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Convener
Education, Children and Young People Committee
The Scottish Parliament

13 December 2024

Dear Convener,

Thank you for the thoughtful and constructive report from the Education, Children and Young People Committee on the Education (Scotland) Bill at Stage 1, published on 3 December 2024.

I am pleased that the Committee supports the general principles of the Bill. Ahead of the plenary debate, scheduled for Wednesday 18 December 2024, I enclose the Scottish Government's response to the main recommendations and comments in the Report.

I also wish to extend my thanks for careful scrutiny and consideration of the Bill at Stage 1 to the Delegated Powers and Law Reform Committee and the Finance and Constitution Committee. I am copying this letter to their Conveners.

I would be happy to discuss any of the points raised in the Report and in our response, and to provide further detail if that would be helpful to the Committee.

I look forward to continuing to work with the Committee and wider Parliament on the Bill.

Yours sincerely

JENNY GILRUTH

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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EDUCATION (SCOTLAND) BILL – SCOTTISH GOVERNMENT'S RESPONSE TO THE EDUCATION CHILDREN AND YOUNG PEOPLE COMMITTEE: STAGE 1 REPORT

QUALIFICATIONS SCOTLAND

Where Should Accreditation and Regulation Sit?

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| 59, 60, 61, 62 | <p>The Committee recognises the challenging nature of the current financial climate in terms of creating a new stand-alone body to deliver the accreditation function, however, it considers that this cannot undermine the delivery of the intentions of the legislation or, specifically, the accreditation function.</p> <p>The Committee shares concerns that, at present, there is insufficient separation of, and distinction between, the awarding and accreditation functions.</p> <p>The Committee believes the accreditation function should sit separately from Qualifications Scotland. However, at the very least, the Scottish Government must ensure accountability and independence of the function through appropriate structures and sufficient resourcing.</p> <p>The Committee recognises that confidence in the national qualifications body is crucial and that, at present, the body is not attracting the confidence expected or hoped for such an organisation. The Committee therefore believes that all steps should</p> | <p>The Scottish Government welcomes the Committee's recognition of the challenging financial climate, and how this inherently influences decisions around the feasibility of creating a new stand-alone public body to take forward a singular function.</p> <p>The purpose of the legislation is to enable an accreditation function that sets and maintains high standards through the accreditation of post-school qualifications within an active qualifications market.</p> <p>The intention of the legislation is therefore to better support the delivery of this function, ensuring transparency, integrity and fairness. The specific governance and accountability mechanisms set out in the Bill build on existing mechanisms. These include a new requirement for Ministers to appoint a convener for the Accreditation Committee, (currently this role is appointed by the Chair of the SQA). The convener will also have a new and direct advisory relationship with Scottish Ministers, along with new commitments for separate accountability and reporting, including producing and publishing their own corporate plan and annual report.</p> |
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| | <p>be taken to ensure this. As part of this, the Committee asks the Scottish Government to explore more fully the options of where else the accreditation function could sit, including within the Scottish Credit and Qualifications Framework Partnership.</p> | <p>The Scottish Government remains open to considering additional, practical and cost-effective measures that can further enhance the current provisions in the Bill.</p> <p>The Scottish Government undertook a full exploration of alternative locations for the accreditation function. This included extensive engagement with accreditation stakeholders, including other public bodies, awarding bodies, standard setting organisations, staff at the SQA, and accreditation and regulation organisations in England and in Wales. Specific locations considered included the new Inspectorate, Education Scotland, the Scottish Credit and Qualifications Framework Partnership, Skills Development Scotland and the Scottish Funding Council. The Scottish Government would be happy to discuss these considerations in more detail with members ahead of Stage 2.</p> <p>As set out, the legislation provides the underpinning framework to ensure the accreditation function has separate governance mechanisms to the awarding function. This is important for ensuring that the stewardship of the functions, and related decisions, are entirely separate from the rest of the organisation. This will be reinforced by wider organisational and operational arrangements that will be designed to maximise that separation. As the Committee will be aware, the Scottish Government commissioned advice from the Chair of the SQA to review the organisational design and leadership structures to further enhance the distinction between the two functions. The Scottish Government has now received the Chair's</p> |
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| | | <p>response and will consider the proposals alongside the Committee's report ahead of Stage 2.</p> <p>The Scottish Government agrees with the Committee that confidence in our national qualifications body is crucial, and that the level of confidence our children, young people, parents and carers, and the teaching profession have in the SQA is far from where it needs to be for Qualifications Scotland. However, the Scottish Government does not believe that these low levels of trust and confidence from learners and teachers stem from the location of accreditation. Our focus is therefore on ensuring the organisation operates with integrity, transparency and fairness across all functions, as we seek to ensure that trust is rebuilt.</p> |
| Scope of Regulation | | |
| 71 | <p>The Committee urges the Scottish Government to clarify what it considers the scope and function of regulation should be. It is essential that the structure and resources for accreditation match the scope of that ambition. The Committee notes that the Scottish Government has established a short-life working group to consider the scope of accreditation. The Committee asks for more details about its work, including its remit, membership and when it will report.</p> | <p>The Scottish Government recognises that ensuring effective oversight of the quality and standard of qualifications in Scotland is in the best interests of our children, young people and adult learners.</p> <p>A short-life working group was established in October 2023 to look at the role of accreditation and regulation of qualifications and how it currently operates in relation to other forms of oversight across the wider qualifications system. Recognising the complexity of the current system, the group was tasked with investigating any potential options to change the scope of the accreditation function, setting out the benefits and potential implications for consideration. The work of this group will inform comprehensive advice to Scottish Ministers. The group has</p> |

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| | | <p>met three times, with a further meeting planned. The terms of reference for the group are attached separately as Annex A.</p> <p>To date, a number of options are under consideration by the group, which include both legislative and non-legislative routes. As part of this work, Scottish Government officials have engaged with a range of stakeholders including Colleges Scotland, the Scottish Training Federation, and qualifications awarding organisations.</p> <p>In addition to Scottish Government officials, the group comprises organisations with a role in the development, delivery and governance of post-school (non-degree) qualifications in Scotland: the Scottish Qualifications Authority, the Scottish Funding Council, Skills Development Scotland and the Scottish Credit and Qualifications Framework Partnership.</p> <p>The Scottish Government's position remains that we are open to considering a potential change in the scope of the accreditation function in the future.</p> |
| Use of "Learner" in the Bill | | |

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| 81,82 | <p>The Committee urges the Scottish Government to define 'learner' in the context of the Bill and to ensure this definition clearly encompasses both children and young people and adult learners, and to set out the requirements to meaningfully consult with both these groups. In doing so, the Scottish Government should ensure that any consultation is truly representative and inclusive of all learners.</p> <p>The Committee considers that explicitly mentioning children is also important, especially given the fact that the UNCRC is incorporated into Scots law.</p> | <p>The Scottish Government recognises the importance of using language that acknowledges that children and young people have distinctly different needs and experiences compared with adults, particularly in the context of education and qualifications. The Scottish Government is pleased the Committee agrees that children, young people and adult learners must be consulted, in a meaningful way, as part of the work of Qualifications Scotland.</p> <p>The Scottish Government would like to make the Committee aware that the term 'learner' is not used in the Bill in a way that has any legal effect. The only references to 'learner' are in the formal names that are given to the relevant interest committee and charter (and, as a result, in the corresponding section titles) or in relation to the learning of the Gaelic language (to distinguish that from Gaelic medium education). The use of that term in that context is also consistent with other legislation. The label 'learner' in the name of the committee and charter is used partly to avoid those names becoming unduly long. However, no definition is required as the rules about matters such as committee membership or charter content are not set by the reference to the term 'learner'.</p> <p>The language used in the Bill to refer to all those that use qualifications in the context of being a 'learner' was carefully drafted to encompass all potential individuals who seek to take qualifications: "<i>persons undertaking a Qualifications Scotland qualification</i>". This reflects the absence of a clear and shared position on a single definition of a 'learner'.</p> |
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| | | <p>The Scottish Government is clear that, for example, if the 'learner charter' has to set out (as section 10(2)(a) requires it to) "what persons undertaking a Qualifications Scotland qualification should expect from Qualifications Scotland" then that function will not be fulfilled unless the charter sets out what <i>all</i> groups undertaking qualifications – be they children, young people or adult learners – can expect.</p> <p>However, the Scottish Government recognises the concern that in some cases, such as in consultation duties, there is nothing to expressly guarantee that the persons undertaking qualifications who are consulted will include particular sub-groups.</p> <p>The Scottish Government will therefore consider how to ensure the language used in the Bill might give better visibility to children and young people, whilst recognising adult learners and the diversity within all these groups need appropriate visibility too.</p> <p>The Scottish Government would like to make the Committee aware that Qualifications Scotland will be a listed authority for the purposes of the UNCRC (Incorporation) (Scotland) Act 2024. It is our expectation these obligations will underpin how the body delivers the new participative governance measures in the Bill for children and young people.</p> |
| Registered Teachers and College Teaching Staff in Governance | | |
| 103, 104, 105, 106, 107 | Given that Qualifications Scotland's role includes delivering qualifications, assessment and connected services, it is important that those delivering qualifications and assessments are | The Scottish Government is pleased the Committee agrees that it is important for those delivering qualifications and assessments, such as teachers, college lecturers and other |

