



UNISON Scotland Response to the Scottish government consultation on

Empowering Schools: A consultation on the provisions of the Education (Scotland) Bill
January 2018

Introduction

UNISON is the largest trade union in Scottish public services. Our members deliver services, pay taxes and also have a wider citizenship interest in how services are provided and paid for. Members have a unique perspective on public service delivery meaning they can make a valuable contribution to the policymaking process. Our members provide essential roles in schools, early years, colleges and universities. These roles, while often overlooked by policy makers, are essential for the delivery of excellence and equity in education. UNISON Scotland welcomes the opportunity to respond to the consultation on Empowering Schools: A consultation on the provisions of the Education (Scotland) Bill

Response

UNISON is disappointed that the responses to original consultation have been ignored. When responses to a plan are so overwhelmingly negative it is best to take those views on board. Instead the Scottish government are moving forward with these much criticized plans. The governments' own analysis of responses showed widespread opposition to the plans. The Scottish government's local income tax faced similar criticisms they initially pushed forward with the plan before quietly shelving the tax. It may be currently politically popular to ignore experts but it is not the way to develop good public policy. Key problems in Scottish education are budget cuts, a teacher shortage and loss of support staff. PEF finding can't hide those cuts. The government should focus on tackling the real problems: funding cuts, poverty and inequality rather than restructuring. What is needed is more funding in education and wider local government services which support children and families.

As things stand there is no spare capacity in schools, all staff are working long hours. There is no time for reflection far less personal development and collaborative exchange. Distancing schools from wider children's services will also make it harder to deliver wider support for children and/or their parents. This will make it harder to provide the support many children need to benefit from the education services offered in their school

There is already a shortage of teaching staff with many schools struggling to recruit teachers and there is an even bigger problem in recruiting and retaining head teachers. We see nothing in the proposals which will make the job more attractive. In England where heads already have a range of the responsibilities/powers proposed they too face a substantial recruitment crisis. According to the Guardian¹ one in four schools could be affected by a lack of heads, deputy heads and assistant heads by 2022. The report states that schools spend up to £200m on recruitment and yet many still fail to find the right quality of candidate for these vital leadership roles. At a time when public services are facing substantial budget cuts we cannot afford to waste money on schemes that have failed elsewhere.

UNISON believes that education, including early years and childcare, should be both comprehensive and delivered free at the point of use by local authorities. Delivery via local authorities offers democratic local accountability and efficiency through economies of scale. It

¹ English schools shortage of heads by 2022 Guardian 11/11/2016
<https://www.theguardian.com/education/2016/nov/11/english-schools-shortage-of-19000-heads-by-2022-report>

also ensures that education services are embedded in wider children's services. The key issue for school education is not structures but budget cuts. Schools have had £300million² in cuts over the last five years with more to come. The Scottish Parliament Information Centre report indicates that spending per pupil has been cut by £1141 per pupil since 2011³. UNISON believes that it is investment in schools and the development of education teams that will drive attainment and close the attainment gap. Instead this year will focus attention on governance structures, funding routes and formulae. The experiences of our members of similar policies in the rest of the UK raise serious concerns about their introduction in Scotland.

Schools need adequate funding. Giving money direct to headteachers may give the appearance of more money for schools to spend but that money has to pay for a wider range of services. If you increase the range of things that a school has to pay for out of its but don't increase the budget to fully meet those costs it's not an increase in funding at all. However politicians may try to spin it. Our experience of changes in the rest of the UK shows that the economies of scale offered by the support/services provided by local government are lost and schools have increased demands placed on them. They then have to source and pay for those services from their own funds. This led to cuts in jobs and lower pay, cuts in hours and the wider terms and conditions of our members. The formal and informal links to wider children's services are also weaker making it harder to deal with the "whole child".

