



COSLA Response to “Empowering Schools: A Consultation On The Provisions Of The Education (Scotland) Bill”

Introduction

1. Local authorities play a fundamental role in the lives of children and young people in Scotland: their role as education authority is bound through legislation¹ with wider responsibilities for children's and family services, and underpinned by *Getting It Right For Every Child* (GIRFEC). Execution of this responsibility, which is democratically accountable to locally elected members, has been praised independently by Education Scotland:

"At education authority level, senior officers show a strong commitment to improving outcomes for children, young people and families...there is a sound understanding of the Getting it Right for Every Child approach and of the importance of multi-agency working to ensure that the needs of children and their families are met effectively and successfully."²
2. The Convention of Scottish Local Authorities (COSLA) is the national voice for local government in Scotland. As a key partner with statutory responsibility for delivery of integrated children's services including education, we welcome the opportunity to contribute views to this consultation. Our response is formed following collaboration and discussion with colleagues across the Local Government family including SOLACE, ADES, parent representative organisations, Trade Unions and, of course, local elected members.
3. While COSLA fully supports the aims of improving raising attainment and ensuring every child is nurtured to achieve their potential, we have serious concerns about many aspects of this consultation. Many of these concerns were expressed in our response to the consultation *Empowering teachers, parents and communities to achieve excellence and equity in education: A Governance Review* and we are disappointed that the majority of those comments – which were echoed by those of the wider local government family - have not been acknowledged in the development of policy which has resulted in this consultation.
4. The consultation document states that the Scottish Government are seeking views on whether the changes set out will deliver the empowered school and teacher-led system it is aimed to achieve. As currently set out, we are clear that they will not. The Government's own International Council of Education Advisers in a report in July 2017 said:

"At the Deputy First Minister's request, the Council also made some recommendations around the issue of governance. The Council felt that it was important to consider how to de-clutter the system without damaging it. **The Council advised against becoming too focussed on changing the structure of the education system when, arguably, the more important aspects are the culture and capacity within the system**".³
5. Local Government want to work with the Scottish Government to ensure that the aims we share can be achieved within a framework which will not damage Scottish education or the wider integrated children's services in which education operates.
6. We have chosen not to follow the structure of the prompt questions to allow for the fullest and most coherent presentation of the Local Government position. As part of our

¹ Children and Young People (Scotland) Act Part 3

² Education Scotland, *Getting it right for every child: Where are we now?- A report on the readiness of the education system to fully implement Getting it right for every child* (2012)

³ <http://www.gov.scot/Resource/0052/00522962.pdf>

work with the wider local government family we asked for examples of good practice within the current system. We have included some of these in the main response and others in Appendix A. We look forward to further dialogue on the points raised.

Key Principles

7. The COSLA position is underpinned by key principles which are held as fundamental to our position:
 - a. **The best interests of children and young people should be the primary consideration:** COSLA believes that the interests of children and young people should be at the centre of this debate: this requires active recognition of the interconnectivity of services supporting children and young people which cannot be achieved by a focus on schools alone. Education is a critical component of modern children's services but it must be considered as only one element of a multifaceted picture;
 - b. **Every child and young person in Scotland should be nurtured to achieve their full potential:** COSLA shares the Scottish Government's strong commitment to narrowing the attainment gap and supporting every child to achieve their potential but this cannot be achieved in the classroom alone. We believe that the proposed approach puts at risk the multi-agency improvements that national and local government has made so far towards improving the situation for children and young people living in poverty;
 - c. **A whole system approach is essential:** The Christie principles of prevention and early intervention mean that synergy between all components of learning - pre-school, school, out-of-school and further education - is crucial. Consideration must be given to ensuring any forward approach is a whole system approach across all streams of learning and all supports available through children's and family services;
 - d. **The role of local authorities is crucial to delivering a democratically accountable "whole system approach" service to families and communities:** Councillors are elected by local communities to provide support and challenge to officers delivering local services. There can be no more local service than that provided by a school. The local authority brings together professionals and colleagues across multiple services to provide a joined up service for young people and their families and officers and elected members ensure accessible points for accountability. There is no evidence that teachers and head teachers are hindered by their local authority colleagues in addressing the attainment gap and improving the delivery of education;
 - e. **Working collaboratively produces positive outcomes towards improving the lives of children, young people and families:** The aim of local authorities is and remains to develop effective collaboration which supports the statutory duty of councils of their education function and to drive improvement by being effective at individual authority, regional and national level. However, this can only be achieved within a framework which acknowledges and is agile to the reality of what works: guided by the core values of organic growth, flexibility and adaptability towards a commonly shared goal, without diluting local accountability. Imposed structures will not lead to successful collaboration.

