

Education, Children and Families Committee

10am, Tuesday, 19 May 2015

Response to the Scottish Government's Education Bill (introduced on 23 March 2015)

Item number 7.12
Report number
Executive/routine
Wards

Executive summary

This report updates elected members on the Education Bill introduced to parliament by the Scottish government on 23 March 2015. It outlines the City of Edinburgh Council's initial response to proposals in the Bill. These proposals include duties on local authorities in relation to:

- reducing pupils' inequalities of outcome;
- provision about Gaelic Medium Education (GME);
- appointing Chief Education Officers.

The Bill also includes modifications to previous legislation relating to Additional Support for Learning (ASL), the provision of school meals and the duty to provide early learning and childcare to certain children.

Links

Coalition pledges [P5](#)
Council outcomes [CO2](#)
Single Outcome Agreement [SO3](#)

Response to the Scottish Government's Education (Scotland) Bill March 2015

Recommendations

- 1.1 Notes that a new [Education \(Scotland\) Bill](#) was introduced in the Scottish parliament on 23 March 2015. The Bill covers a range of school policy issues, in particular school attainment and GME.
- 1.2 Notes the Council's initial response to key proposals in the Bill.
- 1.3 Notes that the Council will continue to engage in national consultation through direct response to the Scottish government as appropriate and through the Convention of Scottish Local Authorities (COSLA).

Background

The [2015 Education \(Scotland\) Bill](#) addresses some of the necessary provisions to finalise legislative changes brought about by the Children and Young People (Scotland) Act 2014, as well as addressing a Scottish Government manifesto commitment to promote Gaelic education.

Main report

The delivery of school education to reduce inequalities of outcome for all pupils, but specifically for those experiencing socio-economic disadvantage.

- 3.1 Part One of the Bill places a duty on education authorities to make strategic decisions relating to school education which will address inequalities arising from socio-economic disadvantage. The objective is to deliver school education in a way that is designed to reduce inequalities of outcome for all pupils, but specifically those suffering the effects of poverty and other kinds of social disadvantage.

Education authorities will be expected to consult with head teachers, parents, pupils, voluntary organisations and 'other persons' as thought appropriate. In carrying out the proposed duty, education authorities will also be expected to have regard to guidance issued by Scottish Ministers, which also will be the subject to public consultation.

Edinburgh is already fully committed to the goal of reducing social and educational inequity, to improving attainment and to closing the gap in attainment and other outcomes for pupils in the city from different backgrounds.

This commitment is embedded throughout the City of Edinburgh Council's Education, Children and Families Service Improvement Plan priorities and council pledges, which are the result of widespread consultation with key stakeholders. These priorities, including raising attainment, are also reflected in the annual improvement planning priorities for schools.

- 3.2 Additionally, Edinburgh is involved in the national learning sessions of the Scottish government's newly introduced Raising Attainment for All (RAFA) programme. Following attendance by officers at these sessions in Glasgow in March 2015, next steps have been identified and include:
 - 3.2.1 Setting up a network of Council, RAFA and Early Years Collaborative colleagues to share ideas and work together.
 - 3.2.2 Schools involved identifying their own areas for action and using improvement methodology to assist them in their drive to raise attainment.
 - 3.2.3 Linking up with the national programme improvement advisers to devise strategic approaches locally to build on this collaborative model.
- 3.3 Edinburgh has also produced a strategy to respond to child poverty. This is based on the same three outcomes as the national Child Poverty Strategy for Scotland, the second of which is to 'Improve children's wellbeing and life-chances (Prospects)'. Its principal focus is on raising attainment, and it includes actions to improve attendance and attainment, reduce the attainment gap, further develop engagement with families (including support for the home learning environment), develop access to out of school learning and breakfast clubs, and 'poverty-proof' schools. These sit alongside actions for the other two outcomes: maximising household resources (Pockets); and, children from low-income households live in well-designed, sustainable places (Places).
- 3.4 The second element to this proposal in the Bill is the planned duty on education authorities to publish and submit a report to ministers. This report is expected to cover, over a two year period, what has been done to deliver more equity within education and what plans there are for further activity. This reporting will also include a need to demonstrate the impact of action taken and the educational benefits to pupils, as soon as practicable after the end of each two year period.
- 3.5 Edinburgh has extensive and well-established processes for reporting on all aspects of attainment, achievement and progress of children and young people, including of disadvantaged groups of children and young people, and on impact of actions taken. This will be available to inform any required reporting to the Scottish Government.