UNISON welcomes the Scottish government's commitment to close the attainment gap and the focus on both excellence and equity. The most recent PISA results show that Scotland's schools continue to slip down world rankings. In 2000 Scotland was sixth in the rankings for reading, we are now 23rd. We have gone from ninth in mathematics in 2003 to 24th and from tenth in science in 2006 to 19th. Within the UK Scotland has fallen from leading to behind England and Northern Ireland in both reading and mathematics. Scotland does still have a high quality education system but other countries are making improvements at a better rate. Something does indeed need to be done. The question is what.

The government has already commissioned research in this area and there is much in both *Shifting the Curve*⁴ and *Improving Schools in Scotland*⁵ which could help achieve these aims. We would therefore welcome discussion and implementation of the recommendations in these reports. Neither of these recommended reviewing governance structures. The OECD's wider indicators for good education governance start with "a focus on processes not structures". It is therefore surprising to see the government continue to focus on structures.

OECD five key components to good education governance

- Focuses on processes not structures
- Is flexible and can adapt to change
- Works through building capacity stakeholder involvement and open dialogue
- Requires a whole system approach
- Harnesses evidence and research to inform policy

The OECD report on Scottish education points out successes and challenges in the Scottish education system and offers recommendations to drive continued improvement. The report points out that it is time "for a bold approach that moves beyond system management in a new

² <http://www.telegraph.co.uk/news/uknews/scotland/12132556/300-million-cut-to-Scotlands-schools-after-SNP-targets-councils.html>

³ <http://www.scotsman.com/news/education/scottish-school-budgets-cut-by-1-2bn-since-2010-1-4490713>

⁴ *Shifting the Curve* Naomi Eisenstadt January 2016 <http://www.gov.scot/Resource/0049/00492430.pdf>

⁵ OECD *Improving schools in Scotland* 2015 <http://www.oecd.org/edu/school/improving-schools-in-scotland.htm>

dynamic nearer to teacher and learning” Instead we are seeing a continued focus on systems and governance.

The report calls for a “strengthened middle operating through collaborative networks among schools and across local authorities.” These proposals seem to be offering the opposite increasing centralisation; putting work into schools rather than taking some work away from schools to create capacity to build the local collaborative networks and time to reflect and learn from others through the collaboration. This is what they meant by “across local authorities”. This means not allowing boundaries to stop people networking on the ground when they can help each other. Calling new regional bodies “collaborative” is not how you create and strengthen collaboration between staff in schools. Collaboration is about networks on the ground, building relationships and trust. This means people need to get out of schools and meet each other, exchange ideas and learn from the interactions. It cannot be a top down process. These proposals are about very senior staff networking not those delivering in schools. It is also important to note that education is delivered by a whole team of people who also need space and time to develop and improve their practice. The government should be freeing up heads to focus on pupils and the learning and development of their staff. As things stand there is no spare capacity in schools, all staff are working long hours there is no time for reflection far less personal development and collaborative exchange.

While expanding high quality early years’ services and supporting children in schools will help mitigate the impact of poverty, tackling the attainment gap requires tackling poverty itself. This will require substantial investment in public services and use of all of our tax powers to redistribute wealth more fairly so that we can deliver for those from poorer backgrounds, not just those who are well informed and well connected enough to work the system. UNISON would welcome the government investing in the recommendations of its own advisor:

The key recommendations in *Shifting the Curve*⁶ would be a much more effective route forward:

- Ensure childcare commitments focus on quality to improve outcomes
- Be bold on local tax reform
- Build more social housing
- Carry out a comprehensive review of the policies and services relevant to the life chances of older children and young adults with particular emphasis on young people from poorer backgrounds.

Ms Eisenstadt also points out that

“It’s very difficult to deliver services that are under constant strain”

We cannot separate improving the delivery of services from providing adequate funding for those services. Our recent survey⁷ of our members in schools reveals the impact of cuts: shortages of staff and resources and staff working long hours to try and keep up standards. The PISA results show that this is having an impact on the quality of education. The Damage⁸ series shows the impact of the cuts on wider local government services.