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| | <p>represented and included in governance arrangements for the new body.</p> <p>The Committee notes concerns that there is insufficient clarity to ensure that registered teachers on the Board would be current classroom teachers. The Committee urges the Scottish Government to consider how it could provide further clarity on this.</p> <p>The Committee draws the Scottish Government's attention to the concerns raised by stakeholders, in relation to the need for teaching professionals on the Board, from both school and college settings, to be able to articulate a broader perspective than their own. It urges the Scottish Government to clearly set out in guidance the expectations placed upon those participating in this capacity to both consult more widely and report back, and the mechanisms that might be used to do this. This might include, for example, dedicated non-teaching time to allow discussions with colleagues to take place.</p> <p>The Board should also support Qualifications Scotland and its stakeholders to develop innovative, including digital, solutions to provide for widespread and inclusive engagement approaches and consider how Qualifications Scotland is demonstrating an open and responsive approach to stakeholders' views.</p> <p>The Committee asks the Scottish Government for its view as to whether there should be an</p> | <p>practitioners, are represented and included in the governance arrangements.</p> <p>The teacher and college lecturer stipulations within the Bill state those appointed to the Board must be those providing "relevant teaching or training" (see paragraph 3(2)(b) and (c) of schedule 1). In the context of the Bill, this relates to providing teaching and training for qualifications (see paragraph 3(7) of schedule 1). Members, therefore, in addition to being teachers/college teaching staff, also have to be currently providing teaching or training to those undertaking qualifications. In the Scottish Government's view, this provides assurances at a legislative level that the individuals will have current and practical experience of delivering learning, teaching and assessment for qualifications. Further assurances are built in with the requirement for Ministers to consult with the teaching sector on the skills and experience these members should have (see paragraph 3(3) of schedule 1). The skills and experiences considered essential for the Board are built into the criteria for appointment.</p> <p>The Scottish Government is pleased the Committee recognises the importance of a broad range of perspectives informing how the Board operates. The Scottish Government believes that being a Board member of a public body implicitly requires effective engagement and consultation with networks and stakeholders. This is emphasised as part of expected good governance in the public sector and set out in the Roles, Responsibilities and Relationships - On Board: A Guide for Members of Statutory Boards - gov.scot. However, to strengthen this implicit obligation, the wider governance, consultation and</p> |
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| | <p>additional Member of the Board who is a representative from a teaching trade union.</p> | <p>accountability provisions in the Bill also further enhance how broader perspectives will shape the Board's decision-making. This includes the requirement to consult with the Strategic Advisory Council (SAC) and in line with section 8(3)(b)(i) there will be a further requirement set out in the regulations establishing the SAC for SAC consult with all those with an interest before providing advice to the Board. The implementation of the Teacher and Practitioner Interest Committee, with a broader and more diverse, user focussed membership, is also expected to play a key role in ensuring a diversity of views and interests shape the Board's decisions.</p> <p>The Scottish Government recognises the Committee's suggestion of dedicated non-teaching time to allow engagement and consultation to take place. It is our view that this Bill should not make Qualifications Scotland responsible for determining what teachers spend their non-teaching time doing. However, the principle is important – dedicated non-teaching time is an active policy commitment of the Scottish Government. We will consider whether any further legislative mechanisms could be added to ensure greater consultation with wider teaching communities ahead of Stage 2.</p> <p>The Scottish Government is cognisant of teaching trade unions' views in ensuring there is teaching trade union representation on the Board. These views align with the key principle in the Bill that the new organisation will be guided by the views and expertise of Scotland's teaching professions. However, the Scottish Government is mindful of the principles for public body appointments which come with the duty to effectively govern the organisation they are</p> |
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| | | <p>appointed to, regardless of other roles they hold, and should therefore not represent the interests of other organisations while on the Board of Qualifications Scotland. The Scottish Government is, however, open to considering how we can maximise the voice of recognised teaching trade unions and their members within the organisation, without foregoing the principles that underpin our public appointments system.</p> |
| Age-appropriate Spaces | | |
| 120, 121, 122, 123, 124 | <p>The Committee welcomes the intention of the Bill to involve those with "knowledge of the interests" of people taking relevant qualifications on the Board of Qualifications Scotland. However, we note the evidence that this could result in either the appointment of young people themselves, or of adults speaking on their behalf, such as parents and carers.</p> <p>In addition, we note that 'people taking relevant qualifications' includes both children and young people and adult learners. Whilst representation of the latter is important, if the intention of the legislation is to ensure the voice of young people is heard in particular, this should be clarified.</p> <p>The Committee therefore urges the Scottish Government to clearly outline who it envisages would represent the "knowledge and interests" of people taking relevant qualifications on the Board of Qualifications Scotland.</p> | <p>The Scottish Government is grateful for the Committee's recognition of the Bill's intention to enable greater involvement of people taking qualifications, including children, young people and adults, as well as their representatives.</p> <p>The Scottish Government is committed to ensuring meaningful engagement with children and young people, including providing appropriate feedback channels. This is a key component of the governance structure of Qualifications Scotland. The Scottish Government is aware of different models of participation that may require an age-appropriate setting, and it will consider further if this would mean having a separate forum for children in which they can contribute in the best way for them. Ahead of Stage 2, the Scottish Government will consider both legislative and non-legislative options to further strengthen delivery of this principle.</p> <p>The Scottish Government would expect the Board appointment of someone with knowledge of interests of those taking qualifications to be someone with the necessary skills and experience to effectively govern a</p> |

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| | <p>Where young people themselves are represented on the Qualifications Scotland Board, the Scottish Government should outline which measures will be put in place to ensure that any input is provided in an age-appropriate, supportive setting.</p> <p>The Committee recognises the importance of parents' and carers' voices and asks that the Scottish Government sets out how it will facilitate their involvement in Qualifications Scotland.</p> | <p>public body, whilst also having experience of delivering in the interests of learners – particularly children and young people. For example, this could be someone with clear experience and knowledge of working in the area of children and young people's rights; specialist expertise in facilitating engagement with children and young people; or someone with relevant experience in leading children and young people (or other learner) focussed organisations. It is entirely possible a young person may have the skills and experience required to reflect learner interests, although it is perhaps less likely they will have the additional experience and skills required to oversee a public body. We would therefore not expect a young person to be appointed to the role, though we would not wish to explicitly exclude them. The Scottish Government believes the Learner Interest Committee is a more appropriate mechanism to feed in young people's views and using the specific Board member role as the conduit for ensuring their views are reflected within the Board's decision making. In the instance where a young person was successful in appointment, the Scottish Government agrees appropriate support and mechanisms should be provided by Qualifications Scotland.</p> <p>The Scottish Government agrees with the Committee that the voices of parents and carers are important in shaping decisions for the organisation. Improving that engagement, communication and transparency is crucial. The Scottish Government expects that parents and carer representatives will be part of the membership of the Strategic Advisory Council which will provide the opportunity and assurances that parental and carer voices can shape decisions.</p> |
| Qualifications Scotland Staff Interests | | |

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| 133 | The Committee urges the Scottish Government to clearly articulate the role it envisages the staff representative will play on the Qualifications Scotland Board, in particular whether there is an expectation that they will bring staff-related concerns to the Board's attention. | The Scottish Government fully expects the explicit Board role for staff, as proposed in the Bill, will have a clear duty to lead on staff-related concerns and how these are collectively considered by the Board. |
| 134 | The Committee agrees that the Board member should be representative of, and accountable to, staff. As such, the Committee recommends that the Bill be amended to clarify that this Board member should be appointed by the recognised trade unions representing Qualifications Scotland staff. | The Scottish Government shares the Committee's view that the staff member should be accountable to staff and recognised unions. We will consider the Committee's clear recommendation ahead of Stage 2 in the context of related reforms and improvements to how the new body will ensure an effective staff voice is central within the organisation. |
| Diversity of Representation | | |
| 139, 140 | <p>The Committee believes that it is critical that the Qualifications Scotland Board comprises a variety of voices, skills and experiences. The Board also needs to reflect and be cognisant of the needs of those undertaking qualifications, those delivering them and those using them, recognising that there may sometimes be tensions between these.</p> <p>The Committee asks the Scottish Government to set out how it will achieve this, ahead of Stage 2.</p> | <p>The Scottish Government agrees with the Committee that Qualifications Scotland should be an inclusive body that comprises a wide variety of experiences and is able to ensure all views and interests inform how decisions are made. The Scottish Government agrees this should be reflected at Board level as much as possible.</p> <p>The Scottish Government has consistently highlighted the need to involve all those with a stake in how Qualifications Scotland operates, including children and young people, teachers, practitioners, parents and carers. This is key to delivering a fair and credible qualifications system that enhances the learning and teaching experience and supports better outcomes for all. The Scottish Government believes the full package of proposed governance and accountability measures, such as the interest committees, the Strategic Advisory Council and the Charters, will</p> |

