

ANGUS COUNCIL

SPECIAL MEETING OF THE CHILDREN AND LEARNING COMMITTEE – 30 JANUARY 2018

**CONSULTATION ON DRAFT STATUTORY GUIDANCE:
EMPOWERING SCHOOLS: A CONSULTATION ON THE PROVISIONS OF THE EDUCATION
(SCOTLAND) BILL**

REPORT BY PAULINE STEPHEN – CHIEF EDUCATION OFFICER

ABSTRACT

This report highlights the opportunity to respond to a consultation related to proposed new legal duties underpinning the Scottish government's empowering schools agenda. It seeks committee approval for an Angus Council response to this consultation.

1. RECOMMENDATION

It is recommended that the Children and Learning Committee:

- (i) Agree to Angus Council's proposed response to this consultation as outlined in section 5 of this report.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcomes contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

A skilled and adaptable workforce
The best start in life for children
More opportunities for people to achieve success

3. BACKGROUND

- 3.1 As part of the Scottish Government's priority to raise attainment and close the poverty related attainment gap, consultation responses are being sought as to associated legislative proposals. The consultation will close on the 30th January 2018.
- 3.2 The proposed Education Bill aims to develop a school and teacher-led education system and empower schools and school leaders. The Bill proposes the establishment of a Headteachers' Charter to set out the rights and responsibilities of headteachers that will empower them to be the leaders of learning and teaching in their schools. This legislative underpinning will make it clear that headteachers are best placed to make decisions about how learning happens in schools. The Charter will also set out the support headteachers can expect to receive to meet the needs of their school communities by clarifying the responsibilities that local authorities will fulfil in order to enable headteachers to lead.
- 3.3 The consultation states that,
'Headteachers as leaders of learning need to be able to choose the people in their team. This is arguably the most important factor in their ability to improve the quality of learning and teaching in their school. Headteachers should have more influence on how staff are recruited, select who works in their school and determine the structure within which those professionals are deployed. Currently, in some areas, key decisions about staffing are often taken without headteacher involvement and the Bill will aim to change this.' The Headteachers' Charter will support rather than replace some elements of the existing legislative framework such as the duties placed on local authorities and headteachers through 'Getting it Right for Every Child' legislation; requirements to promote and support equality and inclusion and health and wellbeing for all pupils; duties relating to additional support for learning provision which apply to local authorities; and legislation relating to maximum class sizes. How the provisions in the

Charter will work alongside other legislative duties relating to education will be set out in detail in the Bill.

- 3.4 In addition the Bill also aims to improve parental and community engagement in school life and in learning outside of school, and strengthen the voice of children and young people, by actively promoting and supporting pupil participation.
- 3.5 The Bill will also provide the legislative underpinning for the establishment of Regional Improvement Collaboratives to allow them to fulfil their agreed functions which will include (but are not limited to): regional priorities and regional improvement plans; professional learning and leadership; curriculum support; sector specific support; improvement methodology; sharing good practice and the impact of research; peer to peer and school to school collaboration and a regional approach to supporting staffing challenges.
- 3.6 Furthermore, the Bill will enable registration of other education professionals with the Education Workforce Council. This will be established to take on the responsibilities of the General Teaching Council for Scotland (GTCS) and the Community Learning and Development Standards Council (CLDSC) and to establish appropriate professional standards for other groups within the education workforce.

4. CURRENT POSITION

- 4.1 Angus Council intends to submit a council response to this consultation. The proposed response is outlined in section 5 of this report.

5. PROPOSALS

- 5.1 *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?*

It should be noted that it is difficult to comment in full to any questions in this consultation given the lack of detail in aspects of proposed change. It is our opinion that many of the intentions set out can be delivered through existing processes. The legislative landscape for education and children's services, in our opinion requires clarification and connection rather than the implementation of new legislative requirements. We have concerns that the proposals outlined have not been considered with the full context in mind. By this we mean, some intentions can be much more easily delivered by a secondary head teacher with a management team and business support than the head teacher of large primary, medium primary, small primary, rural school and shared headship. We have interpreted this consultation is largely written for secondary head teachers. The consequence of that is, in our opinion that the needs of children and young people have been diminished. We are particularly concerned about the impact of the narrow focus of attainment on children's service development and outcomes for our most vulnerable children. This latest consultation, misses a valuable opportunity to promote a whole systems approach. The consultation document has insufficient reference to:

- Vulnerable children
- Additional Support for learning
- GIRFEC
- Corporate considerations including community planning, children's service planning and corporate parenting

Head Teachers are currently leaders of learning and teaching in their school and it is unclear as to how this would be different if legislated. Individual Head Teacher freedom to develop their own curriculum may have, out with the framework of a local authority, a number of unintended consequences. For example, increased curriculum competition between schools, where different numbers of subjects are offered, ensuring entitlements are maintained in relation to RME and Physical Education, managing situations where Head Teachers plan to remove aspects of the curriculum. Curriculum design which makes teachers surplus and where they go.

