

Trusted Teaching



A Consultation on the provisions of the Education Bill: response

December 2023

1. Introduction

The General Teaching Council for Scotland (GTC Scotland) is the teaching profession's independent registration and regulation body. We were established to ensure standards for the teaching profession in Scotland. We work to maintain and enhance trust in teaching. Our role is to register and regulate teachers and college lecturers. We do this by keeping a public register and setting and regulating the standards for entering and remaining in the teaching profession.

Our statutory functions are set out in the [Public Services Reform \(General Teaching Council for Scotland\) Order 2011](#).

We welcome the opportunity to respond to the Scottish Government's consultation on the provisions of the Education Bill and have the following comments to make. Our response to this consultation builds on our previous engagement with various elements of education reform. It is our opinion that the ongoing context of review and reform is unsettling and the teaching profession and partners as well as learners now require a clear action plan underpinned by a consistent and inspiring vision.

2. General Comments

The reform of central national education bodies provides an opportunity not only to define their remits in line with the requirements and expectations of an evolving society but also to ensure that they operate within a more coherent and aligned system that centres on a shared, common understanding of roles and responsibilities and a commitment to effective partnership working. As an independent body with functions outlined in statute, we are of the view that it would be helpful for organisational roles and remits to be similarly set out in legislation.

Every part of the system has a unique but complementary role and needs to be valued. This starts from a deep understanding and clarity of our common purpose and what each part's roles and responsibilities are in driving to achieve that purpose. To support this, coherent legislation, policy and governance underpinning

the infrastructure are required, as well as terms of reference to guide partnership work.

By way of example, we offer the context of child protection and safeguarding in Scottish education, which is particularly topical in light of the ongoing Scottish Child Abuse Inquiry. We believe that enhanced information sharing, and a strengthened national governance framework requires to be in place to ensure roles in child protection and safeguarding in the education context are transparent, understood and enacted, and that information is therefore shared at the right time with those that need it, enabling every part of the system to play its part effectively. Clarity is required as to where responsibility lies for system regulation, in other words who sets and maintains the standards by which these component parts should each be assessed.

We are pleased to see that importance has been placed on defining roles and responsibilities in the consultation document in relation to the new qualifications body but we are of the view that this applies equally to the new independent inspection body:

“... to deliver an effective and seamless education and skills system, it is imperative that roles and responsibilities of all national bodies are clear. The new qualifications body must work closely and collaboratively with all our national education and skills bodies, with the Scottish Government, and with our local and regional networks such as colleges and skills groups. It must be an exemplar organisation in how it works with others including: in areas of joint delivery; how it shares data and information within the system; how it communicates and engages with other organisations...”¹

The role of inspection across the whole system needs to be well understood. This includes clarity on the differences between inspection and regulation and where responsibilities for both lie. What role will the new national inspection body have, for example, in ensuring that education service providers, employers of teachers, do what is expected of them in the context of child protection and safeguarding? What

¹ A consultation on the provisions of the Education Bill, p19

obligation will they have to share information with GTC Scotland if they uncover issues that could call into question an individual's fitness to remain on the register of teachers? There requires to be clarity as to the theory of inspection that will apply and if the inspection agency will have system regulation responsibilities. If they do not, we will continue to seek clarity as to where this responsibility lies.

Our question about regulation relates to the employers of teachers, not teachers themselves. GTC Scotland is the regulator of individual teachers. To do this well, our work relies on all parts of the system doing what is expected of them whether that is a statutory or policy requirement. Regulation has a relationship with inspection, for example inspection could (like inspection in early learning and childcare does) evaluate whether individuals are registered with professional or regulatory bodies in line with statutory requirements. Where through the course of work we identify illegal practice – individuals employed as teachers who are not registered appropriately – we require clearer reporting lines where the employer does not take action. We have no role in regulating the employers of teachers.

We understand that previous work, in which we were not involved, sought to explore the target operating models of these bodies which we assume are informing the planning for respective organisational roles and remits. We would again assert that where these roles and remits connect with the statutory work of GTC Scotland, we must have an opportunity to inform these discussions. We note the general engagement sessions that were scheduled to discuss this consultation further. It is essential that the significant engagement and involvement that has informed the multiple previous consultations and reviews that directly influence the work of these proposed bodies continue to be valued and used.