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| | | <p>support the Board to ensure all these views are heard and fairly and transparently inform decision-making.</p> <p>Furthermore, Board members in particular are required to demonstrate they have the necessary skills and expertise to facilitate and support inclusion and participation, and to effectively manage any tensions that may arise as part of their responsibilities.</p> |
| Strategic Advisory Council | | |
| 157, 158, 159 | <p>The Committee observes that the proposals for the Strategic Advisory Council substantially replicate the legislation which established the SQA's Advisory Council. Given this, it is unclear to the Committee how this measure, as currently drafted, will lead to an improvement in the governance of the new qualifications body.</p> <p>The Committee notes the evidence calling for membership of the Strategic Advisory Council to be diverse and reflect the whole of Scotland.</p> <p>The Committee understands the need for flexibility in the provisions, however, it agrees with Professor Muir that a greater degree of specificity is required regarding membership.</p> | <p>The Scottish Government accepts the Committee's position that the proposed legislation for the Strategic Advisory Council (SAC) is broadly similar to the SQA's Advisory Council legislation. This reflects the clear feedback to the Muir Review and the Bill consultation that the existing forum had demonstrated clear benefits in ensuring strategic stakeholders were able to inform the work of the SQA. However, it was also recognised through recent reviews that such a Council could further strengthen its impact.. Alongside specific changes to the legislation in relation to the new Council – such as how it is convened – the wider governance improvements to Qualifications Scotland will provide the opportunity to review how the SAC could be more impactful than its predecessor. This will include new working relationships with the reconstituted Board, a refreshed membership model, and consideration of how it supports and/or is supported by the new interest committees.</p> <p>The Scottish Government welcomes the Committee's agreement that the SAC should have a diverse and representative membership. We agree that the membership model for the SAC needs to reflect all those in Scotland with an interest in qualifications and assessment. The</p> |

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| | | <p>Scottish Government maintains the importance of flexibility within the membership, and it is important to note risks with prescribing membership in primary legislation – this is pertinent in the context of the Committee’s calls for future-proofing where possible (paragraph 393 in the Stage 1 Report). However, the Scottish Government would like to highlight that the provisions for establishing the SAC set out in the Bill do provide opportunities for membership conditions to be set out in regulations.</p> <p>Scottish Ministers will be responsible for appointing SAC members, and the specification of membership will be fully considered in advance of the regulations being introduced.</p> |
| Interest Committees | | |
| 180, 181, 182 | <p>The Committee welcomes the intention to create mechanisms to hear from learners and from teachers and practitioners.</p> <p>The Committee is concerned that, as drafted, the Bill only guarantees that just over one quarter of members on the interest committees will be learners or teachers and practitioners; and that the largest single group could be made up of people from Qualifications Scotland.</p> <p>The Committee understands that this is not the intention of the Bill, however, the Committee believes that the legislation should be clearer in this regard and questions the necessity of Qualifications Scotland staff being appointed to these committees at all. The Committee also</p> | <p>The Scottish Government is grateful to the Committee and those that gave evidence highlighting the concern that under the Bill as introduced our target membership of the interest committees could be a minority within the membership. On reflection, the Scottish Government agrees with the Committee that learners or teachers (respective of each Interest Committee) should be the majority group on each Interest Committee. We agree that this should be changed and will bring forward amendments at stage 2.</p> <p>The Scottish Government will seek to provide clarity on the role Qualifications Scotland staff will have in these interest committees. We believe there will be merit in staff being part of these committees to provide relevant policy and operational expertise, to engage and listen to membership, or to support administrative functions. The membership will</p> |

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| | believes that learners or teachers and practitioners should make up the majority on their respective interest committees. | need to work closely with the organisation's staff to ensure delivery of any recommendations or decisions can be taken forward. However, we agree that the inclusion of Qualifications Scotland staff should not be at the expense of appointing external members. |
| 183 | The Committee asks the Scottish Government to set out how the interest committees and the Strategic Advisory Council will interact with each other and with the Board, and whether there will be a hierarchy in the advice provided by these different groups. | <p>The Scottish Government expect the Board of Qualifications Scotland to make appropriate, evidence-based judgements on the advice they receive from the Strategic Advisory Council and the Interest Committees. There is a clear requirement for the Board to consult with the Strategic Advisory Council in every case that is appropriate. The subsequent regulations will also provide the Scottish Government with the opportunity to set out how it expects Qualifications Scotland to respond to advice provided by the Strategic Advisory Council. The Scottish Government recognise that similar requirements may be beneficial for the interest committees and will consider this ahead of stage 2.</p> <p>The Scottish Government is keen that all these groups have the right opportunities to interact and work with each other, as preferred by the membership of the groups and as required by the Board, and that they both have clear and meaningful positions in advising the Board.</p> |
| 184 | The Committee urges the Scottish Government to set out how it will ensure that Qualifications Scotland is accountable to participants of wider consultative mechanisms that are put in place; and that it has appropriate structures and expertise to consult meaningfully with a diverse range of groups and, critically, to provide them | The Scottish Government agrees with the Committee that meaningful consultation and increased transparency with a diverse range of groups is important. It is vital their views are fed back, and that there is a clear articulation of how they have influenced decision-making; this is an essential component of participative governance. |

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| | with feedback on the actions taken and how decision making has been influenced by them. | <p>The provisions within the legislation provide clear mechanisms for Qualifications Scotland to deliver on the expectation of effective engagement. The interest committees and the SAC have a clear and direct relationship to the Board of Qualifications Scotland, and we would expect the modes of engagement, feedback loops and articulation of decisions to be set out within their own terms of reference.</p> <p>Any wider models of consultation determined to be essential by the Board or the staff of Qualifications Scotland will follow these same principles. It will be the expectation of Scottish Ministers that effective consultation, engagement and communication is a priority for the Board of Qualifications Scotland, on that can be emphasised even further through strategic guidance.</p> |
| Learner Interest Committee | | |
| 208, 209, 210, 211, 212, 213 | <p>The Committee recognises the importance of hearing from children and young people, and the intention to embed their involvement within Qualifications Scotland. However, the Committee notes evidence that these proposals entrench activity that is already happening, and which has been subject to criticism. As such, the Committee questions whether these measures will be sufficient to affect the change in culture sought by the Scottish Government, learners, their families and stakeholders.</p> <p>Given the similarities in the structures and mechanisms for engagement between the SQA and Qualifications Scotland, the Committee asks</p> | <p>The Scottish Government agrees it is crucial that the new qualifications body involves learners, including children and young people. The Learner Interest Committee will be a new mechanism to inform Qualifications Scotland's decision-making. The SQA does not have a similar structure within its governance model. A previous mechanism for learner engagement of this kind was via the Scottish Learner Panel, an external facing model for consulting with children and young people. The intention is for the new interest committee to emphasise the value of user-focussed input via decision-making forums as a key, immovable and explicit component within the organisation's governance structure.</p> |

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| | <p>the Scottish Government to set out how it will ensure that Qualifications Scotland will operate differently from the SQA.</p> <p>The Committee agrees that there must be an age-appropriate forum, and support, to allow children and young people to meaningfully participate. However, the Committee recognises the importance of also hearing from adult learners and parents and carers.</p> <p>The Committee acknowledges the suggestion from the CYPSC Young Advisors group that a similar model to their own be used by Qualifications Scotland, to allow young people to influence its work. The Committee asks the Scottish Government for its view on whether a quality engagement process, exemplified by the CYPSC Young Advisors and others, could be supported and resourced, including digital approaches to support inclusion and as wide a range of voices as possible, and if it could work alongside the learner interest committee.</p> <p>Should the Scottish Government opt to develop an age-appropriate forum that sits apart from the main learner interest committee, the Committee recommends that there should be clear mechanisms to ensure that the views of that group are factored into decision-making processes for the learner interest committee and Qualifications Scotland as a whole - and a clear feedback loop</p> | <p>The Scottish Government expects the interest committee to advise on the policy and service development undertaken by Qualifications Scotland, building on the perspectives of users from the outset. The focus of the interest committee will be for their membership to decide, in collaboration with Qualifications Scotland.</p> <p>The Scottish Government welcomes the Committee's view on developing an age-appropriate forum and will consider measures to support meaningful engagement with learners, head of Stage 2.</p> <p>With reference to the example of Young Advisors and the inclusion of a digital path as a means to facilitate participation, the Scottish Government is keen to understand how that might work in practice and support engagement mechanisms once the new governance provisions are established.</p> <p>The Scottish Government agrees that this interest committee must include a diversity of young people and other learners who undertake different forms of qualifications and assessment. Taking these views into account will be crucial when designing qualifications and assessment services as part of a high performing education and skills system.</p> <p>One of the core purposes of the Bill is to put learners at the centre of decisions on qualifications and assessment so their views can help tailor service provision to meet their requirements, including those with additional support needs, care experienced learners and other</p> |
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| | <p>provided so that young people know how their views have made a difference.</p> <p>The Committee believes that it is critical that any forum or committee is representative of Scotland as a whole and contains a diverse range of voices.</p> <p>The Committee asks the Scottish Government to consider strengthening the Bill to more explicitly reflect the policy set out in the Equalities Impact Assessment.</p> | <p>underrepresented groups. The membership of the interest committee should be a majority of user experienced individuals and include learners of all age groups in different settings and diverse backgrounds. The Scottish Government will consider how best to strengthen this point in legislation where necessary.</p> |
| Teacher and Practitioner Interest Committee | | |
| 219, 220, 221 | <p>The Committee recognises the importance of hearing from teachers and practitioners and the intention to embed their involvement within Qualifications Scotland.</p> <p>The Committee advises that, should the Bill become law, the teacher and practitioner interest committee must be diverse and representative of the country, and the teaching workforce.</p> <p>Given the lack of trust that many teachers have had in the SQA, the Committee believes that it is essential that there is good communication not only between Qualifications Scotland and the teacher and practitioner committee, but also with the wider teaching and practitioner workforce. This should include the work of the interest committee being transparent, and information readily accessible to all.</p> | <p>The Scottish Government welcomes the Committee's attention to the importance of embedding the voice of teachers and practitioners within Qualifications Scotland and fully agrees with the need for diverse and representative membership on the interest committee. It is expected that the interest committee will provide a valuable forum for the voice of teachers and practitioners and will function in an open and transparent manner. This is emphasised within the planning and reporting structures for the whole organisation, and with some explicit measures that allow for some sittings of the interest committees to be required to be conducted in public.</p> |

