

UPDATING OF THE SCHOOL PREMISES (GENERAL REQUIREMENTS AND STANDARDS) (SCOTLAND) REGULATIONS 1967

ANALYSIS OF RESPONSES TO THE PUBLIC CONSULTATION EXERCISE

FINAL REPORT

10 JANUARY 2018

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Updating of the School Premises (General Requirements and Standards) (Scotland) Regulations 1967

Analysis of responses to the public
consultation exercise

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Contents

Contents	2
Executive Summary	3
Introduction.....	6
Background.....	6
How the consultation was run.....	6
Who responded	6
Regulations which we proposed to retain unchanged	8
Regulations which we proposed to update	21
Regulations which we proposed to remove	35
Regulations to be applied to independent schools	52
Business and Regulations.....	53
Equality.....	55
Children’s Rights and Wellbeing	56
Annex 1 - Organisations responding to the consultation	60

Executive Summary

This summary sets out key messages from analysis of responses to a consultation on the Updating of the School Premises (General Requirements and Standards) (Scotland) Regulations 1967. The consultation proposals were provided under four categories, and suggest a number of areas for change. The four categories were:

- Regulations proposed to remain unchanged
- Regulations proposed to be updated
- Regulations proposed to be removed
- Regulations applicable to independent school

Common Themes

The response to the consultation was overwhelmingly positive with agreement to all but one proposal; that regarding sites for playing fields.

Responses were received from a wide range of organisations and individuals with an interest in school premises or education more broadly. Most contributors offered comment on their specific areas of interest or professional expertise, and details are provided within the body of the report.

The proposals which attracted most comments were those in relation to sites for playing fields, outdoor education and recreational areas, acoustic conditions and sanitary accommodation for pupils.

It is important to note that comments were requested at each question from those **not** in agreement with the proposal. These should be differentiated from those provided by respondents in agreement and this is stipulated within the report.

Common themes identified throughout include:

Sites for Playing Fields

Great importance was placed on ensuring children had access to nature and natural grassed areas; this was considered essential to promote health and wellbeing, play, socialisation and for children to learn to take risks. There was a strong view that a minimum space requirement should be set to ensure this was the case. It was also considered essential that the principles of the 'Grounds for Learning', 'Play Scotland' and 'Learning for Sustainability' strategies should be embedded into the Curriculum for Excellence through increased access to natural outdoor space.

The balance between Regulation and Local Flexibility

A need was recognised to ensure an appropriate balance between formal Regulation and flexible and informed decision making at local authority level. Local knowledge was seen to be essential in making the right decisions for individual communities.

It was further requested that detailed guidance be provided on key issues in relation to school premises. It was felt that such guidance would avoid any potential misinterpretation of requirement, and where appropriate would support local decision making to take place.

Safeguarding Standards

Although in agreement with all proposals for Regulations being removed, concerns were expressed that this may lead to a fall in standards or a lack of uniformity across schools. It was therefore requested that the Scottish Government made it clear that the requirement still existed within other legislation and that this was clearly signposted to.

Promoting Inclusion

Some challenges may be faced in implementing the Regulations in campus style schools with shared facilities, or mainstream schools where inclusion was a principle driver. Teaching and playing space was shared by early years, older children and young people with additional support needs. This was particularly raised in terms of acoustic requirements, storage and differing requirements for play.

Promoting Equality

The additional consideration given to children and young people not identifying with their biological gender was broadly welcomed as was the potential provision of gender neutral toilet and washing facilities. The need for gender specific facilities was an area of continuing debate.

All respondents agreed that the proposals would have no detrimental effect on those with protected characteristics, and indeed went some way in supporting greater equality and inclusion.

A Whole School Approach

A need was identified to consider the entire school site and the requirements placed on it. Increasing demands for parking and access requirements were seen to impact on a school's ability to meet some individual Regulations; for example, sufficient pitch and play space and a desire to promote access to the natural environment.

Children First

Priority should always be placed on making changes that support better educational outcomes for children and young people, even if at times this requires additional investment in a time of austerity.

The Consultation Process

The opportunity to take part in the consultation was both welcomed and valued. A significant majority (80%) of respondents were either very satisfied, satisfied or expressed no concerns on the consultation process itself. A further 84% held the same opinion when asked about their experience using Citizen Space.

Future learning points were identified as:

The need to ensure that consultations are presented in clear English and can be easily understood; and,

That consideration should be given to greater use of free text for additional comments in the future.

Introduction

Background

This report presents analysis of responses to a consultation on the Updating of the School Premises (General Requirements and Standards) (Scotland) Regulations 1967. The consultation opened on 17 July 2017 and closed on 9 October 2017.

