.
- 4.2 The consultation document sets out a number of themes for consideration. These are:
- A Head Teachers' Charter (Questions 1-7);
 - Parental and Community Engagement (Questions 8-10);
 - Pupil Participation Questions(Questions 11-12);
 - Regional Improvement Collaboratives (Questions 13-16), and
 - The introduction of an Education Workforce Council for Scotland (Questions 17-24).

4.3 A Head Teachers' Charter

The Head Teachers Charter will establish to empower Head Teachers to make the key decisions about learning and teaching in their schools and clarify the responsibilities that sit with the Local Authority have to enable Head Teachers to be the leaders of their schools. It notes that education will be improved if Head Teachers are able to make decisions in four key areas:

4.3.1 Curriculum for Excellence

The Bill describes that Head Teachers will:

- Make decisions on how best to design their local curriculum in line with the national framework set out by the Curriculum for Excellence, and
- Will have a new duty placed upon them, alongside their leadership teams, to work collaboratively with other schools and partners on curriculum design and improving learning and teaching. That collaboration is not fixed and can focus on different issues as Head Teachers see fit.

The impact of these elements, were they to become law, is that elected members and their officers would have little influence on curriculum development/delivery or collaboration with parents and young people in any school. Local Authorities may be prevented from taking action in their own area if this was not deemed to be part of the work of the wider Improvement Collaborative.

4.3.2 Improvement

The consultation document suggests a change in the responsibility for improvement of education within a Local Authority area, with the role of the Local Authority would be to act within the Improvement Collaborative. The decision making around improvement would rest with individual Head Teachers.

The impact of this change would mean that if local elected members identify local issues in relation to improvement, then they can no longer address it as the Local Authority/Education Authority but as a member of a collaborative.

4.3.3 Staffing

In this section of the consultation document, Local Authorities are acknowledged to be the employer but there are clear commitments that the Head Teacher will decide on the staffing complement in their school. This includes non-teaching staff and will therefore affect both employee groups in Local Government.

There are potential legal risks if Local Authorities, as the employer, are unable to adhere to good employment practice and case law because the staffing decisions in one of our establishments are made by an individual. It is also worth noting that should this change become enacted, Scottish Local Authorities would be unable to sign up to any future Teacher Numbers

agreement or Pupil: Teacher Ratio agreements. Furthermore, in circumstances where an Authority has supernumerary teachers it may not be possible to place them in instances where a Head Teacher refuses a teacher transfer.

4.3.4 Finance

Despite the fact that the Scottish Government have not published their response to the consultation on Fair Funding, there are a number of commitments in this consultation which take forward some of the proposals suggested earlier this year. In relation to funding, the Head Teachers' Charter will:

- Require Local Authority delegation of budgets to extend to staffing, rather than just to schools' discretionary expenditure outside staffing; and
- Increase the transparency of Local Authority decisions on education spending and require the involvement of Head Teachers and school communities in these decisions.

Currently Argyll and Bute Head Teachers already have a significant workload, we have a responsibility as employers to ensure their wellbeing as well as ensuring that we remain accountable for decisions taken on education in our communities. The support that is provided to all Head Teachers by the Local Authority is vital for both the individual employees involved and for the benefit of children and their families.

4.4 Parental and Community Engagement

The Education Bill will include provision to make the existing legal duties in relation to parental involvement clearer and stronger.

The improvements that will be made through the Bill to the 2006 Act are:

- To strengthen the duties of Head Teachers to work collaboratively with Parent Councils on substantive matters of school policy and improvements. It is intended to replace current duties on Head Teachers to inform and consult with Parent Councils to revised duties to work in a collaborative way with Parent Councils;
- To reflect updated legal responsibilities on parental involvement in the Head Teachers' Charter;
- Update and clarify the duties on Parent Councils to represent the diversity of the school community, and
- Include parental involvement and engagement as one of the relevant improvement matters covered by the Regional Improvement Collaboratives.

4.5 Pupil Participation

The Education Bill will include provision to ensure that the principles of pupil participation are pursued in every school.