Our concern is that the proposals to set up regional boards and to push work down to school is driven by cuts rather than expectations that these are the right changes to deliver

⁶ <http://www.gov.scot/Resource/0049/00492430.pdf>

⁷ <http://www.unison-scotland.org/2017/01/16/hard-lessons-support-staff-struggling-to-maintain-standards-for-pupils-because-of-cuts/>

⁸ <http://www.unison-scotland.org/campaigns/public-works/damage/>

improvements. The regionalisation of college governance and the centralisation of Scottish police and fire services are not examples that we believe schools should follow. Audit Scotland's latest report on further education reiterates previous statements about the lack of robust data on any savings made. Cutting funding and leaving the remaining staff to get on with it as best they can is not "efficiencies" or "savings".

Current education structures provide democratic accountability through local government. Parent councils and parent forums also exist to give parents a voice in their children's schools. Local authorities also provide a balance allowing economies of scale for HR services, purchasing and specialist support. Where there are difficulties for head teachers accessing the support they need the issues are about staff shortages and budget cuts not the structures involved.

Our members working in administrative and clerical roles are also telling us that they are struggling to cope with their workloads. Devolved school management means that head teachers already have substantial powers over the delivery of education in their schools. Additional "powers" for head teachers will mean additional work not just for themselves but for the wider teams. The long hours and additional workload are already creating a problem recruiting head teachers. Head teachers could be given complete control over staffing in their schools for example but unless they can make the current staff redundant and start from scratch then the reality is that they will only be able to make choices when people leave, which they currently can anyway. Heads in England initially attracted by the carrot of keeping the 10% of funding that sat with local authorities had to buy in services from the local authority or an alternative provider. That money goes very quickly.

Headteachers have to become procurement professionals sourcing materials, school meals and support such as educational psychologists. This can lead to reluctance by schools to take any pupils who may incur extra costs such as children with a additional support needs or challenging behaviour. School exclusions have sky-rocketed in England while the Scottish approach has led to this becoming a very rare event. Schools in England are now employing HR and business managers because of the work involved in purchasing and staff recruitment. Savings to pay for this are being made through cutting other jobs or taking staff out of national pay agreements and pushing down their wages. Support staff bear the brunt of the wage cuts.

Taking work back into local authorities allowing heads to focus on educational improvement rather than HR and procurement would do more to improve standards than dumping more of this work on them.

Decisions about individual children's education are already taken in schools. The difficulty is whether there is funding to deliver for children in a way that meets their individual needs. There also needs to be funding for specialists to identify more complex needs whether that is due to disability, mental health problems and/or to meet the needs once they are identified. The waiting time for assessment by a speech therapist or educational psychologist and the rationing of access to the ongoing support from these services is not down to lack of power for head teachers but a lack of adequate resources.

Democratic accountability is vital and it is through elections and contact with those elected that citizens can hold service providers accountable. Keeping control of education in local authorities is a vital part of that accountability. We already have some of the biggest councils in Europe we should be working to strengthen those links not adding extra layers above them. The reform of ALEOs, Police and Fire and further education should raise serious concerns about the loss of local democratic oversight for any more services.

In order to drive improvement there needs to be more scope for education and professional development for all the staff working in education. The consultation document barely makes a mention of the wider staff teams that are so vital to the delivery of education both within schools and local authorities. Where they are mentioned it is as “non-teaching staff”. Members find it insulting to be referred to by what they allegedly don’t do. School support staff is a much more positive generic term for the range of roles they cover. A wider recognition and investment in these staff and the services they provide will support all children and is also crucial to closing the attainment gap. Cuts and closures of school libraries and technicians, for example, are already impacting on children’s learning. The better-off are more likely to have the contacts or the purchasing power to ensure their children get access to a wide range of opportunities, one-to-one support and educationally enhancing activities. Cuts to local government budgets are widening the attainment gap.

UNISON believes that these plans will not drive improvement in education. If the Scottish government does decide to move ahead with them then they must ensure that the staffing issues are resolved before not after the changes. While the paper states that local authorities will remain the employer across schools and regional collaborative it’s not clear how this could work in practice. If there is to be no change of employer then the lines of management budgets and accountability also need to be properly set out to avoid turf wars and conflict in general.

