

## **AHDS (Association of Headteachers and Deputes in Scotland)**

### **Response to the Education & Culture Committee questions regarding the Education (Scotland) Bill 2015**

#### **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?**

1.1 This Bill seeks to compel school education to solve a known perennial problem, a problem the system always has in its sights. As the Bill doesn't suggest a way forward it will not "in itself" have a huge impact. It is important to consider that the proportion of time children spend in school (25hrs of class time each school week out of 168hrs each week) means that social inequities cannot be remedied by schools alone nor solely within school hours.

1.2 It is not clear what changes in behaviour this Bill might bring about since education Ministers, Directors and others engaged in system and school leadership are already well aware of the 'attainment gap' and the need to respond to it. Efforts to do so in recent years have been hampered not by a lack of willingness but by reducing resources both at the school and authority level. It is clear that there will be additional cost associated with the administration of this proposed legislative commitment but will this be accompanied by additional resource to do so or will the resource required be extracted from existing budgets?

1.3 Further, there is a risk that the Bill could present a perverse incentive to reduce efforts to support the learning of more highly performing children. To do so would allow the achievement gap to close from both ends but would clearly be wholly undesirable.

1.4 In short, the Bill would provide a renewed focus on a known issue. Parliament needs to ensure it is convinced that the Bill would do more than introduce new bureaucratic requirements which absorb resources that would otherwise be focussed on delivery. AHDS is entirely in agreement with the goal of reducing the impact of poverty on pupil outcomes – in terms of achievement as well as attainment – but does not feel that the need for legislation has been sufficiently well articulated.

#### **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?**

2.1 It is difficult to see how such a duty would change the current position other than to develop planning and reporting requirements associated with it and to give renewed focus to this area. Such a focus is already being achieved through the Attainment Challenge and related initiatives.

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

3.1 If the Bill is to progress it would certainly be useful to have this phrase defined since it is the target of the policy goal behind this legislation. We need clarity about at what stage the inequalities of outcome would be measured and exactly what is meant by this term otherwise it risks, at best, causing confusion and, at worst,

leading to actions by local authorities which are consistent with the words of the Bill but not the intention.

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

4.1 The Bill compels education authorities to plan and act, it doesn't appear to offer any new powers.

**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?**

6.1 The objective of the legislation would be well understood in education but the specific meaning of these terms would not (e.g. there is a very broad range of disadvantage that could be implied by different readers). Using different terms in the legislation and the Policy Memorandum is not ideal. It risks confusion or loss of original meaning over time.

**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?**

7.1 It is difficult to see how introducing specific sanctions could be a fruitful approach. For that even to be an option would require a great deal more clarity about expectations. What degree of reduction would be required? Would it be a percentage reduction of the gap or overall? How would different starting points be taken into account? Is any level of gap in performance seen to be acceptable? Every year or over a number of years? What mitigating circumstances would be considered (e.g. budget pressures, single year of gap widening when other years have shown good progress, etc)?

7.2 When considering sanctions, removal of resources following poor performance is not likely to enhance future performance. While Local Government could be under threat of having education removed from its remit for sustained poor performance this seems out of step with the concordat between local and central government and there could be no similar sanction levelled at central government. Further, if the problem proves to be intractable (or outwith the influence of education) to some degree with the result that most or all Local Authorities fail to make progress within specified timescales, what then?

**9. The Bill focuses on reducing inequalities of outcome resulting from pupils' socio-economic disadvantage. Should all examples of inequality of outcome be addressed?**

9.1 The purpose of the Bill is to recognise that there is a link between poverty and low levels of attainment and to seek to introduce mechanisms to weaken or dissolve that link.

9.2 The suggestion in this question seems to point towards an ideal of all children leaving school with the same outcomes or that they should have the same life outcomes. This seems to cut across the foundation of our curricular change and Getting It Right For Every Child. These recognise that the education system needs

to see every pupil as an individual with individual learning and development needs and individual potential. This policy has only recently been given legislative underpinning and needs time to have an impact.

## **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?**

10.1 This could produce a significant change in provision though it is likely that uptake would vary considerably from area to area. In addition, the availability of appropriately trained teachers willing to work in areas of increased demand is likely to be the biggest brake on development.

10.2 The only certainty is that the duty to promote Gaelic education will create cost. Any estimated uptake is no more than a guess at this stage.