In that regard, we would observe that if the Scottish Government believes that more fundamental reform to the education system should be paused while the views of the profession are sought, a short consultation exercise in the lead-up to the Christmas holiday period, even with additional engagement sessions, is not going to provide sufficient opportunity for teachers to input. We hope that more targeted engagement will be carried out in the New Year.

As a final general observation, we note that while the recommendations in Professor Muir's report explicitly underpin many of the proposals concerning the new education bodies, the Scottish Government has not yet fully set out its position on either Professor Hayward's or Professor Withers' report. While we understand that Professor Muir's recommendations relate more to the underlying structure required for the new bodies than their day-to-day functions, some of the questions concerning the new qualifications body cross over into system design, which the recommendations on qualifications and assessment, and the skills delivery landscape would inform.

We look forward to receiving further clarity on the Scottish Government's position on these reports, and in that regard, note the Cabinet Secretary's intention to return to parliament in the new year to debate the proposals contained in Professor Hayward's report more fully². We trust that further opportunity will be provided to consider the outcome of these discussions before the functions of these bodies are formalised.

3. Specific Comments

Question 1: What changes should we consider in terms of how qualifications are developed and delivered that you think would improve outcomes for Scotland's pupils and students?

We are unclear about how the responses to this consultation question will be analysed and compared to the lengthy, collaborative and focused work that resulted in the recommendations in the Hayward Report and to some extent the other reviews that have taken place over the recent past. We suggest that the Hayward Report sets out a number of recommendations that require response. We make this point as the consultation process in the Hayward review attempted to build a particular model of engagement as the work progressed. There will always be a variety of views about how well this was implemented in practice but the investment in involving the teaching profession and others needs to become a standardised approach to policy making. In addition, there will never be full consensus about the

² Official report of the meeting of the Parliament, 7 November 2023, column 26

approach to many issues in education. It is essential that the outcomes of true engagement and consultation processes guide the way forward.

Question 2: How best can we ensure that the views of our teaching professionals are taken into account appropriately within the new qualifications body, and do these proposals enable this?

The timeframe for response to this consultation is challenging for us, in large part due to GTC Scotland's governance structure. We have a council of 37 members, the majority of whom are teachers. How we are governed and the composition of our Council is set in legislation. There is therefore engagement and involvement of our council members to be undertaken in the finalisation and submission of any response such as this which reflects the views of GTC Scotland as an independent statutory body. To do this effectively, time to build internal consultation into our own governance structure is required.

The role of GTC Scotland council members is to provide GTC Scotland's strategic control and direction rather than to 'represent' teachers. Council members use their experience and knowledge (some as teachers) to reflect between elements of our work and the world of teaching. In our case because we have charitable status, council members are also charity trustees.

We set this out to highlight the importance of ensuring that when setting up the governance arrangements of the new qualifications body, the role of all members, including teachers, in a Board is clear from the outset. In our experience specific governance education and input must be prioritised as induction and then on a regular basis to ensure understanding of role expectations. We work closely with other bodies like us, some with similar governance models to our own. This has given us insight into what needs to be in place to support these arrangements to work effectively. The role of Board Members and scope of influence needs to be clear, ongoing support is needed and relationships between members and government as well as other agencies needs to be actively managed.

Lastly, we strongly advise that teachers involved in the body's Board are supported by a framework that allows their involvement to be prioritised. Many of our council members experience barriers prioritising their involvement in our council work.

Some employers appear to have a lack of understanding about the responsibility of this work and this can impact on availability and attendance. Whilst there is an agreement in place with COSLA as the largest employer of teachers to support teacher release, there is no legislation and enforcement mechanism, which presents challenges for our council members on an ongoing basis. We recommend a systematised approach to reducing these barriers that can equally be applied to the important work of the members of GTC Scotland Council.

Question 3: How best can we ensure that the views of pupils, students and other learners are appropriately represented within the new qualifications body, and do these proposals enable this?