Key Points

General

- The consultation document focuses on mainstream primary and secondary schools with no indication of how these proposals will work with Early Learning, Community Learning or Additional Support for Learning, and no consideration of the impact on headships across multiple schools. Therefore, the proposals do not consider the wide scope of children and young people's education and learning needs.
- There are many terms used without definition. Depending on an individual's interpretation of the use, the response will differ. For example 'curriculum' could be interpreted to relate solely to the offer of subjects within a school, or more widely to encompass links with colleges and employers in their provision of alternative learning pathways. It is our view that the curriculum should be interpreted in the widest possible sense
- There is a real risk that the proposals in the consultation would result in the loss of excellent local practice. Caution should be taken to learn from excellent practice without putting up barriers to its continuation.
- We are extremely disappointed and concerned that the proposals in relation to Regional Improvement Collaboratives (RICs) undermine the agreement on the operation of RICs between the Scottish Government and COSLA approved by the Deputy First Minister and Councillor McCabe in September 2017. The agreement in the *Report of the Joint Steering Group on Regional Improvement Collaboratives for Education*⁴ was that RICs would formulate regional plans drawing on local authority and school improvement plans. The agreement was clear that Improvement Collaboratives would complement the role of local authorities through the additionality which can be achieved through collaborative working. The report states:

"The Group was also clear that this was about all partners working differently, as well as about securing 'additionality' through collaboration, thereby protecting against displacement or replication of activity".
- This consultation suggests replacement, not collaboration.

The Role of Local Authorities

- Local democratic accountability is the cornerstone of local societies but accountability relies on responsibility for decisions. If there is no responsibility for decision making at a local authority level, local authorities cannot be accountable for decisions taken and in turn there is a total loss of democratic accountability. This has an impact on citizens. It is the role of an elected member to be the voice of their community – representing the voices of the vulnerable and providing a mechanism for redress when something goes wrong. The proposals as they currently stand would fundamentally undermine local democratic accountability.
- Local authorities are not arguing staunchly for retention of the status quo. We are supportive of reform and the need to build on best practice and look at how changes in culture and capacity can improve educational outcomes for children and young people. However, **we are clear that the balance to be struck is increased,**

⁴ Regional Improvement Collaboratives for Education: Report of the Joint Steering Group, September 2017

empowered decision making within an overall framework of the local authority as final arbiter. This is the only way to retain local democratic accountability.

- Local Authorities provide the framework within which schools operate. While the balance in this framework could be reviewed, it is not in any way desirable that the framework should be removed.
- At times, local authority intervention is essential. This can mean that decisions must be taken for the overall benefit of the authority but these decisions must be fully justified and are democratically accountable to local elected members. Without a mechanism for strategic decision making which sits above the individual fiefdoms of schools there would be no local ability to build new schools, close schools, or manage performance.

Collaboration

- The curriculum should be designed with the needs of local communities in mind and in a way that fits with the priorities of that community. Curriculum design and development should be collegiate and involve consulting with children, young people, parents and the local authority.
- The suggestion that the plan of a Regional Improvement Collaborative would *replace* a local authority improvement plan and that a local authority would no longer be required to produce an improvement plan ignores the fundamental principle that COSLA Leaders agreed – that RICs would represent additionality and not replacement of functions. The suggestion bypasses the importance of a local authority's role in improvement and undermines the agreement on the operation of RICs between the Scottish Government and COSLA approved by the Deputy First Minister and Councillor McCabe.
- The consultation emphasises school/school collaboration and local authority/local authority collaboration but a large degree of school/local authority collaboration is vital and is completely missing from the consultation document.
- Staffing is a partnership between the school and the local authority. If the proposals were to be laid before the Scottish Parliament as set out in the consultation document we have serious concerns that significant legal barriers would be created which would expose headteachers to personal liability. There could also be an impact on the safe working of all within a school.
- The consultation does not reference the Scottish Negotiating Committee for Teachers (SNCT) or the Local Negotiating Committees for Teachers (LNCT). These essential collaborations focused on workforce will be significantly impacted by the proposals, with a risk that they are undermined entirely.