The focus on curriculum continues to be concerning. Head Teachers require a deep knowledge of learning and teaching in order to raise attainment and “close the gap”. Head Teachers would be helped in this role of lead learner by a connected policy landscape where Curriculum for Excellence, Getting it Right for Every Child and Developing the Young Workforce were aligned and where the curricular focus returned to the original four capacities. Increased empowerment, whatever that is, needs to be evaluated for its impact on increased bureaucracy and the implications for different Head Teachers need to be clear; that is, the impact of this change for the Head Teacher of a large secondary school will be vastly different to that for a shared Head Teacher of two rural primary schools.

Head Teacher responsibilities relating to Additional Support Needs and Equalities legislation need to be fully understood and accounted for. It is important that potential unintended consequences of the legislation and the headteacher Charter in particular are considered. There is the potential to lessen collaboration between schools. For example unilateral redesign of the curriculum particularly in the senior phase could lead to competition between schools with regard to the number of subjects offered etc. Greater autonomy over staffing structures/ appointment of staff could also lead to increased rivalry between schools. There is also a concern that the Charter will increase the bureaucratic demands on Head Teachers which will ironically get in the way of them acting as leaders of learning.

- 5.2 *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?*

School Improvement Plans are already collaboratively generated documents. Processes are in place to ensure learner voice and families inform the planning process through well-established and embedded processes for self-evaluation. It is unclear how legislating this process will lead to improved outcomes given these aspects are open to existing scrutiny processes including external inspection. It is essential that planning requirements are proportionate and so much time is not spent planning that there is no time and resource left for the implementing of plans. Will requirements for planning be accompanied by advice for ensuring achievable plans? Is there a guarantee that plans will be truly ‘bottom up’ processes with no further national expectations and requirements? School leadership is more than providing a transformational vision, it requires an instructional approach that ensures plans are lived, delivered and evaluated. Currently as well as a school improvement plan, schools operate within the context of the local authority education plan, locality plans, developing Regional Improvement Collaborative plans, council plans, integrated children’s services plans and Local Outcome Improvement Plans. The planning context is cluttered. Teachers have approximately 30 minutes improvement development time each week. Account needs to be taken of wider responsibilities such as child protection. Considerations of community cannot be narrowly interpreted as only meaning the school. There are wider community responsibilities. Corporate responsibilities should be strengthened. The role of headteachers as corporate parents needs to be clear.

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

How will the school improvement plan interact with national requirements and the complex planning landscape? Improvement expectations from Education Scotland can be greater than is achievable in a school session. Often new issues gain national traction and are thrust into the expected delivery without any consideration to the planning cycle and framework. Sustainable change takes time and graft – gentle pressure relentlessly applied. Planning requirements don’t always model what we know works in achieving positive improvement.

- 5.4 *The Headteachers' Charter will set out the freedoms which headteachers should have in relation to staffing decisions. What are the advantages and disadvantages of headteachers being able to have greater input into recruitment exercises and processes adopted by their local authority?*

Advantages relate to increased Head Teacher choice in fitting specific skill requirements into their staff group. A clear disadvantage could be more cumbersome processes for candidates. Individual schools could also be disadvantaged due to geographical location and/or perceived reputation. Local authority processes such as compulsory and voluntary transfer and managing staff excess or need requires careful planning and consideration. Union

agreements in each local authority will required to be redrafted and some may require SNCT approval. The consultation proposals do not appear to take account of the increasing numbers of facilities management staff within Scotland's schools who are employed by third parties and not the local authority. What level of input is the headteacher proposed to have with these members of a school workforce community?

- 5.5 *What are the advantages and disadvantages of headteachers' ability to choose their team and decide on the promoted post structure within their schools?*

Advantage is that a management structure is in place which reflects the individual needs of the school. Disadvantages may relate to the need for bigger classes to allow increased number of managers.

- 5.6 *Should headteachers be able to decide how the funding allocated to their schools for the delivery of school education is spent?*

Yes No **Don't know**

If so, what is the best way of doing this?

Head Teachers will have little real choices open to them if the overall quantum of finance does not increase. The vast majority of school finance pays for staffing and building management. There would be more flexibility for HTs (and local authorities in the current arrangements) if the pupil/teacher ratio did not need to be maintained". It is important that headteachers, as public servants with control over public resources, retain a responsibility to ensure Best Value. The potential unintended consequences of increased local decision making against economies of scale and scope need to be considered.

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

Council wide priority based budgeting process allows for citizen engagement and provides stakeholders with an understanding of the difficult choices that have to be made in order to balance budgets across a Council. Processes at school level already allow for parent involvement in planning spend and many schools operate pupil fora which allow children and young people control over small amounts of budget.