The involvement of learners must be more than canvassing of views and their scope of influence on decision-making must be clear. Existing representative structures such as the Youth Parliament or Children in Scotland, which have mechanisms in place to gather the views of young people, are potential vehicles for meaningful involvement. As per our previous answer, our experience in relation to governance strongly suggests that full consideration of where decision-making powers lie, and the processes that need to be followed in order to reach them, requires to be clear to all involved at the outset.

Question 4: How can we ensure qualifications being offered in Scotland are reliable, of a high standard and fit for purpose?

The response to this question will be informed by a more detailed consideration of the recommendations from the Hayward Review and the government's views on them. Our response to question 6 offers some further views on this point.

In general, and from our own experience of accrediting professional education that leads to the award of a professional standard for teachers, we would again comment that clear governance and full transparency is required. This means ensuring that roles and responsibilities are clear in how the new qualifications body operates, in particular in relation to the separation of accreditation and system design, will be fundamental.

Question 5: How do you think the qualifications body can best work with others across the education and skills system to deliver better outcomes for all?

We would refer back to our introductory comments. Effective partnership working begins with a deep understanding and clarity of our common purpose and what each part's roles and responsibilities are in driving to achieve that purpose. To support this, coherent legislation, policy and governance underpinning the infrastructure are required, as well as terms of reference to guide partnership work.

In relation to the core functions of the qualifications body, our experience as the regulatory body for teachers tells us that there is work to be done to strengthen support for teachers to understand their responsibilities and changing requirements as well as enhanced controls for employers and local authorities to access where problems arise. Although fewer than 0.3 percent of over 81,000 teachers have concerns raised about them each year and of those, the number we remove from, or refuse entry to, our register for fitness to teach reasons is even smaller (an average of 25 people each year), we do see trends within that small percentage, with one recurring theme being exam or assessment-related malpractice or dishonesty. This speaks to the need to consider whether teachers have adequate support in place to understand their responsibilities in this area and the appropriate time and space to read policy/guidance, update their knowledge and skills and liaise with colleagues. Where it does arise, schools and local authorities also need to be clear about the action they should take.

Question 6: Do you agree or disagree with the purposes set out? Is there anything in addition you would like to see included?

While the information presented sets out three aims of the new body, it does not set out the model of inspection. Without this information, it makes commenting on the purpose difficult. In relation to the first purpose, our question relates to the role of the inspectorate (and therefore a purpose of inspection) if the inspection model sets out a broad definition that includes child protection and safeguarding, and assessing whether employers of teachers do as they should, but does not include any assurances about the quality of education.

This raises a question of whether the inspection agency has a regulation function: does or should their role go beyond reporting where an education authority or school does not fulfil its statutory functions.

We have commented before on the differences between HMIE and the Care Inspectorate and we note the description of the Care Inspectorate's purpose:

We look at the quality of care in Scotland to ensure it meets high standards. Where we find that improvement is needed, we support services to make positive changes. Our job is not just to inspect care, but help the quality improve where needed. This means we work with services and support them, offering advice, guidance and sharing good practice to help care reach the highest standards. If we find that care isn't good enough, we take action. We can make recommendations for improvement and issue requirements for change and check these have happened. If a care service doesn't improve, we can carry out enforcement action including, as a last resort, closing it down subject to the decision of a sheriff. The Care Inspectorate is required by the Regulatory Reform (Scotland) Act 2014 to follow the Scottish Regulators' Strategic Code. The Code is issued by the Scottish Ministers and sets out the approaches we should take in dealing with those we regulate. We comply with the requirements of the Code in all that we do, ensuring that we always prioritise the safety, health and wellbeing of vulnerable people over commercial or business interests.

From this it is clear that the Care Inspectorate has both an inspection and regulatory function. We appreciate that the context of each agency's work differs (although there is also some overlap) but we believe that further thought should be given to the extent to which this dual function should be replicated in the new inspectorate, particularly in the context of our concerns about the potential for gaps in child protection and safeguarding due to a lack of system regulation and clarity in relation to roles and responsibilities and how they interact. We also believe there is an opportunity in this context to consider whether the role and functions of the Registrar of Independent Schools sensibly fit here.