Planning

- We believe that the proposals as they stand would, in practice, represent a move to disconnect school improvement plans from local authority planning systems which will undermine GIRFEC and the delivery of education as part of a whole system.
- The consultation implies that local authorities impose undue and unjustified restrictions on school improvement plans. This is not true. There is constant dialogue between schools and local authorities in the development of all plans. Schools look to local authority planning for strategic direction and to understand the

wider implications of integrated children's service planning, community planning and local outcome improvement planning just as those plans draw on school priorities.

Headteachers Charter

Introduction

8. The consultation acknowledges that already there are areas in the country where there are examples of excellent practice in devolving decision making to an individual school but unacknowledged is the reality that this is within the framework of support, challenge, improvement and strategic direction provided by the local authority. The consultation - in particular the section on the proposed Headteachers Charter - does not credit local authorities with the role they undertake as Education Authorities.
9. Schools are key partners in a local system of integrated children's services. No school is an insulated unit. Delivering effective education which improves outcomes for children and young people is a partnership between children, young people, parents, schools and the local authority. The success of the whole system relies on interdependence between elements which pull together under the strategic direction set by local authorities, and within a structure enabled by the local authority.
10. This complex framework of support, challenge, improvement and strategic direction within which education is delivered is not acknowledged. Nor is the work of the teams within local authorities who ensure the operation of this framework and the sufficiency of education across an authority. Fundamentally, the consultation does not acknowledge the symbiotic relationship between schools and local authorities which will be irreparably damaged by the proposed reforms.
11. Local authorities are not arguing staunchly for retention of the status quo. We are supportive of reform and the need to build on best practice. We believe that this can be achieved within the current legislative framework by looking at how changes in culture and capacity can improve educational outcomes for children and young people – as the Council Of International Advisers on Education have said. **However, we are clear that the balance to be struck is increased, empowered decision making within an overall framework of the local authority as final arbiter.**
12. The current proposals fundamentally alter the balance from collective accountability across the system, to a situation where individual headteachers will be personally accountable for their decisions. Even the responsibility to collaborate will rest on the shoulders of an individual Head. As discussed below, this would have serious legal implications but there are unintended consequences of such a move which we can learn from international experience.
13. There is empirical evidence to demonstrate that the consequences of removing the responsibility, accountability and ultimately democratic accountability of the local authority are significant and undesirable. In the 90's, Sweden moved to a system which shares many hallmarks with what is proposed in this consultation in relation to empowered headteachers. In 2015, the decline in standards caused the OECD to refer to the Swedish system as being "*a school system in urgent need of change*". Among other issues, the report⁵ outlined:
 - There is a lack of capacity and clarity in roles and responsibilities at various levels of the education administration, and **local autonomy is not matched with adequate public accountability**. These are key challenges for improving student performance.

⁵ <http://www.oecd.org/edu/school/Improving-Schools-in-Sweden.pdf>

- Lack of clarity and differing views on education priorities are diluting school improvement efforts and have led to cherry-picking of priorities at the local level. Unclear education priorities and a piecemeal approach to reform hinder the alignment, coherence and potential impact of reforms and policies.
14. The role of the local authority in Scotland currently answers these concerns. COSLA would urge the Scottish Government to work with us to ensure that the proposals are fit for purpose and avoid the unintended consequences which can be learned from the Swedish example, amongst others.

Curriculum for Excellence

15. **The curriculum should be designed with the needs of local communities in mind and in a way that fits with the priorities of that community. Curriculum design and development should be collegiate and involve consulting with children, young people, parents and the local authority.**
16. The consultation proposes that the Headteachers Charter will allow headteachers to design the curriculum in their school within a National Framework, but that local authorities will retain the duty to ensure sufficiency of education. These proposals are contradictory and cannot succeed in practice. It is not possible to hold a local authority to account for a decision to which they can bear no influence.
17. The local authority is uniquely placed to work with schools in this way. For example some subjects are demand led and the approach to how they are provided may vary from year to year. It is crucial that this collegiate approach is supported by a strategic local vision. The local authority also has a crucial role in supporting schools to collaborate.
18. Elements highlighted in the consultation as ‘restrictions’ are challengeable. In pursuit of the local authority’s duty to ensure sufficiency of education, it is sometimes necessary for the delivery of certain subjects to be secured on an authority-wide basis. For example, in a small authority it may be necessary for secondary schools to specialise so that one school offers Advanced Higher qualifications in social science subjects while another will offer Advanced Higher qualifications in Chemistry, Physics and Biology. Timetable alignment and transport allows students to travel between schools to access a full curriculum. This is a good example of collaboration in response to local circumstances and needs.