The improvements that will be made to pupil participation is to provide a general duty on Head Teachers to promote and support pupil participation in specific aspects of education and school life including:

- The pupil's own learning as part of the formal and extended curriculum;
- Decision-making relating to the life and work of the school (such as school policies);
- School improvement activity, and
- The pupil's participation in the wider community.

This general duty will be accompanied by key principles to support effective participation by collaboration and dialogue, authenticity and inclusion.

4.6 Regional Improvement Collaboratives

The Education Bill will include provisions to provide appropriate legislative underpinning for national and local government participation in the new Regional Improvement Collaboratives.

Regional Improvement Collaboratives will bring together a range of professionals with a relentless focus on supporting teachers and other school staff working with children and young people to improve their wellbeing, attainment and outcomes. The Collaboratives will include sector and curriculum area support including additional support for learning. They will provide targeted advice and support in order to drive improvement, making use of all available evidence and data. They will help teachers to access the practical improvement support they need, when they need it.

Since November 2017, Argyll and Bute Council Education Service has actively participated within the Northern Alliance. Membership of the Northern Alliance is as follows:

- Aberdeen City Council
- Aberdeenshire Council
- Argyll and Bute Council
- Comhairle nan Eilean Siar
- Highland Council
- Moray Council
- Orkney Islands Council
- Shetland Islands Council

Local Authorities retain their overarching duties in relation to the sufficiency of education provision. However, when it comes to teaching and learning in schools, the role of the Local Authority will be to participate in the Regional Collaborative's work to provide the support and expertise that schools in the

area need, rather than imposing local curricular policies and practices on schools. This means in practice that the role of the individual Local Authority will diminish, an aspect which was not agreed as part of the joint agreement between Scottish Government and CoSLA.

4.7 The Education Workforce Council of Scotland

The Education Bill will include provision to establish an Education workforce Council which will take on the responsibilities of the GTCS, the Community Learning and Developments Standards Council and for the registration of all other education professionals.

The Education Workforce Council for Scotland will have the following purpose and aims:

Purpose

- Through supporting and enhancing the professionalism of those involved directly, and indirectly in learning and teaching, to enable Scottish education to be world leading in the delivery of high quality outcomes for all learners.

Aims

- To set high standards and promote high quality professional learning, teaching and leadership to improve learner outcomes and assist in reducing inequality;
- Be an effective regulator acting in the public interest to maintain and enhance public trust and confidence in education professionals, and
- Through the setting of professional standards and values, support and enhance levels of professionalism, professional identity and professional practice while bringing cohesion to the Scottish education system.

5.0 Summary consultation responses

5.1 There is much in the general deliberations of the Cabinet Secretary's proposals that is to be welcomed:

- (i) A shared ambition to improve education and the life chances of all children and young people;
- (ii) Ensuring Head Teachers have as much freedom as possible in curriculum design, pedagogical priorities, staff recruitment and budget allocations within their schools, and more access to high quality professional support;
- (iii) Enhanced career opportunities for teachers and a promise to "transform the support available to teachers and practitioners at every level in the system" (page 1 of Consultation document);
- (iv) The emphasis on collaboration between schools and between local authorities as exemplified by the Northern Alliance;
- (v) The commitment to update the legal definition of parental involvement via Parent Councils to include parental engagement in their own children's education outside of school, and

- (vi) The decision, following negotiations with CoSLA, to change the leadership of the Regional Improvement Collaboratives (RICs) from Regional Directors, appointed by Scottish Government and reporting to Education Scotland, to Regional Leads appointed by agreement of the Chief Executives of the local authorities that make up the Collaborative.

