

# **THE EDUCATIONAL INSTITUTE OF SCOTLAND**

## **Consultation on draft statutory guidance: Standards in Scotland's Schools etc. Act 2000 October 2016**

### **Response from the Educational Institute of Scotland**

#### **About the EIS**

1. The Educational Institute of Scotland (EIS) thanks the Scottish Government for the opportunity to contribute to this draft statutory guidance which will accompany the Standards in Scotland's Schools etc. Act 2000.
2. The EIS is Scotland's largest and longest-established teaching union with over 55,000 members in all sectors of education. Founded in 1847, the EIS is also the oldest teaching union in the world. We have a commitment to high standards of education and to a society which offers young people the best opportunities in education and training as well as social and cultural development.

#### **Chapter 2**

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

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

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

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

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

'Due regard' is not clear. It is open to subjective interpretation. The fact that it states 'they will have to attach a degree of weight to this matter and balance it against countervailing factors appropriately' adds to the potential lack of consistency across councils. It is, of course, necessary to operate within financial thresholds. Given budgetary constraints, it is difficult to see how much change can occur, however much 'regard' is paid to the legislation. In the current financial climate, some authorities may find it more difficult than others to both reduce inequalities and provide opportunities for all to progress.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Given that it states in the guidance that it is for individual education authorities to determine which processes require to be implemented in order to support them in fulfilling their 'due regard' duty, notwithstanding the processes found in 4.16 and

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

the activities listed in 4.17 and the advice in 4.30, without a template there is the likelihood that there will be a huge variation in the reports, thereby making difficult meaningful evaluation on how well the duty is being fulfilled by education authorities. We would support the provision of a template to ensure all reports cover the same ground.

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

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

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

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

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

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

an academic session. Given this aspect further consideration will need to be given as to when education authority plans are communicated to schools. 1 August is too late.

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

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

Q7. Do you find chapter 4 clear in relation to who it is aimed at and what its purpose is?
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For the most part, yes; however there are some confusing elements. For example, while Headteachers are required as part of their current contractual duties to 'take overall responsibility for improvement planning and quality assurance', the wording on page 10, 1.12 may lead to confusion in relation to what will change for HTs as a result of the Act.

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

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

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

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

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

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

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

## **Chapter 2**

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

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

## **Chapter 3**

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

The EIS welcomes the fact that the Act states that an education authority must seek the views of the representatives of any trade union which appears to the authority to be representative of the teaching staff at schools managed by the authority. It is regrettable therefore that no reference is made in the first three pages of the Guidance to this aspect or later to the mechanism by which this

consultation will occur. Nor is there any reference made in the Guidance to the requirement by Scottish Ministers to consult trade unions in relation to the National Improvement Framework.

## Chapter 4

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

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

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

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

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

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

It will be important for schools to have support materials and know about the opportunities for training in relation to the expectations relating to School Improvement Plans well in advance of determining the SIP. A concise version of the Guidance or leaflets with key points to complement the longer document would be useful.

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

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

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

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

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

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