An example of flexibility and collaboration on the curriculum

A local authority a working party of head teachers was set up to look at co-designing a senior phase curriculum for the whole authority which would allow schools to work together to increase the choices and pathways for pupils. The advantages of this approach are that there is an increased offer for first choice senior phase subjects, more time spent on subjects that pupils wanted to take further e.g. Higher, easier transfer between schools and increased possibilities for Advanced Highers. This approach relies on all schools collaborating – very much working together to seek the best solutions for pupils across the whole authority.

19. The strategic role of the local authority in this decision making is crucial in ensuring equity in delivery of the curriculum and any enhanced decision making at school level needs to maintain a role for the authority. This role is also necessary to ensure national policies, such as the STEM Strategy, can be fully implemented. It is possible that a

headteacher could decide to prioritise arts subjects over sciences with the consequence that STEM learning is impacted. In a situation where the headteacher is the final decision maker, the local authority would have no influence and there would be no democratic accountability for the decision.

20. We are concerned that the approach outlined in the consultation risks sacrificing elements of excellent practice. The consultation document highlights that there is existing excellent practice in local authorities to enable design of the curriculum in secondary schools and helping schools to be more efficient and collaborative – for example through timetable alignment or e-learning. This is possible because of strategic decision making at a local authority level. E-learning, for example, is only possible where a decision is taken to develop or buy in to such resources, requiring a budget decision and possibly an authority-wide service level agreement.

An example of collaboration and linking with the community

For the past 6 years a local authority has ran an initiative where all 9 secondary schools in the area were allocated additional funds to support a vocational initiative. Schools were free to develop a package to meet their own needs, but required to involve the local community and employers. Good practice was shared between schools and there was close collaboration between schools.

Improvement

21. As explained in more detail below, COSLA are clear that the agreement reached between local and Scottish Government in relation to Regional Improvement Collaboratives (RICs) was about the ability of RICS to bring additionality to the work of local authorities. **The suggestion that a local authority would no longer be required to produce an improvement plan ignores the idea of additionality, bypasses the importance of a local authority's role in improvement and undermines the agreement on the operation of RICs between the Scottish Government and COSLA approved by the Deputy First Minister and Councillor McCabe.**
22. **Local authorities should continue to be required to produce an improvement plan in collaboration with schools.** These plans are used as the basis of scrutiny and performance management for local elected members and are essential to realising democratic accountability. It is essential that the wider role local authorities have in relation to education and links to wider activity on reducing poverty and inequality are recognised. The strategic approach taken by councils is crucial in this.

An example of local authority oversight and improving practice

A local authority school received a second poor inspection report. The authority took a decision to re staff a primary school over the Christmas break, before a report was published. This involved redeploying staff to other schools and identifying staff who were able to take forward the improvement actions required. It was apparent to the authority that the original team were not working well together and achieve all that needed to be done. Improvement was achieved.

23. There is also a duality which is not recognised in the consultation where schools look to local authority improvement plans to inform individual school plans just as local authorities consult with schools in the development of a local authority plan. Needs identified through the local improvement plan should inform the work of the RICs by allowing for the identification of areas where additionality would bring benefit. This dialogue between planning is wider than education improvement plans and flows

through integrated children's service planning, Community Planning and Local Outcome Improvement Plans. Audit Scotland has highlighted the power of this in best value reports they have published:

“the education service contributes to all of the council's priorities but in particular the priority to ‘promote successful, thriving communities. As part of this strategic priority the council is also making positive progress towards improving outcomes for young people through enhanced experiences while they are in education”.⁶

24. In the development of school improvement plans, it is right that headteachers should consult with their school community but there should also be a duty to work collaboratively with the local authority and to seek feedback on their plans. As above, schools are not insular units. To produce a school improvement plan without recognition of the wider system which schools are a part of would not be in the best interests of children and young people, nor would it allow for schools and local authorities to meet duties to reduce inequalities.

An example of a whole system approach

In one local authority the Care Inspectorate found that the community planning partnership was making a significant difference to the lives of children and young people by embedding a nurturing approach across children's services; mitigating the adverse consequences of child poverty through an extensive cross-cutting range of strategies and investing significantly in prevention and early intervention, especially from pre-birth to commencement at school.

25. **We believe that the proposals as they stand would, in practice, represent a move to disconnect school improvement plans from local authority planning systems which will undermine GIRFEC and the delivery of education as part of a whole system.** Such a move would also severely limit local authorities ability to support and challenge schools in relation to improvement.