The Regulations prescribe the broad minimum standards that school buildings must meet. School premises Regulations ensure that the specific needs of pupils are met particularly on issues that might impact on their welfare such as washrooms or lighting, or on their education such as access to playing fields. The aim of the review is to ensure the Regulations are up to date, by removing unnecessary Regulations and updating or retaining those that remain. This should have the effect of minimising bureaucracy whilst ensuring buildings are appropriate for educating children and young people.

The consultation focused on four areas:

- Regulations which we proposed to retain unchanged
- Regulations which we proposed to retain and update
- Regulations which we proposed to remove
- Regulations to be applied to Independent Schools

Revised Regulations are expected to come into force in 2018.

How the consultation was run

The consultation paper (available at <http://consult.gov.scot/school-infrastructure/updating-of-the-school-premises/>) asked a total of 25 questions with responses submitted via Citizen Space or by email. Respondents were asked to indicate whether they were answering as an individual or on behalf of an organisation, organisations were then asked what type of organisation they were. The majority of the 77 respondents who submitted a response answered most but not all of the questions, with some answering those only pertaining to their particular area of expertise. The first 22 questions asked for Yes or No answers and comments were requested from those who were **not** in agreement with the proposal.

Who responded

In total, 77 standard consultation responses were received, 40 from groups or organisations and 37 from individual members of the public. The majority of responses were received through the Scottish Government's Citizen Space consultation hub.

A breakdown of the number of responses received by respondent type is set out in Table 1 below and a full list of organisational respondents can be found in Annex 1.

Table 1: Respondents by type

Type of respondent	Number
Organisations:	
Buildings and Infrastructure	3
Early Years	2
Equality and Diversity	4
Food and Catering	1
Independent Schools	3
Inspection, Regulatory and Advocacy	2
Land and Greenspace	5
Local Authority	15
Professional Body	1
Sports and Leisure	1
Trade Unions	2
Youth Work	1
Total Organisations	40
Individuals	37
Total	77

This report

This report presents a summary of the comments and suggestions made on each of the 25 questions of the consultation and also sets out some of the other issues people raised. Respondents were asked to comment if they **did not** agree with the proposal; however those in agreement also chose to respond. In all but one question, those *not* in agreement were the minority. The Scottish Government has access to all of the feedback from the consultation overall.

Regulations which we proposed to retain unchanged

Question 1 – Educational accommodation in schools providing both primary and secondary education – Do you agree this Regulation should be retained unchanged? If not, why not?

Table 2: Question 1 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1		1	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	4		1	5
Local Authority	11	4		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	2			2
Youth Work Organisations			1	1
Total organisations	23	5	12	40
% of organisations answering	82%	18%		100%
Individuals				
Individuals	20	1	16	37
% of individuals answering	95%	5%		100%
All respondents				
All respondents	43	6	28	77
% of all respondents	56%	8%	36%	100%
% of all those answering	88%	12%		100%

A large majority of respondents, 88% of those answering the question, **agreed** that Regulation should be retained for educational accommodation in schools providing both primary and secondary education. Individual respondents were more likely to agree than those from organisations (95% and 82% respectively).

Of those respondents who answered Question 1, 7 went on to make further comments.

The significant majority who provided comment felt that the Regulation should be retained and raised no further issues. A local authority respondent noted that it would be beneficial to provide further definition on how shared primary and secondary space might be treated to ensure equality of access and that the differing needs of the children would be met.

Those who did not agree that the Regulation should remain unchanged were from across a range of respondent groups; 1 in 3 local authorities felt some change was necessary.

Key themes identified were:

- Approval by Scottish Ministers provides no guidance as to expectations. There is a need for guidance to outline minimum standards in the form of area accommodation metrics. Guidance on accommodation requirements in 'all through' schools would also be preferable to requiring ministerial approval.
- Decisions regarding educational accommodation in schools should be made by the local authority who are best placed to make local decisions based on local situations.

Question 2 – Educational accommodation in Special Schools. Do you agree this Regulation should be retained unchanged? If not, why not?

Table 3: Question 2 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1		1	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	4		1	5
Local Authority	11	3	1	15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	2			2
Youth Work Organisations			1	1
Total organisations	23	4	13	40
% of organisations answering	85%	15%		100%
Individuals				
	20	2	15	37
% of individuals answering	91%	9%		100%
All respondents	43	6	28	77
% of all respondents	56%	8%	36%	100%
% of all those answering	88%	12%		100%

A large majority of respondents, 88% of those answering the question, **agreed** that Regulation should remain unchanged for educational accommodation in special schools'. Individual respondents were more likely to agree than those from organisations (91% and 85% respectively).

Of those respondents who answered Question 2, 6 went on to make further comments.

Those who were in agreement with the Regulation remaining unchanged, offered minimum comment to support their views; but where this was the case it was asserted that special schools should be seen as notably different from mainstream schools and that as such each will require individual consideration.