Chief Education Officer

- 3.6 The Bill stipulates that authorities must appoint a Chief Education Officer who must have qualifications as “may be prescribed” by the Scottish government together with experience that the education authority considers appropriate for carrying out this role. There is as yet no guidance from the Scottish Government on the qualifications and experience needed.

The proposal for a Chief Education Officer originated from the Association of Directors of Education Scotland (ADES). This was because, in some authorities, the integration of children’s services has led to the appointment of non-education specialists to lead these services.

The Scottish government predicts that filling the Chief Education Officer role will have no financial implications for councils because councils will be able to determine that an existing officer meets the statutory requirements. Legislation will therefore not require councils to create new posts within their current management structures. Instead someone already within a senior education position with the appropriate qualifications would be designated as Chief Education Officer.

Gaelic Medium Education (GME)

- 3.7 There are three key proposals relating to Gaelic education in the Bill.
- 3.7.1 A duty on local authorities to promote and support GME.
 - 3.7.2 The establishment of a national statutory process for authorities to assess parental requests for GME.
 - 3.7.3 The development of statutory guidance on the arrangements for the delivery of Gaelic education in schools and by authorities.

The duty to promote and support GME

- 3.8 In terms of the Council’s Gaelic medium primary education, the Bill does not place any further requirements or duties on the Council as Edinburgh is a local authority where these duties are being met. It is therefore not anticipated at this moment in time that a significant change in Edinburgh policy or provision would be required as a result of the Bill. Indeed the Bill will help in terms of placing a duty on local authorities to monitor and respond to demand for GME.
- 3.9 Gaelic education strategy in Edinburgh is based on primary into secondary GME provision in order to provide progression in language development. Any requirement in the Bill for local authorities to provide GME should already include such progression into secondary to ensure language development and entitlement throughout the Broad General Education (BGE) and into the Senior Phase. Edinburgh is committed to this as outlined in the education section of the Council’s Gaelic Language Plan.

- 3.10 In addition, longer term planning to assess and meet the increasing demand for GME in Edinburgh is well under way. This includes the consideration of capacity issues at both primary and secondary school levels.
- 3.11 GME is advertised in Council pre-school and primary literature informing all parents in Edinburgh of the educational opportunities available to them through Gaelic from pre-school through to secondary. GME has a dedicated information page on the council website with links to Gaelic organisations. Local advertising is done to inform parents of the opportunities for GME for pre three children.
- 3.12 The demand for GME in Edinburgh is monitored both by placement requests made directly to the City of Edinburgh Council and by applications made to Bunscoil Taobh na Pàirce. All placement requests have been met to date.

Gaelic for Learners Education (GLE)

- 3.13 GLE is also actively promoted in eight schools in the city through an extensive Gaelic Language in the Primary School (GLPS) programme offering children the opportunity to learn Gaelic in primary school. Progression for GLE is now provided in two secondary schools in the city, James Gillespie's High School and since 2014-15, Tynecastle High School.

The establishment of a national statutory process for authorities to assess parental requests for GME

- 3.14 The Bill places a duty on local authorities to report on the demand for GME in their area but does not lay out any guidelines or policies for the assessment of this demand. The timescale for completing the assessment process will be set at 10 weeks, and all local authorities must prepare a report outlining its decision.
- 3.15 Edinburgh already has well-established and effective processes in place to meet its obligations to assess demand for GME. Throughout there is full consideration of the extent of the demand, existing capacity in the city at all levels, the cost, the availability of teachers and the potential to recruit teachers. The City of Edinburgh Council should therefore be well-placed to meet proposed statutory obligations within the Bill.

The development of statutory guidance on the arrangements for the delivery of Gaelic education in schools and by authorities.

- 3.16 The Scottish government is preparing guidance which will define the arrangements under which GME should operate in a school and be managed by a local authority.
- 3.17 The Bill's requirement to produce a national framework and guidance for the delivery of GME is to be welcomed. At present, Education Scotland provides curricular guidance but there are no coherent guidelines for access and provision of GME eg national policy for admissions, class sizes. A national strategy will support local authorities in planning for delivering GME.