Staffing

26. **Staffing is a partnership between the school and the local authority.** COSLA recognises the important role that headteachers already play in the recruitment of staff to their schools. The consultation document notes that although there is variability between local authorities, headteachers do currently have a role in general recruitment and there are examples of where headteachers are able to decide on most of the permanent appointments to their school. At the same time, the consultation recognises that headteachers also have a role in designing the staffing and management structure in their schools.

An example of collaboration on staffing

A local authority deploys a management points system for promoted post structures in primary and secondary schools is in use. This is effective in enabling headteachers to design, within an agreed financial envelope, a promoted post structure which meets the needs of their school. The authority and the schools have a clear process for requests which includes a degree of challenge to ensure that the plans are robust, well-considered and sustainable.

⁶<http://www.audit-scotland.gov.uk/report/best-value-assurance-report-orkney-islands-council>

27. Whilst we recognise that there is variation, we believe there is an opportunity to build on practice that would meet the aim of giving headteachers more of a say in deciding who works in their school. However, this must be done in a way which protects staff and so a local authority framework is essential:

An example of authority oversight to ensure good practice

A local authority headteacher wanted to employ a social worker. On the face of it this was an understandable decision based on what the headteacher believed to be a need within the school. It was not however possible for the headteacher to do this without the support of the authority as there were no systems in place to ensure rigorous professional support supervision and development for a social work professional in a relatively isolated school setting.

28. Building on the identified good practice is a proportionate way of ensuring that headteachers are satisfied that they have the correct staff team and structure to deliver high quality education that benefits all children and young people while also ensuring staff are working in a safe environment.
29. We are concerned that proposed changes could create pressures which have a negative impact on headteachers ability to deliver education to children and young people thus undermining much of the good work that has gone in to closing the attainment gap. As set out in the consultation, the proposals could mean that we would be legislating to effectively establish barriers to teacher recruitment and create divisions between the local authority as the employer and the headteacher as an officer of the authority. **If the proposals were to be laid before the Scottish Parliament as set out in the consultation document we have serious concerns that significant legal barriers would be created which would expose headteachers to personal liability.**
30. COSLA has received legal advice which sets out the significant consequences for both local authorities and headteachers should the proposals in the consultation be implemented:
- Local authorities will be required to produce extensive guidance for headteachers which they must follow as the authority will be vicariously liable for any acts or omissions of a headteacher.
 - **If a headteacher acts outside of guidance, it will be possible to sue individual headteachers. Therefore, all headteachers will require insurance extra to current local authority insurance.**
 - Where a headteacher is sued, they will require independent legal advice. There would be a fundamental conflict of interest which would prevent local authority lawyers from advising a headteacher if a local authority was or could be listed as a second defender in any action.
 - Headteachers may also have to seek independent legal advice on the implications of their actions in relation to, for example, discipline decisions.
 - It will be for Employment Tribunals to decide contributions towards compensation awards. If headteachers have greater autonomy and therefore greater responsibility for their actions, it is likely that they will be required to pay the greater share of compensation even where a local authority is the second defender.

- There is a conflict between the local authority remaining the employer of all staff when headteachers could veto transfers - this could lead to claims against a local authority if they could not fulfil their duty to redeploy staff because of a headteacher refusing a transfer.

31. As the Scottish Government are aware there is already a process for negotiations between employers and employees on pay and terms and conditions. The Scottish Negotiating Committee for Teachers (SNCT) is a tripartite arrangement which has been effective in negotiating often complex issues around pay and conditions through well established processes and structures. The consultation makes no mention of the SNCT and the impact that the proposals will have on those structures. The proposals put at risk the effective operation of the SNCT.

32. In addition the proposals take no account of the role of the Local Negotiating Committees for Teachers (LNCT). Local representatives from employers and Teacher's side identify local issues which can either be resolved at that level or fed into to the SNCT. There is no assessment in the consultation of the impact the proposals will have. We would be concerned that with the proposed devolution of staffing to headteachers the LNCTs would become unworkable which would then have a destabilising effect on the whole negotiating structure. Although the local authority would remain the employer the fragmentation of responsibility for staff would mean that it is likely that it would be headteachers who have to acquire the local knowledge of issues normally identified through the LNCTs.

Funding

33. COSLA submitted a response to the Fair Funding to Achieve Excellence and Equity in Education on consultation in September 2017. In our response we recognised that the Devolved School Management (DSM) scheme would benefit from improvement and we are currently working closely with the Scottish Government on how this can be achieved.