| Effective Monitoring | | |
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| 231, 232 | <p>The Committee believes that, for the charters to play a meaningful function, they must have authority and mechanisms to enforce the standards and expectations they set out.</p> <p>The Committee urges the Scottish Government to consider how it will include such measures in the Bill, to ensure that learners and teachers have some recourse should the standards set out in the charters not be met.</p> | <p>The Scottish Government agrees that the charters must play a meaningful function within Qualifications Scotland.</p> <p>The creation of these charters will provide a new and additional accountability mechanism which the performance of Qualifications Scotland can be openly assessed against. Published charters, with clear expectations for children, young people, adult learners and the teaching professions, will enable transparency and will support more open scrutiny of the organisation. It will provide a clear means for Scottish Ministers, the Scottish Parliament and the public to identify areas of concern and opportunities to improve how the organisation delivers consistently for these groups.</p> <p>The requirements for the charters, and how their contents have been upheld and met, will be a key requirement within the organisation's corporate plan, and annual report, both of which will be subject to Parliamentary scrutiny. These reports on the charters will be an essential component of how Qualifications Scotland evaluates progress, which is an essential element of creating a culture of continuous improvement. The charters are not intended to be used solely as a reactive tool to assess where things have gone wrong.</p> <p>The Scottish Government's view is that through the co-production of the charters, and the additional support provided through the new governance model, appropriate mechanisms for upholding the standards set out in the charters will be provided for.</p> |
| Co-creation | | |

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| 246, 247, 248 | <p>The Committee welcomes the intention to create charters, which will set out what those taking Qualifications Scotland qualifications and those providing teaching in respect of those qualifications can expect from the organisation.</p> <p>The Committee believes that Qualifications Scotland should consult widely on the charters, and ensure that such consultation is meaningful and representative of all those taking or teaching qualifications.</p> <p>The Committee notes concerns that Qualifications Scotland alone will be responsible for drafting the charters, albeit following consultation. The Committee agrees that it would be more appropriate for the charters to be co-produced and recommends that the Scottish Government considers amendments to the Bill which would ensure such co-production.</p> | <p>The Scottish Government is pleased with the positive response to the establishment of the charters by the Committee. The Scottish Government agrees fully on the need for meaningful and non-tokenistic engagement and consultation with all learners, teachers and practitioners. Section 10(3) and (4) and section 11(3) and (4) require Qualifications Scotland to consult appropriately when creating and reviewing its charters. This means engaging with (in the case of the learner charter) young people, adult learners, and their representatives such as parents and carers, or (in the case of the teacher and practitioner charter) teachers, lecturers and their representative and professional bodies. We are actively considering how these consultation requirements can be improved within the Bill ahead of Stage 2.</p> |
| Impact | | |
| 251 | <p>While the Committee appreciates the challenge in engaging with all learners, it nevertheless believes it is vital that all voices are heard, including those learners who are unhappy with their learning experience, to ensure that Qualifications Scotland sets out the expectations that the full range of learners can have of the qualifications body.</p> | <p>The Scottish Government agrees fully with the importance of all learners and their expectations being heard. Every effort should be made to ensure they are given the opportunity to influence the work of Qualifications Scotland, and in particular shape the content of the Charters.</p> <p>Through their relationship with the Chair and via routine strategic guidance, Scottish Ministers will ensure this is a priority for the Board of Qualifications Scotland. Scottish Ministers expect to issue guidance to Qualifications</p> |

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| | | Scotland at the point of establishment on what it's focus and priorities will be, and in particular the Scottish Government are working with stakeholders to shape specific guidance in relation to how the interest committees, and the Charters, will be most impactful in terms of their co-production and their effectiveness. |
| HIS MAJESTY'S CHIEF INSPECTOR OF EDUCATION IN SCOTLAND | | |
| Independence | | |
| 279 | The Committee believes that it is essential that the Chief Inspector is able to provide challenge to Scottish Ministers and education authorities, and to deliver difficult messages. | <p>The Bill sets out the legislative framework for the Chief Inspector to operate independently, including setting inspection methodologies and inspection judgements, without fear or favour.</p> <p>While the Chief Inspector needs to develop strong stakeholder relationships across the education system, they will maintain strategic distance from other organisations and agencies supporting schools and other education settings, giving stakeholders, the public and the political system confidence in its independence and rigour.</p> <p>It is expected that the annual report on the performance of the Scottish education system (as required by section 39 of the Bill) will provide an important opportunity for the Chief Inspector to set out an overall view on how the education system is performing, including over time reflections on how the roles of national and local government contribute to this.</p> |
| 280 | The Committee acknowledges the concerns expressed by some stakeholders that the proposals do not ensure sufficient independence for the inspectorate. | <p>The Scottish Government notes the concerns raised during Committee evidence sessions around this aspect.</p> <p>Under current arrangements, inspections are carried out in a manner that ensures impartiality, with inspection findings reached independently by HM Inspectors.</p> |

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| | | <p>This position has been further strengthened, building on early stakeholder engagement. P provision has been included to ensure that, in performing their functions, the Chief Inspector is not subject to the direction or control of any member of Scottish Government (schedule 2, paragraph 2(1)), except where otherwise specified in the legislation.</p> <p>The powers that Ministers do retain under the Bill are considered necessary to enable them to carry out some of their own functions relating to school education, including the duty to endeavour to secure improvement in the quality of school education in Scotland and the regulation of independent schools, including when using their powers of direction in this regard.</p> <p>However if the Committee or other stakeholders have specific suggestions for improvements then the Scottish Government remains open to hearing any proposals.</p> |
| 281 | <p>The Committee recognises the call from some stakeholders for the new inspectorate to be directly accountable to the Scottish Parliament. Although some members of the Committee did not consider that necessary, the Committee does recommend that the Scottish Government strengthen the measures within the Bill, to increase the inspectorate's accountability, including to Parliament.</p> | <p>The Bill sets out provisions whereby the Chief Inspector will regularly lay reports directly to the Scottish Parliament and provide an annual report on the performance of Scottish education.</p> <p>The Chief Inspector will be able to operate independently, setting their own priorities, and be independent in determining their findings. There will be no ministerial interference in the body's professional judgement. This is explicitly provided for in the Bill at schedule 2, paragraph 2.</p> |

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| | | <p>The Bill therefore enshrines the independence of inspection and reporting in legislation, moving the balance of power from Ministers to the Chief Inspector.</p> <p>As with other senior national figures in education, it is also expected that the Chief Inspector can and will be regularly called to give evidence to the relevant committees of the Parliament, as required.</p> <p>If the Committee or other stakeholders have specific views on how this might be further strengthened, the Scottish Government remains open to hearing proposals.</p> |
| Purpose and Approach | | |
| 298 | <p>The Committee believes that a clear statement on the purpose of inspections would be helpful and recommends that the Scottish Government include this in the Bill.</p> <p>The Committee urges the Scottish Government to consider where further flexibility should be built in to future proof the inspectorate and ensure the Chief Inspector is able to respond in an agile way, as teaching and educational delivery methods evolve.</p> <p>The Committee notes that Education Scotland is currently undertaking a review of school inspection and asks Education Scotland to set out the timescales, remit, work programme and membership for this work and to what extent it</p> | <p>The core purposes of inspection set out in Professor Muir's report were further developed and tested in the consultation which preceded this Bill, in which they were supported by over two thirds of respondents.</p> <p>The Scottish Government therefore believes that the core purposes of inspection are to:</p> <ul style="list-style-type: none"> • Promote the quality of education for all learners in Scotland through effective inspection and support for continuous improvement. • Provide accountability and assurance on the quality of Scottish education; • Support education providers to improve through building capacity and sharing effective practice; • Use inspection evidence to inform the development of educational policy and practice. |