The second proposed purpose, which is *to support education providers, including schools, teachers and other practitioners to improve, through capacity building and sharing effective practice*, needs to be clearer.

What activities are envisaged to take place in capacity building? Will the new inspectorate provide advice about change? If they do not, where does such advice come from within the education system? What will structurally be put in place to ensure teachers have the time and space to fully engage with the support provided?

Question 7: Do you agree or disagree with the range of establishments to be inspected by HM Inspectors of Education? Is there anything you would add or change?

In the specific detailing of some services, we note that some aspects are not covered, for example instrumental music services or sensory support services. Clarity on what is meant by ‘education functions of local authorities’ would be helpful. We assume that this also includes child protection and safeguarding. From our perspective, it is necessary for inspection across a number of these detailed providers and services to also include analysis of whether employers of teachers have met their statutory obligations under our Order to refer individuals to us for consideration under our fitness to teach process. We note specific reference to compliance with nutritional elements of school meals, which speaks to a regulatory function. Clarity is required as to why compliance in this area is a focus and whether other compliance aspects are to be inspected, for example all teachers being registered, or fitness to teach obligations met.

Question 8: Do you have any specific comments on the role of the inspectorate of education in the inspection of publicly funded colleges, initial teacher education, early learning and childcare and / or modern apprenticeships?

Our earlier comments in response to question 6 about the need for clarity on the purpose of inspection are as relevant to colleges as they are to schools. Is the new inspectorate to have a role in relation to quality assurance? We are aware that the Scottish Funding Council currently has a statutory responsibility to ensure the

quality of higher and further education provision in Scotland and that they contract Education Scotland to provide external assurance on quality and to support improvement in the college sector. This points to the requirement for the new inspectorate to have more than a reporting function.

On initial teacher education, we have a statutory responsibility to determine what ITE programmes contain and deliver as part of ensuring that on successful completion, individuals obtain a teaching qualification that we recognise, enabling them to be GTC Scotland registered. This role is sometimes described as setting standards for professional education. Accreditation of ITE programmes is the way in which these standards are upheld, and this is the purpose of GTC Scotland's accreditation function. We work closely with ITE providers in this context.

Partnership working led to the development of a self-evaluation framework, which Education Scotland published for ITE providers. Should ITE inspection be a function of the new body, further collaborative working would be required to ensure quality assurance and scrutiny activity concerning ITE complements the existing arrangements and supports quality enhancement. We are of the view that the criteria and standards that we set for ITE should be what is used for the new inspectorate to measure performance against.

Question 9: Do you agree or disagree with the priorities set out? Is there anything in addition that you would like to see inspection cover?

In our view, there are two aspects missing from these priorities. Firstly, the explanatory preamble sets out that *'There is also agreement on the need for greater focus on supporting the teaching professions to help secure improvement in education'*. The priorities detailed seem to suggest that this support will take place through ensuring the involvement of teachers in inspection and ensuring inspection evidence is fully utilised. We question whether these actions in and of themselves will adequately support teachers. In contrast the Care Inspectorate sets out on their website that *'[Our] job is not just to inspect care, but help the quality improve where needed. This means we work with services and support them, offering advice, guidance and sharing good practice to help care reach the highest standards'*. This description appears to suggest a more active role in the provision of 'support'.

We recognise that the priorities are framed in such a way as to formally state the priorities of the proposed inspectorate. We ask however that full consideration is given as to how the ambition of better support for teachers will be achieved. The sharing of information and evidence without the necessary structures to support engagement is unlikely to have great impact. Understanding what action is to be taken as a result of Professors Campbell and Harris' exploration of a future vision for Scottish education would go some way to understanding what the intended long-term plan is and what that means for structural change to support the phased implementation of this plan.