34. As part of this work we will look at best practice for involving headteachers to have more of a say in how the budget allocated to their school can be used on delivery of school education. Our approach to this joint work with the Scottish Government is informed by a number of key points drawn from discussions with the wider local government family:

- We need to build flexibility into the education system which allows teachers to be leaders in their learning communities without placing the additional burden on them of managing significant budgets.
- A multi-agency, holistic approach which puts the child at the centre is needed to bring services together to address all of the contributors to attainment: bringing together social work, health, the third sector and others to assess a child and family's needs together as agencies. This is the embodiment of GIRFEC and requires a whole system approach to funding.

An example from a deprivation perspective

A local authority with high levels of deprivation takes an approach to funding that allows for distribution of extra resources linked to deprivation and provides funding for schools to best meet the needs of their social and geographical areas. Part of this targeting of resources involves working jointly with a large third sector organisation to provide training and capacity building to teachers in attachment and nurture approaches in nurseries, primary and secondary schools. This targeted strategic approach has benefits that include resources being used effectively to tackle the poverty related

attainment gap and consistency in approach to the type of support a child receives throughout their education.

It also means that the high quality specialist support provided by the third sector organisation can be negotiated at an authority wide level in partnership with headteachers. The third sector organisation have told the authority that it would be very difficult and less effective if they were required to negotiate with every school in the area to provide such a service.

- Democratic accountability is at the heart of the current system. Decisions must be taken as close as possible to the communities which are affected by them. However this is only democratic if those decisions are taken by representatives who have been democratically elected to take them and be held accountable for them.
- The strength of the current DSM scheme is that it is democratically accountable. Decisions taken on how budgets are devolved to schools are subject to the same scrutiny as all the decisions taken by local authorities. There should be no change to the current principle that local authorities should take decisions about the management of local budgets and, within that, the level of resource to be devolved to school level. This decision process should be transparent and taken in consultation with Headteachers.
- In most cases budgets devolved to schools are the maximum amount possible within the overall settlement. There are however issues with how flexible headteachers can be with those budgets. Flexibility in terms of how the money is spent is reduced given that the main proportion of the devolved budget will be allocated to staffing as a result of the requirement to maintain pupil teacher ratios.
- The consultation on the Bill points to the Pupil Equity Fund (PEF) as being a model which supports devolving budgets to headteachers. Feedback from local authorities suggests that the current operation of the PEF has been problematic with the creation of more bureaucratic structures both in terms of reporting and implementation. There is a concern that the scheme is creating 'silo' working, which can detach important elements of education from a whole system approach. How money is spent may largely be driven by the individual priorities of headteachers with no clear link to Children's Services Planning, Community Planning or wider Local Outcome Improvement Planning. It is our view that this disconnect is likely to make it increasingly difficult to take an outcome based approach to supporting the wellbeing of children and young people which may have a negative impact on closing the attainment gap.
- Local authorities have a strong tradition of securing Best Value in the delivery of public services and there is a clear link between the use of public finances and community wellbeing.

Supporting Empowered Headteachers

35. Local authorities already provide wide ranging support to headteachers in a way which is collaborative. We believe that we should not underestimate how empowered headteachers are at present whilst acknowledging that more can be done to support them in their role. We recognise the need for headteachers to be involved in the RICs but the day to day collaboration should be with the local authority.

36. We are concerned that there is no reference to the need for schools to collaborate with local authorities. This could lead to a situation where a school could refuse all support and it would be outside of the ability of the local authority to make any changes. Equally, In these circumstances it would be very difficult for the local authority to challenge where this was necessary. The consultation emphasises school/school collaboration and local authority/local authority collaboration but a large degree of school/local authority collaboration is vital.

Examples of school/school authority/school collaboration

In one local authority primary schools involved in the Attainment Challenge work in clusters with the support of the authority to share practice and to lead improvements. All schools and nurseries are in Local Improvement Groups which are built on the principle of collaboration.

Another authority has a programme for teachers which involves teachers working in threes or fours sharing practice and visiting each other’s schools and classes. In addition all secondary schools participate in one of three professional development programmes to improve learning and teaching – an essential element is working in trios to share practice and visit each other’s schools and classes.