The majority of comments were provided by those who were not in agreement.

A number of local authorities stated that they held sufficient expertise to determine specialist provision locally and that it would be most preferable for them to do so. There was seen to be potential to involve Education Scotland in any design process as is the practice in Nursery provision with the Care Inspectorate. Supplementary guidance offering minimum standards in the form of area accommodation metrics would be both beneficial and empower local authorities to undertake this role. It was noted that a statutory consultation under the Schools (Consultation) (Scotland) Act 2010 would be required in the event of developing any new or extended provision.

It was noted that the clear majority of Additional Support Need (ASN) provision is now in mainstream schools and that the educational accommodation needs in special schools should not be vastly different. The consultation mentions the requirement for additional facilities such as sensory pools, outdoor learning or social spaces, but respondents who provided comment felt that this should be part of the usual planning for truly inclusive mainstream schools. Special schools were in fact defined in section 29 (1) of the Education (Support for Learning) (Scotland) Act 2004 as a school, or any class or other unit forming part of a mainstream school. To this end, one set of Regulations were deemed sufficient to ensure that facilities were both inclusive and accessible for all pupils throughout the school.

A final individual respondent stated the view that it was not appropriate to assume that classroom sizes will be larger. Whilst the teacher: pupil ratio may well be greater, there is no evidence that this would lead to larger teaching areas. They expressed that the converse is likely to be true, as many ASN provisions only work effectively when the number of children in each teaching area is small.

Question 3 - Outdoor Education and Recreational Areas. Do you agree that this Regulation adequately covers the requirements for outdoor educational and recreational areas? If not, why not?

Table 4: Question 3 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:	1	1	1	3
Buildings and Infrastructure	1	1		2
Early Years Organisations	1	1	2	4
Equalities or Disabilities			1	1
Food and Catering	3			3
Independent Schools			2	2
Inspection, Regulatory and Advocacy	2	3		5
Land and Greenspace	11	4		15
Local Authority			1	1
Professional Body	1			1
Sports and Leisure	1	1		2
Trade Union			1	1
Youth Work Organisations	21	11	8	40
Total organisations	66%	34%		100%
% of organisations answering	1	1	1	3
Individuals	16	9	12	37
% of individuals answering	64%	36%		100%
All respondents	37	20	20	77
% of all respondents	48%	26%	26%	100%
% of all those answering	65%	35%		100%

A majority of respondents, 65% of those answering the question, **agreed** that this Regulation adequately covers the requirements for outdoor educational and recreational areas. Individual respondents were almost as likely to agree as those from organisations (64% and 66% respectively).

Of those respondents who answered Question 3, 23 went on to make further comments.

Those respondents who agreed that the Regulation adequately covers the requirements for outdoor educational and recreational areas did so whilst raising a number of issues for consideration. The majority of comments were made by local authority, land and greenspace organisations and individual respondents:

- It was felt that further guidance on practice would be beneficial and that potentially this could be found within the Building Bulletins.
- In recognition of the national and local authority strategies on promoting outdoor learning, provision for outdoor space should be considered in addition to playing fields to deliver the best outcomes for children and young people.
- To improve the availability and quality of outdoor provision it should be part of the school estate and should not be secondary to the building.
- The current definition of 'laid out and surfaced' spaces in the Regulations should be revisited to be cognisant of the Learning for Sustainability Vision 2030+ which states the need for every learner to have the opportunity for contact with nature throughout the seasons, and the provision of thoughtfully developed green space for outdoor learning and play.

Many respondents who were not in agreement, particularly those representing early years, land and greenspace organisations and individual respondents felt it important to recognise the potential to enhance children's learning by increasing the quality of outdoor spaces and to ensure they can be used in flexible ways. Guidance to this effect would be beneficial, to maximise opportunities to play in trees and bushes, hiding spaces, grow vegetables and teach children about seasonal food and nature. Children were seen to be entitled to daily contact with nature and that this had not been well considered in the current guidance. It was also noted that the costs of natural play as opposed to building a traditional tarmac playground compared well. Wider benefits were also seen in making such spaces accessible to the wider community.

A suggestion was made that the Regulation may benefit from a change in tone and that the current language had the potential to restrict interpretation and fit less well with the contemporary interpretation of play initiatives such as loose play, grass areas and natural materials such as sand and plants. It was further proposed that that the word play should be included to amend wording to "*appropriate to children's education, play and recreation.*"

Teachers have a requirement to teach outdoors to deliver the Curriculum for Excellence, and greenspace plays an important part in the promotion of good physical, mental and emotional wellbeing. It was therefore suggested that the Regulations could be amended to maximise the learning potential and health benefits of outdoor play. These principles were embedded in the improvement tools 'How Good is Your School (fourth edition)' and 'Learning for Sustainability', supporting the Scottish Government priority for outdoor learning, health and wellbeing into the Curriculum for Excellence.