Secondly, there is a need to consider whether the priorities as framed adequately address the priorities of the Inspectorate where the provision of public assurance is challenged. Where does responsibility lie for ensuring that statutory requirements are met? By way of example, it is our view that in order to comprehensively provide public assurance, it is necessary to ensure that all employers of teachers are employing registered teachers who are deployed to roles in line with employer responsibilities detailed in 2005³ and 2017⁴. We note that assessing the registration status and deployment of staff is a feature of inspection in early learning and childcare.

Question 10: Do you have a view on these options for establishing the new approach to inspection?

We work in a statutory context which outlines the terms of our independence as a body. This includes detailed expectations in relation to our governance arrangements, which provides a clear framework for accountability and clarity of role. Our view is that such clarity is required for the independent Inspectorate. An aspect of our statutory arrangements that does not work as well is the one area where Scottish Ministers have retained control – the determination of teaching qualifications in further education. This has led to, in our view, unnecessary and

³ [The Requirements for Teachers \(Scotland\) Regulations 2005 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁴ [The Registration of Independent Schools \(Prescribed Person\) \(Scotland\) Regulations 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

complicated management of this aspect that has detracted from focusing on more impactful work directly affecting registrants.

With respect to the proposed advisory council it is necessary to establish what powers such a council would have. Our view is that there requires to be legislative underpinning to how this will work to ensure clarity and transparency.

Question 11: Do you have a view on how governance arrangements for the inspectorate could be developed to better involve providers, including teachers and other practitioners, pupils and students and parents / carers in inspection?

Our strong view is that governance arrangements for the new inspection body should be set out in legislation as opposed to policy to ensure transparency and scrutiny. This would also reflect the arrangements in place for the Care Inspectorate. As we have previously set out in our responses to questions relating to the governance of the qualifications body, decision-making responsibilities need to be clear at the outset and good governance needs to be supported. Are such individuals being asked to represent their group in the system and if so, how? What arrangements will be in place to help them to do this well? Any involvement of 'users' of the system needs to be systematised and clear.

In our view an embedded collaborative model of teacher involvement needs to be built, supported and valued. A mechanism for ensuring that teachers influence and inform the work of the Inspectorate is required, as well as more generally to inform policy development. Teachers are not merely policy implementers, they create policy on a daily basis as they respond to their learners, adapting teaching to meet changing needs. It is essential that our education system builds a sustainable model for engaging, hearing and responding to teacher voices.

Generally, we believe there is work to do across all bodies and players in Scottish education to more clearly govern decision-making: who can make decisions about what, when and how. We offer this feedback as a statutory body with distinct functions and our experiences on occasion in relation to the lack of respect that our governance requirements are afforded in this regard.

Question 12: Do you have a view on how we make sure evidence from inspections is being used as fully as possible to drive improvement and inform policy and on who the inspectorate should report to?

Again we seek clarity on the role of the inspectorate in system regulation. Roles and responsibilities must be clear. Evidence from our work as the regulator of individual teachers is that on occasion, public accountability isn't enough to ensure the improvement that is required.

There is also a need to carefully consider the mechanism for how inspection evidence is used that recognises that context matters – there is a need to be contextually literate – what works in one context may not necessarily in another due to a range of factors, some of which are in a school or service's direct control, some not.

It is essential in our view that not only should inspection evidence be shared in a meaningful, planned and coherent way, but that the professionalism of teachers is valued and supported. Initial and career-long teacher education is a balance between knowing and understanding about evidence-informed approaches and critically thinking about their use in specific circumstances with specific learners. This requires investment in high-quality career-long learning and education opportunities for teachers. The development of such a framework would provide the time and space teachers need to explore inspection evidence (as part of a range of information and literature), understand it, make plans to integrate in their own context, implement their plan and then evaluate and review it. Without such a structure the impact of the sharing of inspection evidence will be limited.

Our view is that the Inspectorate must report to Scottish Parliament in order to be independent. If it reports to Scottish Government, it becomes politically charged and political party influence jeopardises the inspectorate developing, making and sustaining long-term change which has the potential to play a key role in culture change in Scottish education.

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GTC Scotland

Comhairle Choitcheann Teagaisg na h-Alba

We are the teaching profession's independent registration and regulation body. We work to maintain and enhance trust in teaching.

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