While teachers have national terms and conditions that is not the case for the rest of the staff. There are substantial differences in their roles and responsibilities across Scottish authorities. The so-called empowerment of headteachers in England has led to a reduction in wages and terms and conditions of our members already. Allowing even more local variation in job descriptions and wages will add further complexity and increase the HR workload in schools. It is also not clear how issues like in-service training, sickness and maternity pay and leave, supply staff and redeployment will be managed. Leaving these things to be worked out after the change, as has happened so often in the past, is bad for both staff and management morale and ensures that the focus is on HR issues rather than on delivering services.

Headteachers’ Charter

It is very clear that the problems in our schools are not caused by lack of power for headteachers other than they are not able to eradicate the poverty and inequality that leads to the attainment gap. The real issues are budget cuts and shortages of teachers and headteachers. As headteachers in England have found to their cost the delegation of budgets for staffing and procurement brings more work and the “extra” money they thought they would control doesn’t go very far.

Is there evidence that headteachers want the changes laid out in the consultation? It is already difficult to recruit headteachers. Focusing the job away from pedagogy and more on to management, HR and procurement doesn’t seem a very effective route to encouraging people to take on the jobs. Headteachers already work long hours with high levels of responsibility for staff and pupils: lightening the work load not adding to it seems a more effective route forward.

If headteachers are going to take on these extra roles then they will require training in HR, employment law, finance and procurement practices. Administrative and clerical teams will also need extra training and resources to cope with the increased workload. It is budgets which limit staffing decisions not local authorities. Unless headteachers are going to be given powers (and the budget) to make their current teams or some staff members redundant then they aren’t really getting the power to decide anything until people leave. That doesn’t seem to leave much opportunity to redesign teams. Part of the reason why local authorities allow and organise the

redeployment of staff across an authority is that it makes it easier to change structures/staff mix within schools without losing skills and experience and avoids redundancy costs.

We need much more detailed answers on how the redeployment of staff can be co-ordinated under the proposed system. It will be hard to recruit and retain support staff if they have no security of employment. There are plenty of other insecure jobs at the rates of pay they are currently offered without any of the responsibilities and stresses of working in schools.

While currently teachers have a national agreement on pay that is not the case for school support staff. Given the experience of our members in England and Wales, UNISON has serious concerns that these changes will lead to substantial reductions in pay and other terms and conditions for our members here. The Scottish government may well claim that the Scottish Living wage will apply but that is not a reasonable rate of pay for many of the skilled jobs that the range of school support staff undertake.

The consultation leaves many unanswered questions:

What happens if schools overspend their budgets? Will local authorities be expected to pick up the costs even though they had no control over how money was spent?

What training and support will headteachers get in order to design job descriptions for the posts they want in their schools? Will they get training on job evaluation in order to set appropriate pay and benefits for the posts? Will they have training on equalities as part of this process?

How will these changes impact of the current insurance for schools and heads liabilities? What happens if a member of staff takes out a discrimination claim against the head? What about accidents or injuries at work? What will the authority's role be? These issues must be resolved before changes are put in place. They cannot be kicked into the long grass.

What happens when parents have issues about how the school is being run? What if no school wants to take a child with additional support needs? Where is the democratic accountability if councillors cannot ensure that schools run for the benefit of the community?

Human resources and procurement are time consuming and they involve a great deal of administration. Members tell us that the current system of devolved school management has increased workload for the administrative and clerical teams. It will not be possible to move more work into schools without increasing the size of those teams. This means the economies of scale created by tasks being done centrally will be lost.

Headteachers will still have to work with the regional improvement plan. So they will now have two lines of accountability, three if you count the Charter. Adding more layers is hardly freeing headteachers up to focus of education.

There are still many questions about how cover for sickness and maternity leave will be organised. Will schools get a budget for this? What happens if they go over budget? Again will staff, for example when a school role falls or the need for specific support for ASN children changes, be redeployed to another school? Recruitment is a costly business as is redundancy.