Concerns were raised on the whole by land and greenspace respondents, regarding the ability of local authorities to meet the requirements set out within the existing Regulations, and that the ability to have sufficient areas for play is restricted after building, access road and parking requirements have been met. This had become more challenging due to the increase in parking provision since the original Regulations in 1967. Building Bulletin (BB) guidelines are frequently quoted as a requirement in school projects, especially BB103 (which considers social, PE, play space and habitat) but equally these are rarely able to be accommodated in the remaining space for play. It was suggested that the school area in Section 7 of the Regulations is divided into an area for play and 'other', this would ensure that a sufficient area is always provided for the children's use.

It was felt that some schools were not able to provide space for social or play purposes despite the abundance of research asserting its value. There was also a lack of natural surfacing, with 'safe surfaces' being favoured. Natural surfaces were seen to have a key role in teaching sustainability and were clearly advocated in programmes such as 'Grounds for Learning' and 'Play Scotland', the play agenda in Scotland. It was proposed that to counteract this, elements such as landscaping, growing to support sustainability and biodiversity should be separated from requirements such as vehicular access or car parking within the Regulations.

The introduction of a minimum space requirement to safeguard such elements was widely supported and that space for educational and recreational activities could easily be further defined so future expectations can be met without having to re-legislate. Local authority and land and greenspace respondents made a variety of comments, including that the area of play to be provided could be represented as a percentage of the area defined under Regulations 7 and 20 and considered over and above the Regulation 8 requirement for school playing fields. The current Regulation 20 was thought to be vague, contradicting the greater emphasis being placed on outdoor learning and ease of access nationally.

It was suggested that there would be some benefit in considering **sportscotland's** 'School Playing Fields Planning and Design Guidance' (2006) outlining the importance of outdoor spaces in the social and educational development of pupils and the provision of healthy exercise and creative play.

Question 4 – Acoustic Conditions. Do you agree that this Regulation adequately covers the requirements for acoustic conditions? If not, why not?

Table 5: Question 4 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure		3		3
Early Years Organisations	1		1	2
Equalities or Disabilities	2	1	1	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1		4	5
Local Authority	10	5		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union		2		2
Youth Work Organisations			1	1
Total organisations	17	11	12	40
% of organisations answering	61%	39%		100%
Individuals				
Individuals	17	5	15	37
% of individuals answering	77%	23%		100%
All respondents	34	16	27	77
% of all respondents	44%	21%	35%	100%
% of all those answering	68%	32%		100%

A majority of respondents, 68% of those answering the question, **agreed** that this Regulation adequately covers the requirements for acoustic conditions. Individual respondents were more likely to agree as those from organisations (77% and 61% respectively). 2 out of 3 local authority respondents agreed.

Of those respondents who answered Question 4, 20 went on to make further comments.

Those who agreed that the Regulation adequately covered the requirement for acoustic conditions did so whilst raising a number of issues for consideration. These included:

- To ensure the various sensory needs of different pupils were considered, especially those with additional support needs such as autistic spectrum disorder who may have additional sensory requirements.
- To ensure that there was an associated provision for the local authority to set local standards appropriate to their circumstances.
- To provide further guidance in relation to best practice.

The need for Scottish Government guidance was also expressed by local authority and equalities or disability groups, who were not in agreement with the current Regulation and felt there was some benefit including them within Building Standards. Best practice was currently being referred to via Building Bulletin 93, which is only applicable in England and Wales but is used in school design in Scotland. There was a preference to place Building Bulletin 93 or other appropriate Scottish standards on a statutory footing which would assist in avoiding disparity across schools. There was value in stipulating minimum criteria to be met. Clearer standards would improve monitoring and compliance and help share effective practice and support authorities to address local challenges.

Acoustics were considered to be an integral component of education, educational performance and pupil wellbeing. A number of respondents felt that the definition should be sophisticated enough to reflect this and that Regulation 24 currently over emphasises 'disturbance by noise' whereas acoustic conditions covers a range of elements such as reverberation time, speech intelligibility and sound insulation. It should be made clearer in the Regulation that each design aspect requires to consider acoustics in its totality and apply it as appropriate to support the purpose for which a specific part of the building is intended.