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| | <p>expects the review to influence the approach of the new Chief Inspector, once appointed.</p> | <p>However, in relation to including those in the Bill, there is a risk that setting the purposes in legislation may, inadvertently, curtail the ability of the Chief Inspector to develop their approach to inspection in future, as the education system itself continues to evolve. This aligns with suggestions made by the Committee at paragraph 302 of its report.</p> <p>The regular publication of the inspection plan will provide the Chief Inspector with opportunities to set out the purposes of inspection, as these may develop over time. The Scottish Government will however continue to consider further opportunities to strengthen the role of the Chief Inspector in this regard, ahead of stage 2.</p> |
| 299 | <p>The Committee notes the calls to include parents and carers more in the inspection of schools and urges the Scottish Government to consider mechanisms to achieve that.</p> | <p>The Scottish Government agrees with the Committee that parents' and carers' voices must be able to contribute meaningfully to the practice of inspection.</p> <p>The Scottish Government further believes that the Bill gives opportunity for the independent Chief Inspector to strengthen parent and carer voice in the Advisory Council governance arrangements. Advice from the Advisory Council must be taken into account by the Chief Inspector as they take forward their operations (s.35(4)(a)). In order to ensure transparency, if the Chief Inspector does not act in accordance with the advice, then the Chief Inspector must set out an explanation as to what action has been taken.</p> <p>In terms of the direct involvement of parents and carers in the inspection of schools, this is already embedded within inspection processes through direct engagement with school parent councils. We expect that the Chief Inspector</p> |

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| | | will, as part of developing frameworks for inspection in future, build on and continue to improve those approaches. |
| 300, 301 | <p>The Committee acknowledges that there is some uncertainty at present about how inspections will be carried out under the new inspectorate, and that this uncertainty may continue until the inspection plan is published.</p> <p>The Committee notes the Bill's proposals that it is for the Chief Inspector to decide the approach towards inspections, and set out inspection models within an inspection plan. The Committee views this as an opportunity for the new Chief Inspector to reframe the way in which inspections take place, with an increased focus on the experiences of individual learners, including those with a diverse range of needs.</p> | <p>The Bill sets the legislative framework for the Chief Inspector to operate within – making specific provision for the Chief Inspector to set an Inspection Plan (s.36) and what that plan must include (36(2)), and who should be consulted on in the development of the plan.</p> <p>The Scottish Government agrees and believes that the Bill provides an opportunity for the independent Chief Inspector to strengthen learner voice in the governance arrangements of the Advisory Council, which is expected to feed through views to the operations of the Chief Inspector.</p> <p>For example, the Bill sets further provision for the Chief Inspector to consult with the Advisory Council, in addition to others as considered appropriate by the Chief Inspector. This may include consulting children and young people and other learners on the plan for inspection (s.36(4)).</p> <p>As set out in the Bill, the inspection plan is to include information about the different types of inspection models which will be used (s.36(2)(a)(iv)).</p> |
| 302 | The Committee urges the Scottish Government to consider where further flexibility should be built in to future proof the inspectorate and ensure the Chief Inspector is able to respond in an agile way, as teaching and educational delivery methods evolve | <p>The Scottish Government welcomes this suggestion and notes the risks in fixing too much detail in legislation and hampering the ability of the Chief Inspector to be flexible and continue to develop their role, in what will be an evolving landscape.</p> <p>The Scottish Government believes the provisions of the Bill are carefully framed to give sufficient flexibility for the Chief</p> |

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| | | <p>Inspector to work within – with some appropriate Ministerial flexibility to further amend via regulations in the future, if needed (for example in relation to the scope of establishments to be inspected).</p> <p>If the Committee or other stakeholders have specific views on how this might be strengthened, then the Scottish Government remains open to hearing proposals.</p> |
| 303 | <p>The Committee notes that Education Scotland is currently undertaking a review of school inspection and asks Education Scotland to set out the timescales, remit, work programme and membership for this work and to what extent it expects the review to influence the approach of the new Chief Inspector, once appointed.</p> | <p>The Interim Chief Inspector is currently gathering initial views from a range of stakeholders to help inform the timescales and work programme. Following this, they will set out the timescales, remit, work programme and membership for this work. The review will take account of a wide range of perspectives which the new Chief Inspector, once appointed, can draw upon.</p> |
| Early Learning and Childcare | | |
| 311, 312 | <p>The Committee notes the concerns about the burden of double inspections in some ELC settings and therefore welcomes the publication of the shared inspection framework.</p> <p>The Committee recommends that Education Scotland continues to work with the Care Inspectorate to ensure joined up working and proportionate regulation of the ELC sector.</p> | <p>The Scottish Government welcomes the Committee's views on this point.</p> <p>It is important to recognise the separate functions carried out by the Care Inspectorate and by the inspectorate function within Education Scotland.</p> <p>As the Committee notes, the Care Inspectorate and Education Scotland are developing a new shared Early Learning and Childcare (ELC) Quality Improvement Framework for all ELC services, to help minimise burdens on practitioners and provide clarity around the roles and responsibilities of the inspection bodies.</p> |

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| | | <p>The expectation is that this shared ‘Quality Improvement Framework’, which will be published, will be implemented from September 2025.</p> <p>This work has been developed in consultation with the sector and reflects a commitment to ensuring that inspection supports high-quality care, and education, addresses the needs of the sector, whilst ensuring that both inspectorates are able to discharge their responsibilities to ensure quality in care and education.</p> <p>The Inspectorates are also continuing to work together to reduce any burden on the sector wherever possible by, for example, through the planning of their inspection programmes and undertaking some shared inspections.</p> |
| 313 | The Committee also asks for the Scottish Government to clarify the definition of ELC funded partners within the Bill. | The term ‘ELC partner providers’, which is used in the Policy Memorandum, refers to persons with whom an education authority may enter into arrangements for the provision of ELC under section 35 of the Standards in Scotland’s Schools etc. Act 2000, i.e. private third sector providers of ELC. Such providers are covered within the Bill under section 31(1)(b). The term “school education” used in that provision includes ELC (see section 1(5)(a) of the Education (Scotland) Act 1980). |
| Voluntary Organisations and CLD | | |
| 318, 319 | The Committee recognises that the Bill provides the inspectorate with flexibility to inspect education provision in a variety of settings while maintaining its programme of school inspections. However, in practice, without increased resources, it is unlikely to be able to do so. | The Scottish Government continues to operate in a challenging fiscal environment and all public bodies, including the office of the Chief Inspector once established, will be expected to focus on driving efficiency in their operations. In the context of inspection, this will include |

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| | <p>The Committee asks the Scottish Government to clarify whether the new inspectorate will be provided with funding to allow for a greater range of educational settings to be inspected than is the case at present.</p> | <p>taking opportunities to explore different models for the carrying out of inspection.</p> <p>We expect that in due course, under the provisions set out in the Bill, the Chief Inspector will set out in their inspection plan how they will use the resources at their disposal to effectively discharge their remit, accepting that operating within the overall funding envelope provided will be an important factor in their planning.</p> |
| Initial Teacher Education and Post-16 Landscape | | |
| 328, 329 | <p>The Committee notes the evidence from stakeholders regarding the lack of clarity within the Bill as to who is responsible for inspecting non-degree qualifications in all tertiary settings. The Committee asks the Scottish Government to address this ambiguity ahead of Stage 2.</p> <p>The Committee also asks the Scottish Government to set out how the Tertiary Quality Enhancement Framework will interact with the work of the inspectorate.</p> | <p>In order to fulfil its existing statutory responsibilities for quality assurance and enhancement of colleges and universities, the Scottish Funding Council (SFC) currently commission the Quality Assurance Agency (QAA) and Education Scotland to support this work on its behalf. This work covers a range of provision across SCQF levels and modes of delivery at colleges and universities, including both degree and non-degree provision.</p> <p>As set out in the Scottish Government's response to Professor Muir's report, the move of the inspection function to the new Chief Inspector will work alongside existing ministerial commitments to the Scottish Funding Council's (SFC) Tertiary Quality Enhancement Framework (TQEF), which is being implemented from Academic Year 2024-25.</p> <p>The TQEF has been co-designed, developed and implemented by the SFC in partnership with the Quality Assurance Agency (QAA), Education Scotland and other stakeholders.</p> |