- 5.8 *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?*

The following support is available to Headteachers and would require to be enhanced:
Financial Management – devolved school management, school fund, procurement and PEF.
Personnel management, employment and HR law
Managing competing demands & prioritisation
Supporting effective parental & community engagement
Instructional leadership – translating school improvement priorities into sustainable practice changes with measurable impact.
Data analysis and interpretation
Maintenance of up to date knowledge re. National expectations and requirements
Adherence to legislative requirements e.g. placing requests, additional support needs management
Preparing aspiring headteachers
Understand risk of employing and managing staff.
Health and Safety.
Understanding of SNCT and LNCT agreements.
Understanding and training in job sizing

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

Yes No **Don't know**

Please explain your answer.

As there is no information as to how a duty to collaborate will differ from current requirements to inform and consult, it is difficult to comment on this question meaningfully.

- 5.10 *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?*

There is already a requirement to consult and inform. It is unclear what 'meaningful' means here. There can be criticism that consultation is not meaningful when the views gathered are not consistent, there is not a mandate for consensus but a decision is still required to be made. Of course there should be discussion and debate but ultimately a headteacher may have to make a decision that all parents do not agree with.

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

Yes No **Don't know**

Please explain your answer.

If the imperative is to transform the education system it is unclear why requirements would not apply to everyone working with children regardless of the funding arrangements.

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

Yes No **Don't know**

Please explain your answer

Given that this is self-evaluated at school level, authority level and forms a part of How good is our School 4, it is unclear as to how enshrining this in legislation will make any impact on practice and outcomes for children and young people.

- 5.13 *Should this (pupil participation) be included in the Headteachers' Charter?*

Yes No Don't know

Please explain your answer.

If there is a headteachers' charter outlining the key expectations of all of Scotland's headteachers it should include as a core value the principle of listening to children and young people and developing effective mechanisms for learner voice to inform school improvement.

- 5.14 *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...?*

Again it is unclear as to why this requires to be a duty set out in legislation. Different pupil engagement mechanisms work best in different situations and a context-specific approach to this is required.

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

Yes No **Don't know**

Please explain your answer.

Can collaboration be mandated? A culture needs to be created that promotes collaboration, partnership and joint working but it is questionable that legislation is the correct route to make this happen. There is a tension between requiring local authorities to collaborate whilst providing increased autonomy for headteachers which could result in less collaboration and individual school level curricular and other decisions which have unintended negative consequences for the rest of the system. There is no detail on how Community Learning and

Development should be represented in, and engage with, the Regional Improvement Collaborative.

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

Yes No Don't know

Please explain your answer.

If there is a plan, it should be a public document. The number and level of planning requirements requires urgent review. It is unclear how, in practice, regional improvement plans can reflect the priorities set out in school improvement plans given the number and range of schools participating in any particular collaborative.

- 5.17 *If we require Regional Improvement Collaboratives to report on their achievements (replacing individual local authority reports), should they be required to report annually?*

Yes No **Don't know**

Please explain your answer

Is the report about progress with the plan? If so, then public transparency of progress is required. If we are however serious about making long-term lasting improvement to our education system we need to implement a small number of actions consistently over time. Annual reports will not necessarily provide the sense of urgency and pace that is being promoted.

- 5.18 *Would less frequent reporting (e.g. every two years) be a more practical and effective approach?*

Yes No Don't know

Please explain your answer.

If this is reporting on the progress of the plan, then yes. Reporting requirements for the regional plan cannot be considered in isolation. There needs to be links to requirements for school improvement plans, local authority annual education plans, integrated children service plans, locality improvement plans, etc. The planning landscape is cluttered, work is duplicated, time invested in layers of planning can be better directed at improvement activity.

- 5.19 *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?*

Yes No **Don't know**

Please explain your answer.

It is difficult to comment on the frequency of reporting for one planning and reporting cycle without considering the cycles required for all of the plans detailed above.

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

Yes No Don't know

Please explain your answer.

It is unclear as to what the measures would be to be termed 'world leading'. If this in relation to PISA scores, it is essential that aspects of excellence and equity are considered. Whilst it is important to benchmark progress, it is essential that our system gets it right primarily for the children we serve. Therefore finding measures that demonstrate those outcomes is more meaningful than comparing ourselves with other countries.

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

It would be helpful to remove descriptions of groups of the workforce as 'non-teachers'. Note that there will be an additional administrative burden associated with registration and a financial implication. How will the new body interact with other staff regulatory bodies? Any fees should be linked to salary bandings.

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

Yes No Don't know

Please explain your answer.

What does pre-school refer to? Is this early learning and childcare and if so how does the Education Workforce Council engage with the other regulatory bodies? There is a risk of other occupations being seen as about "supporting teachers" and therefore in a subsidiary and not complementary role.

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

There is an opportunity to review terms and conditions of teaching and support posts.

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

The staff currently covered by SNCT (teachers, psychologists, music instructors etc). Issues regarding registration may be a barrier to the workforce.

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

Yes No Don't know

Please explain your answer.

To be publically transparent.

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

Potentially overarching Council with subsets of different sectors.

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

No preference

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications arising from this report.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

Empowering Schools: A consultation on the provisions of the Education (Scotland) Bill, <https://consult.gov.scot/learning-directorate/education-scotland-bill/consultation/>

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