There was a strong view from equality or disability respondents that good listening was critical to improving learning outcomes, so the right conditions were essential to access the curriculum and be fully included in school life. An attainment gap however exists between deaf children and their peers at school and poor acoustics can be a contributory factor in this as recognised by the Scottish Parliament and Cultural Committee Inquiry into the attainment of those with sensory impairment. The Inquiry found that *'appropriate acoustic standards are vital for children with a hearing impairment and that (they) do not understand why the relevant standards are not statutory in Scotland when this is the case in England and Wales.'*

It was suggested that the specific requirements of learning environments needed to be recognised, for example those associated with alternative learning environments. It was further suggested that the local authority should be required to detail the intended use of any space and the necessary acoustic conditions needed. An identified complexity however was that in an age of inclusion many children struggled with the levels of background noise, with the potential to increase volume, distraction and stress and that many schools may indeed be open plan. It was proposed that it might be valuable to define what an acceptable level of background noise was. Some existing and newly developed premises were seen to be poorly designed to the extent where they are having an adverse effect on teaching and learning.

Additional comments were made by a minority of individual respondents in relation to the impact of acoustics on behaviour overall and the capacity to potentially improve behaviours in the classroom. The need to ensure sufficiently high standards of acoustic insulation in relation to performing arts subjects, music percussion and in rooms used for the teaching of percussion was also recognised.

There was a concluding view by an equalities and disabilities respondent that the current Regulation was aspirational rather than compulsory and given its criticality to learning should be mandated.

Question 5 – Water Supply – Do you agree that this Regulation adequately covers the requirements for water supply? If not, why not?

Table 6: Question 5 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1		1	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace		2	3	5
Local Authority	11	4		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	1	1		2
Youth Work Organisations			1	1
Total organisations	18	8	14	40
% of organisations answering	69%	31%		100%
Individuals				
Individuals	18	3	16	37
% of individuals answering	86%	14%		100%
All respondents				
All respondents	36	11	30	77
% of all respondents	47%	14%	39%	100%
% of all those answering	77%	23%		100%

A majority of respondents, 77% of those answering the question, **agreed** that this Regulation adequately covers the requirements for water supply. Individual respondents were more likely to agree as those from organisations (86% and 69% respectively).

Of those respondents who answered Question 5, 11 went on to make further comments.

A Land and Greenspace respondent agreed that the Regulation adequately covers the requirements for water supply, and confirmed their agreement with the provision of drinking water, water for washing purposes and general water supplies. It was however noted that further and more specific guidance would be beneficial.

Local authority respondents were more likely to comment on the specifics of the Regulation. Specific responses are as follows:

Point (1) that in every school building wholesome water in sufficient quantities shall be provided for drinking and for all other purposes.

There was agreement by a number of local authority respondents that wholesome water in sufficient quantities should be provided for drinking, cooking, food preparation and washing but not necessarily for other purposes such as toilet flushing. It was further suggested that the definition be changed from 'wholesome' to 'potable water, available in sufficient quantities in appropriate locations'. An individual respondent believed that the need for sufficient water was covered by other legislation, namely the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 and was set within the context of nutritional value, hydration and supporting a healthy lifestyle which they believed sent a stronger message.

Point (2) that each wash basin or group of wash basins shall have a supply of water warmed sufficiently for washing purposes.

It was suggested by local authority respondents that reference should be made to the varying suitability of water temperature for different groups such as children or young people with additional support needs, and that this warrants further consideration. A further comment suggested this might therefore be amended to "*heated and thermostatically controlled*" water.

Point (3) that all sinks to be used for general purposes and baths shall have an adequate supply of separately controlled hot and cold water.

There were a number of views about all sinks having an adequate supply of separately controlled water, and that this was unlikely to be required for general purpose sinks. There was an accompanying concern that this would lead to increased maintenance and utility costs and there was potential for the legionella control requirements to be affected if the outlet is infrequently used. However, where baths were to be provided then the provision of warm water was deemed acceptable.

Point (4) that every shower shall have a supply of water warmed to a temperature of not less than 38°C nor more than 44°C.

A few comments were made specifically regarding water temperature and tended to be in agreement with the suggested temperature range, with one local authority respondent recommending a maximum of 41 degrees.

Further guidance was welcomed as the majority considered the Regulation vague and it required to be better defined, and was open to misinterpretation. It was noted that there are more significant water Regulations that must be complied with, that are in excess of the Regulation requirements. These include The Scottish Water Bylaws, Legionella Guidance and the Chartered Institute of Building Services Engineers (CIBSE). It was felt to be useful to amend Regulation 25 to reflect the provisions of The Workplace (Health, Safety and Welfare) Regulations 1992 ('Workplace Regulations') which states that "*an adequate supply of drinking water must be provided*". This must be "*wholesome, situated at suitable and readily accessible places and conspicuously marked, where necessary, for health and safety reasons.*"

Finally, land and greenspace respondents expressed strong views that outside taps for both drinking and handwashing should be included in the Regulation and the provision for an appropriate external water supply to support outdoor play and growing areas for learning.

Question 6 – Grant -Aided Schools. Do you agree that the new Regulations should apply to grant aided schools? If not, why not?