There is always a belief that you can a better deal on local purchasing but its seldom true. Even if you can, the time costs of local sourcing and management of the process often wipe out any advantages. The consultation specifically mentions ICT but it is essential that schools have a system that connects properly with other schools and the authority. Not just for data protection but also to ensure that staff can work collaboratively across schools and authorities.

Throughout these consultations there are hints that lots of headteachers feel they are unable to get rid of staff that underperform. While we are not sure what the evidence is that our schools are full of underperforming staff, or that heads are powerless to deal with them. The answer to underperforming staff is improved performance management in the workplace not reorganising education structures.

How will in-service training and ongoing professional development be organised, delivered and funded if each school is working to its own plan? The real barriers to professional development for all school staff is getting the time to attend training and the time to reflect on that training and your own practice. Support staff rarely get any training at all. Being able to collaborate in and across schools will be a very effective route to driving improvement but that means you have to have the staff capacity to allow people out of school to meet and collaborate with other. Collaboration also requires personal relationships and trust. How can staff share their concerns about their own weaknesses/need for help if they haven't had time to get to know people and trust their judgement?

Regional Improvement Collaborative

Despite the advice of the OECD and the responses to the original consultation the Regional Collaboratives are already in place. This will add an extra layer of complexity. Moving support further away from school is a hollowing out rather than a strengthening of the middle. School staff need time and space to collaborate, to participate in training, to reflect on their practice to improve. Nothing in this plan will put extra resources into schools to free up staff to do this. There have been severe cuts to schools staff numbers: shortages of classroom assistants, technicians and school librarians are impacting on the support that pupils already get. There is no spare capacity in schools to enable the collaboration needed to drive improvement. Many of the problems pupils in our schools face are about the challenges they face at home. Helping those pupils requires a range of local authority services outwith education teams. Schools need to be fully imbedded in local authorities to ensure they can work collaboratively with the wider support services. Pupils and their families need support from social workers, youth workers, and home link staff. They need fully staffed libraries in the community and in schools, access to sports and leisure activities, decent warm homes. Local government services that have seen their budgets severely cut. Setting up these regional bodies is just a shuffling of the deckchairs. If the government is serious about improving education and tackling the attainment gap then it should invest in local government.

The Scottish government is keen on charters, improvement plans and outcome agreements. We have a range of performance frameworks, local authorities sign single outcome agreements and Scotland Performs was launched to much fanfare. There were claims that these will make public services more transparent and accountable. So far there is little evidence that this is the case. None of these are being used to hold public bodies to account. There is no discussion in the media, no discussion/debate in the parliament: there is no reason to believe that regional improvement plans will prove any different. It is not clear how individual school improvement plans will fit in to a regional plan. Given the number of individual schools with newly freed-up headteachers setting their own course it's hard to see how this can be a meaningful exercise. If it is just a way of collating them it's just a bureaucratic process which will not in any way help improve outcomes for school pupils. If it is instead a top down plan for a region then it's hard to see how that would fit with the new powers to be handed to headteachers.

Local authority control of education provides direct democratic accountability to citizens and reasonable economies of scale for the provision of such a vital service. It also best allows access to and co-ordination of wider services and resources to allow a holistic approach to children's development and to supporting families to support their children. Collaboration between teachers, schools and authorities needs to develop organically. It requires the time and

resources to build networks and trust. It also requires a level of resources that allows sharing without an impact on the host school or authority. The current plan just looks like a way of spreading scarce resources more thinly.

We will not improve Scottish education without increased funding and increased investment in training the whole staff team in schools and wider children's services. UNISON's series of Damage reports shows clearly the impact of cuts on services: Hard Lessons⁹ allows readers to hear directly from school support staff about the impact of cuts on their ability to deliver a high quality education service. The Scottish government should listen to experts, particularly those it has invited to give advice (OECD and Naomi Eisenstadt) and avoid reorganising and restructuring.

Education Workforce Council

UNISON believes it is not clear that an Education Workforce Council is a priority in terms of improving education outcomes for Scottish children or closing the attainment gap. That does not mean that UNISON members are strongly opposed to the creation of such a body. The Welsh council is in its early stages and we have yet to see whether it is delivering significant improvements or problems in members' working lives.