5.2 There are though, a number of continuing significant general concerns:

- (i) The role of the Education Authority is diminished, and the overall impact of the proposals remains to centralise control of educational improvement, with a consequent loss of democratic accountability at local level;
- (ii) The promise to schools of “world class educational support from Local Authorities” in the Foreword to the document (page1), therefore establishes unrealistic expectations of what is both intended and feasible;
- (iii) With HMIE remaining embedded in Education Scotland, there is no external scrutiny of a key element of Scottish Education;
- (iv) The combined effect of removing responsibility for school improvement from the Local Authority and embedding HMIE in a Scottish Government agency, removes important checks and balances in the system;
- (v) The consultation documentation is silent on the likely costs of implementation;
- (vi) The *Next Steps* report was light on mention of pupils - this latest consultation is very clear on the need for pupil engagement but lacks detail on the practicality of achieving its aims;
- (vii) The potential risk of fragmentation of schools and education from the rest of integrated children’s services, undermining the delivery of GIRFEC, and
- (viii) The new Education Workforce Council (EWC) could add further fragmentation to the children’s services workforce.

5.3 Briefing meetings for Head Teachers and Teacher representative were held during November. Overall Head Teachers did not express support for the proposals as they were set out in the consultation and raised a number of concerns. Key areas of concern noted during the briefings are set out below:

- The practicality of the proposed new duties and organisational structures;
- Resourcing of the new structures, proposed levels of professional support and new career structures;
- Potential tensions with the Local Authority in areas which remain within its responsibility;
- Lack of clarity on the level of genuine autonomy which Head Teachers will actually have;
- Workload implications, and
- The poor quality of the Next Steps analysis, and also the consultation document which they feel demonstrates a lack of understanding of the

system and what is actually happening for young people and families in schools and children's services.

5.4 Specific Concerns

There are also a number of additional specific concerns. Notably:

5.4.1 Regional Collaboratives: It is difficult to see how even the best and most effective communication could create a Regional Improvement Collaborative (RIC) which is "relevant to, designed by and close to the communities they serve" (Consultation p2).

The Northern Alliance was established as a 'collaborative of the willing', to give added value to the role of the Local Authority, not to diminish that role. Indeed, the benefits of collaboration have been clearly shown by the Northern Alliance; sharing insights and strategic approaches of common interest and providing a model for effective collaboration in other parts of the country - importantly, leaving the prime responsibility for school improvement with the Local Authority.

On page 2 of *Next Steps*, it states that "the structure of the present system is too complex". However, the proposals now being consulted on do not simplify the structures. Instead, they add further complexities through the establishment of the RICs and, in places, ambiguous redefinitions of roles and responsibilities. For example, the text in both documents (*Next Steps* and *Empowering Schools*) make clear that some Local Authorities are seen as having done a poor job and being an impediment to progress.

The diagram on page 14 of the consultation suggests that the main responsibilities of the Local Authority will be HR and Finance. Yet, page 7 of the same document suggests that the Authority will engage in "constructive discussion with the Head Teacher on the rationale for the decisions they are taking on the curriculum in their school". Not surprisingly, some Head Teachers fear that they will be "servants of multiple masters" and that the ambiguity over challenge and support roles provides fertile ground for tensions within the system.

In addition, the fact that potentially the Local Authority will no longer have to produce an Improvement Plan could be seen as part of a simplifying agenda, but could also be seen as a means of legally distancing them from the improvement agenda and ensuring that they will not be in a position of "imposing local curricular policies and practices on schools" (Consultation document page 16). In effect, local authorities will no longer be part of the 'engine room' of school improvement.

Finally, it is worth noting that during this consultation phase the Regional Leads have already been appointed, and timelines for progress are being put in place, including having RIC Improvement Plans agreed by the end of January 2018 - the deadline for the consultation to end.

- 5.4.2 More Autonomy for Head Teachers: While Head Teachers in Argyll and Bute welcome the promise of more autonomy, most are far from convinced that the proposed model is either workable or desirable. They are sceptical that such significant structural change will of itself bring the attainment improvements envisaged.

They also point out that the proposals do not address the issues that currently concern them: staff reductions and staff shortages (including the availability of supply teaching staff), the effect of budget cuts and workload/bureaucracy which is not seen to be reducing. They believe that addressing these problems would be a more fruitful direction for the shared national desire to improve overall attainment.

They are concerned that the RICs will add another layer of bureaucracy and will be remote from schools. Many value the professional support that can best be provided by staff in local offices who know the schools and their communities.