Table 7: Question 6 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations			2	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1		4	5
Local Authority	14		1	15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	2			2
Youth Work Organisations			1	1
Total organisations	22	1	17	40
% of organisations answering	96%	4%		100%
Individuals				
	19		18	37
% of individuals answering	100%	0%		100%
All respondents	41	1	35	77
% of all respondents	53%	1%	45%	100%
% of all those answering	98%	2%		100%

Almost all respondents, 98% of those answering the question, **agreed** that the new Regulations should apply to grant aided schools. Individual respondents were more likely to agree as those from organisations (100% and 96% respectively).

No further issues were raised at Question 6 regarding grant aided Schools.

Regulations which we proposed to update

Question 7 – Sites for Playing Fields. Do you agree that if there is a mixture of grass pitches and SP then the area required in some circumstances can be less than that currently defined for grass pitches? If not, why not?

Table 8: Question 7 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations			2	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1	3	1	5
Local Authority	12	3		15
Professional Body		1		1
Sports and Leisure	1			1
Trade Union		2		2
Youth Work Organisations			1	1
Total organisations	19	10	11	40
% of organisations answering	66%	34%		100%
Individuals	8	26	3	37
% of individuals answering	24%	76%		100%
All respondents	27	36	14	77
% of all respondents	35%	47%	18%	100%
% of all those answering	43%	57%		100%

A majority of respondents, 57% of those answering the question, **disagreed** that if there is a mixture of grass pitches and SP then the area required in some circumstances can be less than that currently defined for grass pitches. The response differed between Individual and Organisational respondents. Individuals being more likely to disagree than organisations (76% and 34% respectively).

Of those respondents who answered Question 7, 37 went on to make further comments.

Local authority respondent comments were most likely to agree with the proposal and offered several suggestions for consideration:

- With regards to the proposed update to Regulation 8, the formula should be based not on the number of pupils but the design capacity of the school.
- The minimum area for playing fields is too prescriptive and can only be applied to new build schools. There may be accompanying issues in councils procuring land for these new schools.
- Primary and secondary schools should be assessed separately.
- Less defined requirements for grass pitches could be considered if synthetic pitches are provided, but consider stipulating a maximum provision of grass pitches for sporting activities.
- The Regulation may benefit from articulating more clearly that the area required where there is a mixture of grass pitches and synthetic pitches *cannot* be less than that currently defined for grass pitches (This could currently be inferred).
- Ambiguous phrases such as “*in some circumstances*” should be removed as there is a risk of it being seen as a get out clause.

Access to the natural environment

The most commonly raised theme from respondents not in agreement was the importance of accessing natural environments as part of learning and play. The proposed reduction did not recognise the value of grassed areas beyond their use for outdoor sports; and the benefits they could offer both the school and wider community in terms of mental health and physical wellbeing. The ‘Learning for Sustainability Vision 2030+’ contains the recommendation that “*all school buildings, grounds and policies should support learning for sustainability*” and “*every learner should have the opportunity for contact with nature in their school grounds on a daily basis through the provision of thoughtfully developed greenspace for outdoor learning and play*”.

Outdoor play was seen to impact significantly on the lives of children and can help to remove barriers to physical activity and provide access to greenspace and nature, and encourage social contact and integration. There is a risk of reducing opportunities for younger children to informally play which is seen to be important in terms of learning to take risks, socialising and engaging with their natural environment. The Regulation should therefore make provision for spaces that have ecological potential and that can be managed in a sympathetic way to support diversity under the Biodiversity Duty for local authorities.

The principles of promoting natural environments were strongly supported by wider natural guidance such as through Education Scotland, Grounds for Learning Architecture and Design Scotland as well as the national Play Strategy. The potential reduction in the size of school grounds and outdoor learning as laid out, is

at risk of diminishing these principles. In one case a respondent suggested that to change the Regulations in this way, offers permission for developers to concrete over existing natural spaces school might have, and that the proposal was directly at odds with the Scottish Governments policy goals.

Access to outdoor facilities

The second most commonly raised, and related theme, was that of ensuring appropriate access to a variety of spaces for physical activity, play, socialising and learning. There was a concern that the proposal for space for play would include synthetic pitches which have restricted access, have been created for sport and often have to be booked, paid for, or restrictions on footwear. The UN Convention for the Rights of the Child was quoted as stating “*in respect of play and recreation the age of the child must be considered in determining the nature of the space and environment available to children.... As children grown older they move from wanting settings that offer play opportunities to places offering opportunities for socialising. These experiences are developmentally necessary for adolescents and contribute to their discovery of identity and belonging*”. There was a concern that playing and socialising space would be reduced for children who don’t want to play lunchtime football. Including synthetic pitches in outdoor space does not ultimately lend itself to running around space.