10.3 We do not see a rationale for restricting this to primary school. Is the suggestion that an elementary exposure to Gaelic will achieve the Government's policy goals? Surely if it matters, it matters. As such if this element of the Bill is going to be progressed then it should be open to parents to progress it for their children in secondary too.

### **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?**

11.1 This question is about the appropriate means of promoting Gaelic but there is a stage ahead of that – local authorities ought to be able to consider whether it is appropriate to their area (or parts of their area) to promote Gaelic. While it seems entirely appropriate to promote Gaelic in an area where there is a strong Gaelic tradition it seems like a much less reasonable use of public funds in other areas.

11.2 Also, there seems to be a conflict between the duty to promote and the duty to respond to local need. Why impose a duty to promote on all local authorities when there is no tradition and little interest in some areas?

### **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 Gaelic medium primary education”? Do you agree with the thresholds proposed in the Bill in relation to the assessment of parental requests?**

12.1 The proposals do set out a clear process although some members questioned the threshold of five pupils for a request to be progressed and suggested that a percentage threshold might be more appropriate.

12.2 Also, there is reference to the National Parent Forum of Scotland being consulted in these cases. We are not clear what this national body with one representative from each local authority area could usefully offer the decision making process. It would seem more appropriate to encourage engagement with school and local authority level parental engagement arrangements.

**13. 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?**

13.1 A duty to promote Gaelic education – which appears to be somewhat in conflict with the duty to assess need.

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

15.1 Unless there are new resources provided to Councils for this there is likely to be knock-on pressure on other education budgets as Gaelic education would have been given additional focus through legislation.

15.2 Also, as available staffing is not part of the assessment as to whether to go ahead or not there is a considerable risk that this legislation promises provision that it will be difficult/impossible to get staff for.

**Registering teaching staff**

**21. How would grant-aided schools, independent schools and their pupils benefit from their teaching staff being registered with the General Teaching Council for Scotland? What different or new skills would such teaching staff acquire as a result of registration? Is it likely that attainment would improve in the schools in question?**

21.1 It is difficult to pin-point the problem the Government is seeking to solve with this proposal. In the policy memorandum it is clear that independent state funded schools either are already staffed with teachers or are expected to be very soon. Legislating in relation to those schools might be seen as a reasonable insurance against a change of practice in the future. However, in respect of ASN schools it is important to note that full GTC registration cannot be achieved by those with a subject specific qualification who are based in a special school. Under GTCS rules, to gain full registration they would need to spend a considerable period of time in a mainstream school (see <http://www.gtcs.org.uk/registration/additional-support-needs-registration.aspx>). This could present ASN schools with a significant staffing issue for key roles.

21.2 Private schools are altogether different. Parents pay to send their children to these schools, a service they are electing to purchase on top of the state school system that they have already contributed to through taxes and which is staffed by teachers. A system they have opted out of and selected a different vehicle for the education of their children. Presumably they are happy with their choice and have satisfied themselves that the quality of the offering was what it should be. So, assuming there is no hidden clamour from these fee paying parents why is the Government seeking to legislate?

21.3 Further, there is a shortage of teachers in many (perhaps most) areas at the moment. Such a requirement has the possibility of sucking qualified teachers from the state system into private schools and/or leading to the need for the state to fund the training of more new teachers. If this element of the Bill was to proceed then the timing of its enactment would be extremely important.

21.4 In short, we would support the proposal in relation to state-funded independent schools provided appropriate safeguards were put in place to address the concerns outlined above about mechanisms for special school staff to gain full GTCS registration or to address staffing issues arising. However, while there is a range of opinion within our membership, on balance we do not see a clearly defined rationale for applying it to private schools where the fee-paying parents would be well able to articulate and require this change from private schools if they felt it would benefit the education of their children.

### **Complaints**

**23. The Bill will introduce a power to make regulations about the procedure to be followed in relation to complaints to Scottish Ministers. Paragraph 74 of the Policy Memorandum sets out some proposed deadlines. What is your view on the deadlines for these procedures?**

23.1 These deadlines offer a considerable acceleration of the process in comparison to current practice as set out in the Scottish Government's response to factual questions from the committee (dated 23 April 2015). It would be desirable to reduce the duration of some of the longer cases currently considered by Scottish Ministers. Only they are in a position to determine whether the process could be speeded up to this degree without compromising the quality of the process undertaken.

**26. Are there any reasons to distinguish between guardians and kinship carers for the purposes of entitlement to free early learning and childcare?**

26.1 No. The focus should be on children and the unintentional exclusion of this group should be rectified.

END.