37. The diagram set out on page 14 is not an accurate reflection of the agreement that local authorities would have a central role in supporting schools rather than a peripheral role only focussed on HR and Finance. We would envisage a model which look much more like the diagram A below

Diagram A



Parental Involvement

38. COSLA agree that parents have a vital role to play in children's education. Schools and local authorities have a strong track record in involving parents and the wider community in school life. This is underpinned by clear legal duties on local authorities and headteachers in the Scottish Schools (Parental Involvement) Act 2006. We acknowledge that the reform of education is an opportunity to strengthen the legislation and improve the involvement of parents and communities.
39. We believe local authorities have an important role to play in facilitating the involvement of parents in school life and in their children's education. Whilst we acknowledge that changes will be required to take account of the proposed enhanced role of headteachers we are concerned that the part of the consultation document on parental and community engagement makes no mention of the part that local authorities currently play or what their function will be in future arrangements. We would be opposed to any dilution of the functions of local authorities and particularly if the intention was to remove the legal duties that are currently in place under the 2006 Act.

Example of supporting parental involvement

A local authority has a Parent Partnership officer who plays a very valuable role working across the authority supporting Parent Councils and schools. In addition there is an authority wide Parent Council Forum which brings together chairs of Parent Councils from across area and enables them to consider area-wide issues and contribute to policy development through meeting with officers.

40. Parents and families make up our communities. If the power to involve parents is removed from local authorities it undermines our role as representatives of those communities.
41. Local authorities also have a role in working with schools to identify those parents who are underrepresented in school life and find it challenging to support their child's education. Whilst there is a proposal to update the duties on Parent Councils to represent the diversity of the school community there is little detail about how headteachers and the parent council will involve parents from refugee and asylum-seeking families, homeless families, minority ethnic families, traveller families, families of prisoners or parents of children with additional support needs. Local authorities have a great deal of expertise in working with these families and it is important they have a role in supporting their involvement in their child's education.

Pupil Participation

42. Involving pupils in decisions that affect them is an important part of their education and we know that schools are increasingly aware of the role that participation has on educational performance, self-confidence and overall attainment. We would support the development of a consistent framework across Scotland for participation whilst leaving headteachers to decide on the right model of participation for their learners. We would not however be in favour of an additional legal burden in the form of a general duty on headteachers to promote and support pupil participation. COSLA are not aware of any evidence that suggests such a duty is required and would question whether it was enforceable.
43. The principles to support effective participation, collaboration and dialogue; authenticity; and inclusion could be linked to the more consistent framework suggested in the consultation document with additional guidance for headteachers if necessary.

44. The consultation document proposes potential strategic duties on Ministers and local authorities to ensure that young people are supported to influence the development of local and national education policy. Whilst COSLA is supportive of involving young people in the development of policies that affect them we would need to discuss with the Scottish Government what this meant once the proposed Bill has been passed and we have clarity on the role that local authorities have in delivering education.

Regional Improvement Collaboratives

We are extremely disappointed and concerned that the proposals in relation to RICs undermine the agreement on the operation of RICs between the Scottish Government and COSLA approved by the Deputy First Minister and Councillor McCabe in September 2017. The agreement in the *Report of the Joint Steering Group on Regional Improvement Collaboratives for Education*⁷ was that RICs would formulate regional plans drawing on local authority and school improvement plans. The agreement was clear that Improvement Collaboratives would complement the role of local authorities through the additionality which can be achieved through collaborative working.

45. The current proposals which suggest that a regional improvement plan would *replace* a local authority plan is, in our view unworkable and undermines the idea of additionality by effectively removing any meaningful role for the local authority in improvement.

Example of authority school collaboration in improvement planning

A local authority has a streamlined approach to Improvement Planning. School's take guidance from the central education team. The School Improvement Plan (SIP) is linked to the Educational Services Plan and support and guidance are provided by the authority. The authority provide training on the writing of the SIP and guidelines regarding time frames are given by the central team. Headteachers have the opportunity to evaluate the authority plan through collaborative activities at headteacher meetings. Clear targets are in place to support schools in reducing the poverty related attainment gap and the authority support schools by producing collective school data in a concise and manageable way. This enables schools to work in a collaborative way with colleagues across the authority.

46. We would not be in favour of a duty on local authorities to collaborate with partner councils and with Education Scotland in a RIC. This is because we have a collective agreement with all 32 council leaders agreeing to what is outlined in the report of the Joint Steering group and this should be taken as a commitment from all local authorities to participate in RICs. Given that the RICs have been established and are now beginning to prepare their own plans a duty would be retrospective and in our view unnecessary. As we outlined in a meeting with the Deputy First Minister we would want to avoid a situation where a legal duty to collaborate tied a local authority into collaborating with only those involved in the RIC they were a member of when they may also work jointly with authorities in other collaboratives.
47. We believe that planning cycles should be three years with an annual progress report