Our members working in early years services already have to register with the SSSC. This brings a cost and the lack of consultation and transparency around the recent rise in fees has raised significant concerns. Members are disappointed that, despite their initial hopes, registration has not led to improved recognition of their skills in both education and adult care. We accepted at the outset that there should be a period where people working (and counted in staffing ratios for child safety) in early years settings could be working towards qualifications rather than fully qualified. Sadly over a decade later in the private sector "working towards" remains the norm. UNISON believes that, while work-based learning is a crucial part of supporting people to get qualifications, trainees should be "super-numery" in terms of staff ratios. It is by having fully qualified staff in nurseries that we will improve children's outcomes. Across the care and early years sector we have not seen the improvement in wages and terms and conditions that we hoped becoming part of a registered profession would bring. Members in the wider education workforce are therefore not sure what benefits the new council would bring to their working lives.

UNISON members working in early years centres, schools and colleges do not want to become second class members of a teachers' body. Setting the Workforce Council up as a teachers' body that phases in other workers would make it very much that. If the body goes ahead it needs to be a genuine all workforce body where all staff groups are treated equally. The Welsh body has representatives from all the trade unions on the leadership body of the council. We would expect this to be the case on any new Scottish body.

While none of these staff are asking to be part of the new body, it seems odd to ask librarians and classroom assistants to register but not library assistants, technicians or indeed careers staff. All of whom support learning and teaching in Scotland's schools and colleges. If the Scottish government goes forward with this plan UNISON expects to be involved in detailed discussion about which staff groups are covered by the council.

Alongside discussions and decisions about which staff groups should be covered by the body there will also need to be a great deal of work around agreeing the standards for each of these

⁹ UNISON Scotland Damage Series: Hard Lessons 2017 <http://www.unison-scotland.org/library/20170109-Schools-Damage-Series.pdf>

roles. Given the range of workers the government is suggesting belong to the body this will be complex. Some of the roles require HNDs, degrees and post graduate qualifications others no formal qualifications. As the trade union representing the majority of support staff in schools and colleges UNISON would expect to play a key role in that process if the plans go ahead.

If the workforce council is to improve the skills and qualifications of education support staff then standards will need to be supported by an ongoing programme of training and professional development for the staff involved. This means that staff will need to have time and space in their working day to undertake the training and development opportunities. It is not enough to “encourage” staff to engage in learning. Twilight and weekend training is not the answer. It is hard to concentrate after a full day or week of work. Many staff also have caring responsibilities that make attendance impossible. Given the rates of pay on offer for many roles staff also have other jobs in order to make ends meet and also cannot attend out of hours training. This will require substantial resources for training and to ensure that there are enough staff to cover for those on training/development activities.

Many staff in schools, early years centres and colleges are poorly paid for the skills required to undertake their current roles. All public sector staff have experienced a prolonged pay freeze which means in real terms their pay has been cut. Pay and wider terms and conditions which reflect the skills required for the job are the best way to ensure a highly skilled workforce focused on continually improving their skills.

Fees will of course be a key issue. Fees will need to be set at a reasonable level related to the actual pay of the workers covered by the new body. Again members have experienced a severe long-term pay cut and being asked to pay fees to hold on to their job will be difficult for many. Members registered with the SSSC have really struggled with the substantial increase in fees there. It is important not only the original fee is reasonable but that processes are put in place to protect staff from substantial rises in the cost of fees. UNISON believes that trade unions should be fully involved in any consultation process and that any fee rise should not exceed the level of pay rise members have received.

Conclusion

UNISON believes that education, including early years and childcare, should be comprehensive and delivered free at the point of use via local authorities. This route offers democratic local accountability and efficiency through economies of scale. UNISON believes that it is through investment in schools and the development of education teams that we will drive attainment and close the attainment gap. UNISON is concerned that these proposals will put the focus internally onto structures away from supporting children. A Scottish school child takes five years to get through secondary school the same length of time as a parliamentary term. There is no time to waste.

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