Schools currently allocated additional funds via the Pupil Equity Fund (PEF) and the Attainment Scotland Fund welcome the additional funding and flexibility in spending decisions, but point out that it comes with additional bureaucracy and does not compensate for the funds that have been cut from core budgets. They question the value of more control over budgets if there is no significant injection of financial resources to accompany it.

Head Teachers in Argyll and Bute note that the Local Authority Devolved School Management Policy provides a fair structure providing support and autonomy for spend.

On staffing, the consultation document is clear that “it is the Head Teacher who should decide who works in their school and the management structure in which they work” (page 11). However, on the following page it states that “Head Teachers should continue to cooperate with their Local Authority in the allocation of probationers, student teachers, surplus staff and compulsory transfers.”

Nor is it clear how a Head Teacher, newly appointed to school and wishing to change the staffing structure, might achieve this, if staff are in posts with permanent contracts.

- 5.4.3 The Role of Parents: It still requires to be established if Parent Councils have the appetite for collaborating with Head Teachers “on substantive matters of school policy and improvement” (page 18) to the extent suggested in the consultation. Many Head Teachers fear that they will lose parents who currently contribute significantly to the life of their schools via Parent Councils if their responsibilities in future are in areas where they have no expertise.

Similarly, Head Teachers are concerned that the proposed requirement of

head teachers to collaborate on 'substantive matters' with all parents will lead them to expend a great deal of time and energy for no return. However, they do welcome the promise of home – school link workers and the beneficial effect this could have on levels of parental engagement with the school.

It should be noted that Parent Councils are being encouraged to respond to the Consultation document.

5.5 An Alternative Approach

The notion of collaboration as the key to improvement is central to the proposals. However, collaboration already exists at all levels within the current arrangements. It could undoubtedly be increased and made more effective, but wholesale redesign, new legislation and new duties are not the only way of achieving this.

In Education the crucial issue is to identify the impact of action on the lives and development of the people served by the system. A duty on Local Authorities to collaborate for improvement supported by regular and meaningful inspection of Local Authorities on the impact of their collaborative improvement actions could well form the basis for an effective, locally accountable alternative model which would be much closer to the communities it serves.

5.6 Following the scheduled meeting with Education Services, Head Teachers , the Education Budget Working Group and the Head Teachers' Advisory groups summary of the responses to each of the twenty four consultation questions were pulled together to formulate a single response for submission by Argyll and Bute.

5.7 Appendix 1 contains the formulated responses to the consultation questions.

6.0 CONCLUSION

6.1 The consultation questions appear to be based on an assumption that there is no alternative and that the proposals will deliver the anticipated improvements in educational outcomes. However, major concerns remain around:

- The lack of detail on resourcing such an ambitious set of proposals;
- The centralisation of key functions and loss of local democratically elected checks and balances in the system;
- A "one size fits all" approach to addressing perceived shortcomings in some Local Authorities;
- The tensions that will be created between different parts of the education system;
- The fragmentation of schools and education from other services for children, and
- The loss of locally based support for schools, and the loss of local contact for communities on many aspects of education.

- 6.2 This report provides information on and seeks approval of Council to provide a response to the Scottish Government consultation *Empowering Schools A Consultation on the Provisions of the Education (Scotland) Bill* due to be submitted by 30th January 2018.

7.0 IMPLICATIONS

7.1 Policy

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|-----|------------------|---|
| 7.2 | Financial | Not known at this time. However, there may be financial implications for the Council subject to the outcome of the consultation and subsequent Scottish Government |
| 7.3 | Legal | Potential changes to legislation as it applies to Scottish Education may arise as a consequence of the conclusions from the consultation. |
| 7.4 | HR | None known at this time. |
| 7.5 | Equalities | None. |
| 7.6 | Risk | None known at this time. |
| 7.7 | Customer Service | This report provides Elected Members with an overview of the proposed response to the <i>Empowering Schools – A Consultation on the Provisions of the Education (Scotland) Bill</i> consultation. |

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18 December 2017

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Appendices: Appendix 1 - Consultation Responses