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| | | <p>In order to fulfil its existing statutory responsibilities for quality assurance and enhancement of colleges and universities, the SFC commissions the QAA and Education Scotland to support this work on its behalf.</p> <p>Under section 32 of the Education (Scotland) Bill, the Chief Inspector will have the power to enter into an arrangement with the SFC in order to support the latter's statutory functions.</p> |
| National Agencies | | |
| 332 | <p>The Committee urges the Scottish Government to respond to the proposal that the inspectorate should inspect national agencies, including Qualifications Scotland and Education Scotland. If this is not the Scottish Government's preferred option, the Committee would welcome details of how the Scottish Government will ensure the performance of the new bodies is regularly evaluated.</p> | <p>National bodies are already subject to review by Audit Scotland and the Scottish Government believes that expanding the Chief Inspector's remit to include inspection of national bodies risks confusion, as well as drawing its focus and resource from where it should be, on children, young people and other learners.</p> <p>However, this does not mean that the Chief Inspector will not be able to comment on the role of these national bodies, where that impacts on learners directly or on those that support them (teachers and other practitioners).</p> <p>For example, as part of the new requirement to prepare an annual report on the performance of the Scottish education system (see section 39), we would expect the Chief Inspector, drawing on their evidence base across the education system, to provide important feedback, where appropriate, including directly to the Scottish Parliament, on the impact, positive or negative, of national policy and services provided by organisations, in classrooms and other educational settings.</p> |

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| | | <p>We also note that Professor Muir made a specific recommendation that ‘the new independent Inspectorate should undertake an inspection on the effectiveness of the new, proposed arrangements designed to support change and improvement at local and regional levels. This should be completed within two years of the new Inspectorate coming into operation’. We believe the Bill sets a flexible legislative framework for this to be taken forward by the Chief Inspector.</p> |
| Child Protection | | |
| 337,338 | <p>The Committee shares the concerns of the Children and Young People's Commissioner for Scotland about the potential inspection gap around child protection and safeguarding in schools. The Scottish Government should clarify where responsibility lies for inspection, ahead of any Stage 2 considerations and, if it is to be HM Chief Inspector of Education, the Committee recommends that the Bill is amended to clarify this.</p> <p>The Committee notes the Cabinet Secretary's discussions in respect of these concerns and welcomes her intention to update the Committee on this. The Committee would welcome this update ahead of Stage 2.</p> | <p>It is important to reflect the different roles carried out by the Care Inspectorate and HM Chief Inspector, whereby HMIE inspect education and the Care Inspectorate regulate care.</p> <p>We know safeguarding concerns about children and young people are often identified in education settings.</p> <p>We understand the Scottish Child Abuse Inquiry is already undertaking an extensive review of child protection policy and practice in Scotland and will report with recommendations for further development in due course.</p> <p>We will give further consideration to the views of the Children and Young People's Commissioner for Scotland and explore options to clarify this area.</p> <p>The Cabinet Secretary for Education and Skills will write to the Committee in advance of Stage 2.</p> |
| Reporting | | |

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| 354, 355, 356 | <p>The Committee acknowledges the variety of views from stakeholders on the reporting powers for the inspectorate.</p> <p>The Committee recognises that the new provisions requiring the inspectorate to provide a view on the overall performance of the education system will provide an opportunity for the inspectorate to highlight areas of concern which can be tackled on a systemic, rather than individual basis.</p> <p>The Committee asks the Scottish Government for its view on the calls from stakeholders regarding the issues that should be covered in national and / or school inspection reports, including a focus on learner outcomes and experience.</p> | <p>The Scottish Government welcomes the Committee's recognition of this, which we agree is important.</p> <p>The Scottish Government agrees that a focus on learner outcomes and experience must continue to be fundamental to the inspection of education, as it is currently.</p> <p>In terms of a focus on learner outcomes and experience in the inspection of schools, this is already embedded within current inspection processes and we expect that the Chief Inspector will, as part of developing frameworks for inspection in future, build on and continue to improve those approaches.</p> |
| Advisory Council | | |
| 369 | <p>The Committee notes that the establishment of the Advisory Council is a new measure within the governance of the inspectorate. The Committee welcomes this but understands that its establishment alone will not be sufficient to improve governance.</p> | <p>The Scottish Government agrees that, while the Advisory Council will be an important element in the broader governance arrangements for HMIE, other elements will be required.</p> <p>Appropriate arrangements for governance for HMIE will therefore be put in place, including in relation to finance and risk, in alignment with the Public Finance and Accountability (Scotland) Act 2000 (PFA Act) and the Scottish Public Finance Manual (SPFM).</p> <p>Governance and accountability principles agreed with the new and reformed organisations will further support the development of new governance arrangements which are</p> |

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| | | reflective of the PFA Act, SPFM, Ethical Standards in Public Life and the Standards Commission for Scotland Principles of Public Life. |
| 370 | The Committee agrees that membership of the Advisory Council should be diverse and representative. Whilst the Committee does not believe the Bill should be overly prescriptive in terms of who should be represented on the Advisory Council, it highlights the evidence it has received from stakeholders about the under-representation of certain groups in governance roles, including black and minority ethnic learners, care experienced young people, young carers, disabled young people and neurodivergent young people. | <p>The Scottish Government agrees with the importance of considering directly the views and experiences of the groups highlighted in inspection. It also agrees with the Committee's view that prescription in legislation may be unhelpful.</p> <p>We would also highlight the existing requirement in section 35(2)(2) that, in appointing members to the Advisory Council, the Chief Inspector must endeavour to ensure that the Advisory Council (taken as a whole) is representative of the interest of persons likely to be affected by the Chief Inspector's functions.</p> |
| 371 | The Committee also urges the Scottish Government to consider how children and young people's voices will be incorporated, given the importance of providing age-appropriate spaces to ensure meaningful participation and compliance with UNCRC, as discussed repeatedly in the report. The Committee notes that a number of the proposals for strengthening the voice of children and young people in Qualifications Scotland could also be applied to the inspectorate. | <p>The Scottish Government recognises the importance of using appropriate language, recognising that children and young people have distinctly different needs and experiences compared to adults, particularly in the context of education.</p> <p>We believe there is sufficient flexibility in the Bill for the Chief Inspector to develop their own ways of working with children and young people to reflect this, without the need for prescription and potentially restrictive legislation.</p> <p>Notably, the Chief Inspector will be a public authority to which section 6 of the UNCRC (Incorporation) (Scotland) Act 2024 will apply.</p> |

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| | | The Scottish Government will fully consider how to ensure the language used in the Bill reflects these important points and ensure that the Chief Inspector fulfils their duties in regard to the UNCRC, particularly in relation to children's participation. |
| EQUALITIES | | |
| 375 | The Committee agrees that BSL should have parity of esteem with Gaelic throughout the Bill. The Committee therefore recommends that the Bill is amended to place specific requirements on Qualifications Scotland and HM Chief Inspector of Education to take account of the needs and interests of those who use BSL or wish to do so. | <p>While the Bill does not specifically reference BSL users, provisions for both bodies require them to have regard for the importance of communicating in the way that best meets the needs of children and young people (including those with additional support needs) and other users of the services of Qualifications Scotland and HM Chief Inspector of Education, alongside those who use Gaelic language. This requirement inherently includes those who use BSL.</p> <p>The Scottish Government is very mindful of BSL as a language in Scotland, and that Qualifications Scotland and HMIE should be understanding of their particular needs and interests. The Scottish Government is therefore considering how both the new bodies can better take account of those that use or wish to use BSL, and whether the existing measures in the Bill should be strengthened to this effect.</p> |
| DATA | | |

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| 380, 381 | <p>The Committee believes the regular collection and analysis of equalities-related data is an essential component in fulfilling the national agencies' requirements under the Public Sector Equalities Duty and ensuring they meet the needs of all learners.</p> <p>Ahead of Stage 2, the Committee asks the Scottish Government to clearly set out which improvements it intends to make to current data collection processes, and which new requirements it plans to put in place as a result of this Bill to allow both Qualifications Scotland and the new inspectorate to</p> <ul style="list-style-type: none"> • Better understand the impact of their decisions and policies on protected groups • Improve areas of their work, for instance the information they produce, additional support that might be provided to certain groups, how certain qualifications are best assessed, etc. • Better assess the experience of learners in their respective educational settings. | <p>As Scottish public authorities, Qualifications Scotland and HM Chief Inspector of Education in Scotland will be made subject to the general Public Sector Equality Duty and the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. The Scottish Government expects Qualifications Scotland and the Chief Inspector to mainstream and integrate equality in the way they exercises their functions, including making equality a key part of the structures, behaviours and culture of the organisation.</p> <p>The Scottish Government agrees that good quality equalities data will help with understanding the issues faced by people with protected characteristics, allowing for intersectional analysis with other socio-demographic characteristics. This will be crucial for Qualifications Scotland and the Chief Inspector to tackle any inequality that may arise on the data by providing adjustments, support or any other reasonable measure. In this sense, the Scottish Government believes that the establishment of user-focused structures within the governance of Qualifications Scotland, and as part of the Chief Inspector's Advisory Council, will be important to gathering and considering evidence.</p> |
| SEQUENCING | | |
| 392, 393, 394 | <p>The Committee acknowledges the frustration of those who wanted the Bill to include measures for wider reform, particularly in relation to assessments and qualifications. The Committee notes that some of the changes outlined in the reviews that the Scottish Government is yet to respond to could be progressed without legislative change. The Committee also notes that some</p> | <p>The Bill represents one important component of our work to reform Scotland's education system. It is supported a range of reform initiatives, which along with this legislation will improve outcomes for children, young people and adult learners in Scotland.</p> <p>As announced in June 2024, work is already underway to refocus Education Scotland to lead curriculum design,</p> |