Reducing the areas available because of the nature of the material it is made of, may restrict the number of children having access to the space at the same time. It is not the material that was seen to be important but the availability of use. Children from inner city schools could be disadvantaged and experience greater restrictions by supporting a material based reduction. Equally decisions based on school roll raise the concern that if numbers were to change following land being relinquished to developers, then it would lead to inflexibility in the future. Children were considered to still need the same amount of space.

Local authorities were encouraged to make school facilities available before, during and after the school day, at weekends and during the holidays. Access could be provided to public, voluntary, community and private sector groups offering play activity programmes.

Outdoor space allocation

A land and greenspace respondent noted that Scotland’s standards for the minimum allocation of space falls below those set out in equivalent English and Welsh policies and there is an argument that this should be aligned. It was asserted that the minimum area for secondary schools should be amended to meet **sportscotland** guidance for the number of pitches. Some considered there was no case to reduce the area requirements if there was a synthetic surface as many schools will in fact have Multi Use Games Areas (MUGA) rather than synthetic pitches. It may be worthwhile to indicate the recommended number of pitches rather than a total area.

Some respondents were in support of space being identified by pupil numbers or school roll but did not feel that there should be any grounds for a waiver. There had been incidences where children would instead be taken to nearby parks, but there was a view that it did not happen.

Question 8 - Educational Accommodation in primary schools and secondary schools. Do you agree that accommodation metrics are an appropriate method to calculate the educational accommodation required? If not, why not?

Table 9: Question 8 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure		2	1	3
Early Years Organisations			2	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1		4	5
Local Authority	13	2		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union		2		2
Youth Work Organisations			1	1
Total organisations	18	6	16	40
% of organisations answering	75%	25%		100%
Individuals	14	7	16	37
% of individuals answering	67%	33%		100%
All respondents	32	13	32	77
% of all respondents	42%	17%	42%	100%
% of all those answering	71%	29%		100%

A majority of respondents, 71% of those answering the question, **agreed** that accommodation metrics are an appropriate method to calculate the educational accommodation required. Organisational respondents were more likely to agree than those from individuals (75% and 67% respectively).

Of those respondents who answered Question 8, 17 went on to make further comments.

Of the comments received 1 in 3 were from respondents in agreement that accommodation metrics are an appropriate method to calculate the education accommodation requirements. The view from local authority and trade union

respondents was that the metrics should be applied as a minimum and that a level of tolerance should be applied as minimum standards could potentially cause delays in project development. There was a question as to whether stipulating this in legislation could have the adverse effect of limiting the creative use of small spaces. It was suggested that when applying metrics, the modern 2-18 year campus's should be taken into account.

It was felt that a review of the Regulation was required. An example given was that establishing metrics as a result of assessing the mean accommodation area of existing primary and secondary schools does not provide a robust rationale for the size of the teaching area, but that data on the impact and outcomes for learners, if any, on the size of the teaching area would be more meaningful. Primary schools were also seen to require more space than they currently receive as young children are known to learn best when they are moving and playing and this is needed to support a high quality learning experience. A further example was the need for clarity in terms of what exactly is included, for example ASN provision. The view of a trade union respondent was that the metrics were just not adequate to deliver the Curriculum for Excellence and future educational developments. A final comment by an individual respondent who was not in agreement with the use of accommodation metrics, was the concern that this approach does not necessarily translate to schools that are fully wheelchair accessible and that this should instead reflect the standards set out in the Building Bulletin 102.

A number of individual respondents also disagreed on the principle relating to school roll and felt that the 'increasing the roll, decreasing space' ratios were inappropriate and did not understand why the amount of space needed by each child should change based on the number of children in a school. Some logic was seen in determining space requirements for early years or nurseries, but not based on global school numbers. It was felt that once deemed appropriate, the size of educational accommodation for one child should remain consistent regardless of the school roll. Equally, if more pupils enter the school then correspondingly educational space should be increased.

Question 9 – Sanitary accommodation for pupils. Do you agree that this covers the requirements for toilet and washing facilities? If not, why not?

Table 10: Question 9 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations			2	2
Equalities or Disabilities	1	1	2	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy		1	1	2
Land and Greenspace		1	4	5
Local Authority	10	5		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	1	1		2
Youth Work Organisations			1	1
Total organisations	16	10	14	40
% of organisations answering	62%	38%		100%
Individuals				
Individuals	15	6	16	37
% of individuals answering	71%	29%		100%
All respondents	31	16	30	77
% of all respondents	40%	21%	39%	100%
% of all those answering	66%	34%		100%

A majority of respondents, 66% of those answering the question, **agreed** that this covers the requirements for toilet and washing facilities. Individual respondents were more likely to agree than those from organisations (71% and 62% respectively).