⁷ Regional Improvement Collaboratives for Education: Report of the Joint Steering Group, September 2017

Education Workforce Council

48. COSLA notes the suggestion in the Consultation document that a single Education Workforce Council (EWC) would improve the professionalism of all employees working in Education. Once again, it is disappointing that this continues the position that education professionals should be silo-ed from their colleagues working in other areas of Children's Services. A list of proposed functions are set out on page 28 of the document and this includes a commitment to provide advice to Scottish Ministers but makes no mention of local government as the employers of all these professionals. This must be addressed as the Education Workforce Council must be accountable to local authorities as the employers of those working in our services.
49. We note that the proposal from the Scottish Government runs counter to the views of the General Teaching Council for Scotland in terms of what is required. In their response to the Education Governance review, they argued that there should be an extension to their current role and function. We understand they have significant concerns about the additional legal, financial and operational implications of establishing a new body. The time and financial resource associated with such a move must guarantee benefits to our children and young people or risk being a poor use of public money.
50. The proposals in the consultation would mean that more colleagues in the education related workforce would have to register with the EWC. One particular concern we have is the impact on the Community Learning and Development (CLD) workforce. The current system of registration is voluntary for this workforce. If this was changed to be mandatory, then account needs to be taken of the fact that 40,000 of the 47,000 staff involved are volunteers. We need clarity from the Scottish Government that there is no intention that these volunteers would be required to register. If this was the case there is a danger that many would stop volunteering with significant implications for the delivery of local authority CLD services.
51. There is a proposal that early years practitioners would register with the EWC. Currently early years practitioners are required to register with the SSSC. It is not clear from the consultation if this means they will have to register with both bodies. This would seem an unnecessary step which would place an additional financial burden on a workforce at a time when we already have concerns that we may not have the number of ELC practitioners required to deliver the 1140 expansion by 2020.

Offer

52. COSLA fully supports the drive to achieve excellence and equity in education and to close the poverty related attainment gap. We believe that we are starting from a solid base. There are many strengths in the education system and we would reject any assumption that it is 'broken' We know that levels of attainment continue to improve year on year.
53. Improving Schools in Scotland: an OECD perspective⁸ recognised core strengths of education delivery; schools are inclusive; students are resilient and attainment levels are increasing. It also highlighted the positive progress which has been made on a system wide basis to lessen bureaucracy support teaching and learning.
54. To deliver education that is high quality and which supports all children and young people to reach their full potential it is vital that there are strong partnerships between children and young people, parents, schools and local authorities. We also recognise the need for wider

⁸ Improving Schools in Scotland: an OECD perspective

collaboration at a regional and national level. However it is that local partnership with local knowledge and experience which will contribute most to closing the attainment gap. As such we need to build on the strengths of the current system and this offer is based on that approach.

55. Local authorities are prepared to look at how changes in culture and capacity can improve educational outcomes for children and young people. This involves striking a balance between increased, empowered decision making within an overall framework of the local authority as final arbiter. As part of a reform agenda local authorities will continue to work supporting change, taking a strategic overview and bringing knowledge of wider community needs which would contribute to a whole system approach to education. Local authorities also bring significant resources to support schools.
56. A first step in this will be to retain the local authority role in curriculum development and delivery. This should be carried out collaboratively with teachers and schools before being fed up and into the RIC. The Collaborative could then provide advice and assistance where necessary. The consultation document points to examples of work being done in some areas to enable design of the curriculum to be more efficient and collaborative. The aim should be to build on this and ensure the design and development of the curriculum is informed by local needs.
57. A second and vital step is for local authorities to continue to be produce local improvement plans. As such the duty to produce the plans should be retained. These plans would be informed by individual school plans which then in turn go on to inform the regional plan which will in any case will involve headteachers, local authorities and the regional collaborative. This will ensure that democratic accountability is retained and that regional plans are informed by the needs of children, young people, families and communities.
58. Local authorities will work with schools and other stakeholders to build on practice which ensures that headteachers have a central role in the appointment of permanent staff. At the same time they will build on the good practice that exists in working with headteachers to design the staffing and management structures in their schools. This non legislative approach will keep clear lines of accountability between local authorities as employers and headteachers as employees, maintain established negotiating structures and avoid the risk of complex legal implications for authorities and headteachers.
59. We will continue to work with the Scottish Government on a refresh of the Devolved School Management Scheme.
60. We believe that the proposals around the RIC are in breach of the agreement between COSLA and the Scottish Government. Restoring the agreement reached through the Joint Steering Group should underpin the points made above.

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