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| | <p>changes proposed in the reviews require a refocused Education Scotland and urges the Scottish Government to urgently clarify what measures would be needed to ensure Education Scotland could deliver the changes needed, including whether it believes this would need legislation.</p> <p>The Committee understands that this Bill is designed to action the recommendations on structural change made by Professor Muir in his review. It is critical, however, that any structures put in place by the Bill are future-proofed so that they can easily adapt to any changes to curriculum and assessment that are subsequently put in place.</p> <p>The Committee would ideally have expected the Scottish Government to set out a coherent vision for wider educational reform ahead of this legislation being introduced. However, it acknowledges the Cabinet Secretary's intention to set one out before the end of 2024. The Committee asks that any future statements include timescales for the overall reform package, with milestones for key reforms.</p> | <p>delivery and improvement, including the provision of resources to support high quality learning and teaching. Aspects of this work are already underway as the organisation takes forward the Curriculum Improvement Cycle. Further detail is provided in the response to paragraph 415.</p> <p>The Government's strategy for improvement in Scottish education, which was published on 10 December, in the 2025 National Improvement Framework. set out a clear vision for the education system going forward.</p> <p>The Scottish Government agrees with the Committee that structures put in place by the Bill should be future-proofed in order to adapt or be adaptable to ongoing and future reforms.</p> <p>For Qualifications Scotland, that is why the awarding functions (section 2) reflect the current functions of the SQA. They focus the organisation's functions on development and delivery of qualifications, assessment and certification whilst being broad enough to future-proof the organisation's ability to adapt, innovate and implement reforms to qualification and assessment, and reflect changes to curriculum.</p> <p>The Scottish Government is keen to ensure the new governance mechanisms for Qualifications Scotland and the Chief Inspector are as adaptable as possible, whilst retaining the guarantees of the improved stakeholder involvement the system needs and expects. This future-proofing is enabled through elements such as not</p> |
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| | | <p>specifying exact membership, processes, focusses or procedures for how things like the interest committees or respective advisory councils work.</p> <p>The Scottish Government is open to considering how any other measures which would support this need for agility, whilst retaining the balance between impact right now and adaptability for the future.</p> |
| REMAINDER OF EDUCATION SCOTLAND | | |
| 413 | The Committee recognises the importance of the curriculum support agency engaging with learners, parents and carers and the teaching workforce. | The Scottish Government agrees with and supports the Committee's view that Education Scotland must continue to build its engagement with learners, parents and carers, and educators in all aspects of its work. Further detail is provided in the response to paragraph 415. |
| 414 | As with the Committee's recommendations in relation to Qualifications Scotland and HM Chief Inspector of Education, it is critical that Education Scotland's engagement work with children and young people is in age-appropriate formats, that they are supported to participate meaningfully and that their views are fully considered. | The Scottish Government notes the Committee's view and agrees. |
| 415 | While understanding that arrangements, as currently proposed, do not require legislation, the Committee asks the Scottish Government to set out its full intentions on Education Scotland, including how it plans to improve governance arrangements. The Committee also asks Education Scotland to set out the work that it is doing to engage with learners, parents and carers as well as the teaching workforce. | <p>In line with the Cabinet Secretary for Education and Skill's direction, Education Scotland is undertaking transformation across its functions, governance arrangements and culture.</p> <p>The <u>Government Initiated Question</u> set out the broad functions of a refocussed Education Scotland. Curriculum design and improvement, which importantly includes leading the Curriculum Improvement Cycle, will be Education Scotland's primary focus. Education Scotland will</p> |

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| | | <p>retain its status as an executive agency of the Scottish Ministers, integral to central Government with a delivery focus. As such, there is no requirement to establish Education Scotland in legislation as it will deliver its functions on behalf of Scottish Ministers, in line with Ministerial functions and national priorities.</p> <p>The Framework Document is the primary governance document for executive agencies. It details the roles and responsibilities of Scottish Ministers, the Chief Executive, boards and committees. Ministers are able to specify governance requirements such as stakeholder representation on advisory boards and committees to ensure they are representative. As the organisation refocuses, the Framework Document will ensure that the governance arrangements meet Professor Muir's recommendation for increased participative governance, to ensure that Education Scotland is focused on meeting the needs of educators as they in turn work to improve outcomes for learners. Education Scotland's Corporate Plan will set out the priorities for the agency and key performance indicators to measure impact.</p> <p>The Scottish Government agrees with and supports the Committee's view that Education Scotland must engage learners, parents and carers and educators in all aspects of its work. Learner and stakeholder engagement is a key priority of the Scottish Government and, as such, is a priority for Education Scotland. Education Scotland has been taking important steps to increase engagement, and the Committee has asked Education Scotland to set out the work that it is taking forward in this regard.</p> |
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| | | <p><u>Education Scotland response</u></p> <p>Education Scotland endorses the Committee's view on the importance of engaging meaningfully with children and young people. Education Scotland is currently working to further develop its approach to the UNCRC so that the voices of children and young people are heard and inform the design, delivery and continuous improvement of Education Scotland services.</p> <p>Our approach will include a range of methods for the voices of children and young people, their representatives, parents and carers to be better understood and to inform and influence. For example, we anticipate the development of the longer-term organisational strategy (Corporate Plan) and the strategic priorities for the refocussed Education Scotland being grounded in evidence and drawing directly from research focused on engagement with children and young people.</p> <p>Education Scotland's current Advisory Board includes as members:</p> <ul style="list-style-type: none"> • Director of Education • Members who are parents <p>As part of the refocusing of Education Scotland, a new framework document will be developed which will set out governance arrangements in support of a refocussed organisation and will include detail on how children and young people, parents and carers can be part of shaping the organisation in future.</p> |
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| 416 | <p>The Committee notes the evidence about the complexity of the education landscape in Scotland. The Committee urges the Scottish Government to consider how it can clarify the roles and responsibilities of these bodies, to reduce the potential for duplication and confusion.</p> | <p>The Scottish Government is committed to improving clarity on the roles and relationships between and across system partners, and to supporting positive relationships, practices and cultures across the national organisations which are the subject of reform. As part of that, work has been undertaken to consider the areas where the national organisations interface most significantly with each other and with other partners, to identify where greater clarity is needed in the delivery of national support and to reduce the potential for duplication and confusion in areas where the roles have not always been understood or clearly articulated. Actions from that work are currently being considered, including how the roles of different bodies can be set out more clearly, with on-going co-ordination of delivery through effective partnership working to improve efficiency and remove duplication. This will be taken forward as part of work to establish the new bodies in autumn 2025.</p> <p>We will also consider how collaborative relationships with system partners can be prioritised and how dialogue within the system among educators, learners and other users can help to ensure that national sources for support and advice are robust, cohesive and developed in line with our vision for Scottish education.</p> |
| 417 | <p>Similarly, the Committee believes that it is important that consideration be given as to how Qualifications Scotland and the new inspectorate will impact and influence the work of organisations that are established later, such as the Centre for Teaching Excellence.</p> | <p>The Scottish Government agrees that it is important that the range of national organisations within scope of reform, along with other stakeholders at national and local level, work closely together to ensure that, collectively, their impact in improving outcomes for children, young people and other learners is maximised.</p> |

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| | | <p>In relation to the Centre for Teaching Excellence, while the Centre is yet to be established, the co-production process (which included a significant number of serving teachers and headteachers) identified what was widely agreed to be a gap in the current system – the need to bring together more closely and consistently research and evidence with teaching practice. A rigorous process for identifying the hosting arrangements for the Centre has focused on that gap, to ensure that it adds value to the existing system and we will ensure that this will also be reflected in the grant conditions for the successful host of the Centre.</p> |
| UNCERTAINTY FOR STAFF | | |
| 431, 432 | <p>The Committee recognises the uncertainty that there has, and continues to be, for staff at the SQA, HMle and Education Scotland since these reforms were initially announced in June 2021. The Committee further recognises that, during this time, staff have been preparing for the transition to the new or reformed bodies, while also delivering their current programmes of work.</p> <p>The Committee asks the Scottish Government to set out how it will improve communications with the staff of national agencies affected by the provisions of this Bill, including via Trade Union and other routes.</p> | <p>The Scottish Government understands the uncertainty that staff in the impacted organisations have felt since reform was announced and is grateful for the work that has been undertaken by staff to support this reform.</p> <p>We have been clear on the importance of organisations ensuring that trade unions representing the staff of the SQA and Education Scotland staff are kept informed of progress and able to feed in the views of their members throughout this process.</p> <p>The Cabinet Secretary for Education and Skills last met the unions in November and will be meeting them again early in the new year.</p> <p>We will also be increasing our engagement in 2025, as we enter this crucial phase in the reform of our national bodies.</p> |

