Education (Scotland) Bill

Call for Evidence

Response to Questions from Aberdeenshire Council Education and Children’s Services

Attainment

1. **What improvements in attainment, in achievement and in reducing inequalities of outcome do you consider the Bill in itself could deliver? What would be a desirable level of improvement?**

   In part 1 of the Bill, the legislation in itself will not be able to ensure improvement. There are a number of alternative approaches outlined in the accompanying Policy Memorandum which recognise that there are currently positive practices to promote equity of attainment on a non-statutory basis, through guidance and ongoing support. As there has not been a formal consultation on these proposals or clearly defined rationales and strategies linked to national approaches, it is difficult to demonstrate that the Bill and legislation in itself would deliver such outcomes, nor does the Bill determine what is a desirable level of improvement. This is important if there is to be a clear agreement as to how such outcomes are measured and reported. The reasons to legislate for attainment expectations on groups of pupils as opposed to the governance and statutory functions of local authorities in Scotland is not necessarily clear, other than to demonstrate accountability. Again, ensuring accountability could be through scrutiny in a non-statutory, but public process eg way through existing bodies such as Education Scotland.

2. **The duty in the Bill is to ‘have regard to the desirability’ of ‘reducing inequalities of outcome’. Is this meaningful enough to have the desired policy effect?**

   This seems ambiguous and requires a clearer meaning.

3. **How should ‘inequalities of outcome’ be interpreted and should this phrase be defined in the Bill?**

   ‘Inequalities of outcome’ should be clearly defined. Attainment is measured formally through national qualifications and accredited awards. Attainment and achievement are not the same. There is presently no formal national benchmarking of attainment outcomes through Curriculum for Excellence, other than the broad levels of progression which in itself does not provide robust data for measuring outcomes.

4. **What specific actions will education authorities be able to take to reduce inequalities of outcome that they are currently unable to take?**

   A number of strategies and approaches are used, including national strategies which are applied at a local level. Again, a clear definition of ‘inequalities of outcome’ is needed. A fair and proportionate distribution of resources to local
authorities would also be required for any consistent approaches across Scotland.

5. **How do the provisions on attainment fit with existing statutory National Priorities for Education and the requirements to produce annual statements of improvement objectives and school development plans?**
   The Bill’s Policy Memorandum uses a range of terms that do not appear in the Bill, for example—
   - “promote equity of attainment for disadvantaged children”
   - “narrowing the attainment gap”
   - the correlation between a child’s “social deprivation/affluence and their educational attainment”.
   Local authority and school planning currently delivers on improvements.

6. **Do you consider that such terms are clearly defined and widely understood? Could the different terms used in the Policy Memorandum and in the Bill create any problems in delivering the policy objectives?**
   No. There is a broad and general understanding of the terms, but if there is a statutory requirement for local authorities to demonstrate improved outcomes, this must be clear and understandable.

7. **Should the Bill contain sanctions in the event that the Scottish Government or local authorities fail to achieve the policy intention of reducing inequalities of outcome? If so, what sanctions would you suggest are appropriate?**
   No. This is not considered to be helpful or necessary.

8. **Do you have any views on the consultation and reporting requirements set out in this part of the Bill?**
   It would be preferable to have a clear national performance framework to support educational improvement.

9. **The Bill focuses on reducing inequalities of outcome resulting from pupils’ socio-economic disadvantage. Should all examples of inequality of outcome be addressed?**
   In essence, yes, but a clearer definition of ‘inequality of outcome’ is needed.

Gaelic

10. **How significant a change in Gaelic medium primary education will the Bill deliver? Do you agree these provisions should be limited to primary schooling?**

11. **What are the most appropriate ways for education authorities, particularly those with low levels of Gaelic usage, to promote and support Gaelic medium education and Gaelic learner education? What impact is this promotional work likely to have on the Gaelic language and the number of Gaelic speakers?**

12. **Do you agree that the Bill “will establish a clear process for authorities to follow in considering parental requests for an assessment of the need for**
13. **Gaelic medium primary education**? Do you agree with the thresholds proposed in the Bill in relation to the assessment of parental requests?

14. **Under existing legislation, education authorities must have regard to Bord na Gaidhlig’s education guidance when they are producing their annual statement of improvement objectives. What will the requirement in this bill add to this?**

15. **Overall, to what extent will the Bill help to deliver the Scottish Government’s commitments to grow and strengthen Gaelic education?**

Questions 10 to 15 (inclusive)

It is uncertain as to how the Bill will be able to deliver on its aspirations. The challenges in recruiting appropriate and qualified staff to deliver Gaelic medium primary education is considerable. There appears to be an assumption that local authorities with ‘low levels of Gaelic usage’ are not promoting GME. Again, the significant challenges of recruitment is key in this, and it is difficult to ‘promote’ Gaelic if there is not sufficient teaching staff to deliver those expectations.

16. **What potential impact on other educational services might arise from the local authority having to implement these new duties?**

Additional Support for Learning

It seems unclear why these extended rights include reference to the ASN Tribunal but not to a claim of disability discrimination under the Equality Act.

It would also be possible to foresee situations where a child brings a reference to the Tribunal, the education authority assesses the child to have the capacity to make that reference, but the parents disagree with either the reference of the assessment. Our understanding is that the parents can then dispute this by bringing a ‘counter’-reference, leaving all parties at an impasse. Surely the best interests of the child risk getting lost in this situation.
17. **Do you agree with the proposal that not all of the rights in the ASL legislation should be extended to children (see paragraphs 49 and 50 of the policy memorandum)?**

While on a matter of principle, it seems strange to not extend the full rights to the children on a practical note, it would be difficult to see how some legislation could be implemented.

18. **What are your views on the statutory children’s support service proposed by the Scottish Government?**

This would be an important move as the current advocacy service arrangements under the ASL legislation relate to parents (only) i.e. Let’s Talk ASN. Experience and anecdotal evidence suggest that the views of the child are not always appropriately represented by the parent, and consequently by the advocacy service. It would be positive to have an entirely independent ‘broker’ representing the views of the child. There is the inevitable risk that for children with different ‘levels’ of capacity, this children’s support service would be co-opted to support the parents views. Further clarification of the level and arrangement of funding for this service would be useful.

**Chief Education Officer**

Whilst Aberdeenshire Council has and believes it is necessary and important to have, a chief officer with education responsibility, there is not a strong case to make this a statutory post. Instructing local authorities to employ such a person is not supported.

**Other issues**

Much of the content of the Bill covers areas which are already recognised by local authorities as priorities. It is debatable as to whether the implementation of such education policies via legislation is necessary, in particular the attainment aspirations. A considerable amount of clarification would be required in all aspects of addressing inequalities and the appropriateness of approaches taken. It is also important to be unequivocal about expectations, evidence and impact and how this is intended to be measured. This part of the Bill would appear to be the result of the need to update the previous Education 2000 Act which tried to legislate for policy in different times. There is also a concern that Stage 2 of the Bill will require all headteacher appointees to have a nationally recognised qualification in Headship. There are concerns that this will make it more difficult to appoint and may well have unintended consequences that do not improve education.