- 3.18 It is essential however that Bòrd na Gàidhlig's education guidance is developed and written in consultation with local authorities in order for them to accurately assess and recognise the challenges of delivery.

The potential impact on other educational services that might arise from the local authority having to implement these new duties.

- 3.19 There is administrative impact on regular monitoring and reporting on demand for GME and on responding to this demand if required.
- 3.20 There is a budgetary implication for extension of GME provision in terms of school capacity, staffing, resources and meeting the wider curriculum requirements of Curriculum for Excellence.
- 3.21 The Council would expect that any new duty as regards GME placed on local authorities by the Bill would be resourced directly by the Scottish government as this would result in an increase in the demand on the local authority.

Miscellaneous Modifications of Enactments

Modifications of [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#)

- 3.13 The Bill would extend rights under the [Education \(Additional Support for Learning \(ASL\)\) \(Scotland\) Act 2004](#) to children aged 12 and over with capacity. In Edinburgh the "having your say" pro forma is used through GIRFEC meetings to capture the views of the child if that child has capacity. Extending rights in this direction is therefore to be welcomed. There may be some tension in the rights of the child and the rights of the parent, also enshrined in legislation, if these rights seem to be pulling in different directions. This tension has existed in the past but has never been tested in law. By extending legal rights to children over 12 with capacity it may be that legal challenges will occur.
- 3.14 The Bill also contains proposals that not all rights be extended to children with Additional Support Needs (ASN). Not extending rights to children with ASN in light of previous discussion in the legislation about equalities could be seen as discriminatory. Further, whilst the desire to prevent children making their own placing requests for out of catchment schools is being proposed to prevent disruption of family life, this is clearly a right that would have some impact (for example if one of the many advocacy groups became involved) .
- 3.15 The Bill also proposes a statutory children's support service. The Council already has a variety of well-established statutory services (eg Educational Psychologists, hospital teaching). Edinburgh has also rolled out the GIRFEC approach to ensure that the reach of statutory services extends to all children. The Council should therefore be able to meet its statutory obligations as in the past whilst also striving to meet the needs of every child.

Provision of school meals

- 3.16 Rather than reflecting a change in policy, the proposed amendments in the Bill simply restate and clarify the law to avoid the potential for any confusion or misinterpretation for those using the legislation. It was considered that no formal consultation was necessary on the restatement of section 53, as no policy changes are being made.

Provision of early learning and childcare: children with guardians

- 3.17 The proposed amendments regarding this do not reflect a change in policy but address the unintentional exclusion of a small group of children from the early learning and childcare provisions.

Measures of success

- 4.1 The key measure of success will be in improved outcomes for children and young people.

Financial impact

- 5.1 Council Finance Officers have been asked to provide written evidence to the Scottish Parliament Finance Committee on the Financial Memorandum (FM) for the Education (Scotland) Bill. They are consulting to ensure that no new burdens are placed on local government that are not fully resourced by the Bill.
- 5.2 In line with this, the FM indicates that there will be a cost to local government in a number of areas, namely, the duty to promote GME, additional demand created by GME promotion, and the cost of assessing parental requests for GME.
- 5.3 The Council would expect that any new duty as regards GME placed on local authorities by the Bill, should be resourced directly by the Scottish Government, for example to meet the cost of an increase in the administrative burden on the local authority .

Risk, policy, compliance and governance impact

- 6.1 There are no adverse impacts arising.

Equalities impact

- 7.1 The recommendations in this report should lead to enhanced equalities for children and young people attending City of Edinburgh Schools.

Sustainability impact

- 8.1 There are no impacts on carbon, adaptation to climate change or sustainable development arising directly from this report.

Consultation and engagement

- 9.1 There is continuing consultation and engagement through COSLA.

Background reading/external references

- [Education \(Scotland\) Bill](#)
- [Children and Families Service Plan 2015-2018](#)
- [The City of Edinburgh Council's Gaelic Language Plan](#)

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Links

Coalition pledges	P5 - Seek to ensure the smooth introduction of the Curriculum for Excellence and that management structures within our schools support the new curriculum
Council outcomes	CO2 – Our children and young people are successful learners, confident individuals and responsible citizens making a positive contribution to their communities
Single Outcome Agreement	SO3 - Edinburgh's children and young people enjoy their childhood and fulfil their potential
Appendices	