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| | | As part of this, the Scottish Government is also working with the SQA and Education Scotland to develop a communications and engagement plan specifically for 2025. This will support all three organisations to engage effectively and timeously with their staff and with stakeholders regarding reform progress/ |
| FINANCIAL MEMORANDUM | | |
| 445, 446 | <p>The Committee notes the Scottish Government's position that the FM provides an estimate of the costs of establishing the new bodies and transferring staff from the current agencies to their successors.</p> <p>However, the Committee recognises that, with very similar functions, the key difference between the SQA and Qualifications Scotland are the governance arrangements and mechanisms for engagement. Should the successor organisations not be funded to carry out that engagement, the Committee is sceptical that these measures will be able to effect the change the Scottish Government, the profession, learners and stakeholders are looking for.</p> | <p>The Scottish Government acknowledges that Qualifications Scotland will have broadly similar functions to SQA. It is essential this is the case to ensure Qualifications Scotland can deliver statutory requirements around the delivery of, awarding, certification and accrediting of qualifications.</p> <p>Qualifications Scotland will have an allocated budget that enables it to deliver on all its statutory functions and fulfil its legislative requirements. It will be required to manage its budget in accordance with the Scottish Public Finance Manual and current spend controls to ensure the appropriate handling and reporting of public funds. The Scottish Government will expect Qualifications Scotland to prioritise resources to deliver value for money and maximise benefits for children, young people, adult learners, teachers and practitioners, and all other people who use its services. That will involve how it uses its resources to deliver the governance changes and wider engagement requirements.</p> |
| CONSIDERATION OF DELEGATED POWERS | | |
| 466, 467, 468 | The Committee notes the points made by the Delegated Powers and Legal Reform Committee in its report. | The Scottish Government is pleased to see that the Committee is content with the delegated powers set out in the Bill, and the additional assurances provided helped this. |

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| | <p>The Committee notes that these provisions are largely replicated from the legislation which established the current qualifications body and its Advisory Council and is content with the assurances from the Scottish Government on these provisions.</p> <p>The Committee is content for Qualifications Scotland and the Strategic Advisory Council to be subject to a requirement to "have regard to" guidance from Scottish Ministers at Sections 8(2) and 9(3)(b)(iii). The Committee recommends that this guidance is subject to the negative procedure.</p> | <p>The Scottish Government acknowledges the Committee's recommendation that any Ministerial guidance to Qualifications Scotland or the SAC is subject to the negative procedure. The Scottish Government does not believe this procedure is necessary and believes it would undermine one of the key purposes of Ministerial guidance being issued in a timely manner where required. This would be challenging to uphold if all guidance was required to go through a mandatory 40 day laying period.</p> <p>It should also be noted that guidance is routinely not subject to parliamentary scrutiny precisely because guidance can only guide and does not have the force of law. While regard has to be had to guidance, that does not mean that it has to be adhered to. Guidance is routinely provided for in Bills/Acts of the Scottish Parliament, and it is routinely stated that regard must be had to it, and it is nevertheless standard practice for such guidance not to be subject to any form of parliamentary procedure. It is generally accepted that it would not be a good use of parliamentary time for the Parliament to be inundated with all the guidance that might be issued in all the different policy areas and which nobody is obliged to follow if, having had appropriate regard to it, they opt to take a different course of action. In addition, the guidance in question will relate solely to how and when Qualifications Scotland and the Strategic Advisory Council should consult each other. Guidance on other topics, including those that are more controversial or covering much wider topics, is not normally dealt with by this Parliament as if it was the law.</p> |
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| | | We will, however, consider ahead of Stage 2 whether there is anything more that can be provided for in relation to guidance which might offer suitable reassurance, such as the need to publish such guidance. |
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Annex

Short-Life Working Group on the Scope of accreditation and regulation function within the new Qualifications Body

Outline Terms of Reference

Overview

This Short-Life Working Group (“The Group”) will play a key role in supporting the Scottish Government in making decisions regarding the scope of the accreditation and regulation function carried out by the new Qualifications Body.

Purpose

The purpose of the Group is to develop and consider the options and implications of any potential changes to the scope of the accreditation and regulation function for the new Qualifications Body.

The Group will share their expertise from their roles within the Scottish qualifications system to ensure detailed and evidence informed consideration is given to all aspects relating to the scope of accreditation and regulation taking into account the regulatory framework used by SQA Accreditation for qualifications awarded in Scotland.

Remit

The Group is to provide advice and make recommendations to Scottish Ministers regarding any changes to the scope of the new Qualifications body’s accreditation and regulation function. The Group’s primary focus will be on determining the new Qualifications body’s accreditation and regulation role in relation to the regulation of awarding bodies and of qualifications in Scotland.

Membership

Proposed membership of the Group is set out at Annex A. Membership has been determined on the basis of the current roles and expertise proposed members have in the facilitation of developing, delivering, using, and funding within Scotland’s qualifications system.

Proposed format and focus

The Group will be run as a virtual or hybrid working group. These will be closed meetings where free and frank exchanges on policy will be essential. The Group will have a well-defined focus on the new Qualifications Body’s scope of accreditation of qualifications and regulation of awarding bodies, and the matters to be considered will include:

- Understanding the role and responsibilities of Scottish education organisations in
- relation to an effective qualifications market in Scotland.

- Setting out with clarity the exact issues that any change to the scope of accreditation and regulation would seek to resolve
- Advising on the scale of and options for widening the scope of accreditation and regulation, and the associated implications on the education and qualifications system. This includes considering the scope of accreditation both within post-school settings and also within the senior phase of school.
- Seeking the views of direct and indirect users of qualifications in Scotland. This includes but is not limited to, stakeholders such as learners, Local Authority schools, private schools, colleges, the community learning and development sector, employers and industry leaders etc.
- Seeking the views of stakeholders with an active role in the qualifications market. This includes, but is not limited to, SQA regulated awarding bodies, un-regulated awarding bodies, training providers, customers of the SQA and other bodies (e.g. Private and Public organisations) etc.
- Seeking to understand the impacts of any options for changes in scope for the new Qualifications body on the roles, responsibilities and remits of wider public sector organisations that play a part in developing, delivering, funding, or using qualifications.
- Seeking to understand how accreditation and regulation in other jurisdictions is carried out, their effectiveness and lessons for the Scottish system.
- In determining the options for any changes to scope, consider the various solutions and mechanisms available that could enable effective implementation and achievement of outcomes, such as different legislative and non-legislative approaches.
- Understanding the implications of any recommendations in the context of the Scottish Government's and the Scottish education systems' ongoing programmes of education and skills reform, such as the Hayward Review and the Withers Review.
- Advising on the proposed timings for any next steps, any further evidence and information required to enable a clear policy decision, and an implementation plan.

To support effective decision making, evidence will be provided to the Group and members will be expected to share their own information, data and evidence. Outwith the core membership of the Group, key stakeholders will also be invited to provide evidence and information. Steps will be taken to address any gaps in the key data and evidence base that are identified and required to inform advice. This data and evidence will also support and align with Recommendation 9 of the Withers

report where there is a call for the Scottish Government to ‘carry out a comprehensive audit of post-school qualifications and pathways’, pending a Government response on this recommendation.

Frequency of meetings

It is expected that this Group will run between October and December 2023. The first meeting of the core members of the Group will determine the working plan for this period and the expected meeting frequency.

Secretariat

The Group will be supported by a secretariat provided by Scottish Government officials based in Education Reform Directorate and Lifelong Learning and Skills Directorate, and with additional support from SQA Accreditation.

Proposed Membership

- (Chair) Scottish Government – Education Reform Directorate and Lifelong Learning and Skills Directorate

Members with oversight of qualifications system (core members):

- Scottish Qualifications Authority – Accreditation
- Scottish Credit and Qualifications Framework Partnership
- Skills Development Scotland
- Scottish Funding Council

Consideration will be given by the members listed above, to the inclusion of a regulatory independent expert on qualifications onto the group membership.

The following stakeholders have been identified as being potentially most impacted by changes to scope and should therefore be involved in the work of the group. Membership of the group for these stakeholders could be an option if the core members consider it appropriate.

- Federation of Awarding Bodies
- Scottish Training Federation
- ADES
- Colleges Scotland
- Community Learning and Development Managers Scotland

The working group should also consider a range of other stakeholders that could contribute to the work of the group, including:

- Specific training providers – e.g. largest and smallest operating in different sectors
- in Scotland
- Specific colleges – e.g. delivering publicly funded qualifications; vocational and
- technical qualifications etc.
- Specific secondary schools – as above

- Private and public sector industry and employers who use qualifications
- Awarding Bodies –SQA Approved and non-SQA Approved awarding bodies. eg. largest and smallest operating in different sectors in Scotland, awarding bodies delivering specific qualifications such as those with health and safety aspects
- Regulators in other jurisdictions – e.g. Ofqual, Qualification Wales and CCEA Regulation
- SQA's Accreditation Committee
- SQA Awarding – in relation to self-regulation of senior phase and other qualifications
- SQA Accreditation Staff and SQA's Trade Unions
- SCQF Partnership Forum