Of those respondents who answered Question 9, 19 went on to make further comments.

A number of local authority, trade union and individual respondents who were in agreement with the proposal provided comment:

- The retention of the number of toilets and washbasins as prescribed in the Regulation was welcomed, and ensures a greater provision than that laid out in both the Technical Handbook and British Standard 6465-1:2006. It was considered important to acknowledge that this requirement should not pose any issues for small rural schools within Scotland.
- It is important to note that there are revenue costs associated with sanitary facilities that require to be considered.
- It must be ensured that the standards expected in nursery schools and classes regulated by the Care Inspectorate do not fall below that available in Primary Schools.
- There was little experience of Primary Schools providing showers for the use of pupils 11 and over.

The most common themes arising within other responses are outlined below in order of prevalence.

Gender Neutral Toileting and Changing Provision

This theme was most likely to be raised by equality or disability, inspection, regulatory and advocacy and individual respondents.

The Regulations were considered outdated and that they should be reviewed to adequately capture the provision of these facilities. Many transgender young people feel unable to access suitable facilities within school, with 2 in 3 saying they do not feel able to use the toilets and 7 in 10 saying they are not able to use changing rooms where they feel comfortable (School Report Scotland, 2017). Young people who do not identify with either the male or female gender were considered to be presented with the most challenge. Although the flexibility within the Regulation was welcomed, a minimum standard for schools should be outlined to include gender neutral facilities. There was a question as to whether all toilets being gender neutral was appropriate, with the recognition that many young girls already feel vulnerable using current facilities at school. Female only toilets were considered more than just a sanitary facility but also a place where privacy can be gained, where a child can feel safe and where they can deal with developmental issues such as menstruation.

A small number of respondents, mainly individuals, felt strongly that it was unacceptable for girls and boys to share toilet facilities and that this raised issues of potential vulnerability and of sexual assault in schools; although the alternative view was expressed that gender-neutral toilets can in fact reduce concerns over safety and bullying for all students, not only those who are transgender.

Regardless of view, it was felt by inspection, regulatory and advocacy respondents, that future provision should be fully embedded in a human rights approach and accompanied by statutory guidance. Compliance assessments and inspection on a regular basis is also required, particularly through gaining the views of the children and young people themselves. In the event that Regulations are not imposed there

was a concern that children and young people would continue to experience breaches to their human rights on a daily basis.

There was a final observation that the Regulation would benefit from further clarity as schools can be unclear of toileting and washing requirements, and whether or not gender neutral facilities should be provided. The use of phrases such as 'can be updated' implies that the latter is optional.

Children with protected characteristics

Consideration needs to be given to children with protected characteristics to ensure compliance with the right standards and access to appropriate toilet facilities. The impact of crowds or the noise of hand driers can impact on those with sensory disabilities, as can the lack of private space for girls to adjust their headscarves. It is not seen to be enough to state that "accessible facilities for pupils who are disabled should be provided", when to achieve full acceptance and inclusion all sanitary facilities, changing rooms and showers should be fully accessible too. Children and young people with disabilities or medical conditions may face even greater challenges in maximising a fulfilling and full education if personal care needs cannot be fully supported.

The views of children and young people

The Children and Young Peoples Commissioner has been working with and listening to the views of children on the quality and standards of school toilets through the 'Flushed with Success' Programme. Those who dislike using school toilets because of hygiene or privacy concerns or who experience bullying may be more afraid to use facilities if not well managed, which results in physical and emotional health impacts. Considering this work and ensuring the systematic gathering of children's views in any decision-making process was of the utmost importance.

Application of the Legislation

A small number of local authorities queried where the requirements would best be set out. It was suggested that there would be some benefit to including them in the Building Regulations given the cyclical nature of schools and that it would not be helpful to set them out in separate legislation. A further suggestion was that the pupil toilet provision requirements were outlined in the Technical Handbook rather than the School Premises Regulations.

Further comments from a minority of respondents were as follows:

- The Regulations will result in a greater number of sanitary facilities per pupil in small schools rather than in early years facilities. It would be preferable to have a standard ratio of 1:10 of all facilities up to a given size, with a reduced ration for larger primary and secondary schools.
- There were concerns that nursery schools were to be removed from the Regulations and may be left regulated by the Care Commission in this regard.

A preference was stated for a minimum requirement to continue to be stipulated.

- The Regulation should cover handwashing facilities outside particularly in primary school play areas where mud kitchens and sand pits are favoured.
- Clarification should be included that showers should be provided for secondary pupils only rather than determined by age.

Question 10 – Medical Inspection and rest room accommodation. Do you agree that this covers the requirements for medical inspection and rest room accommodation? If not, why not?

Table 11: Question 10 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1		1	2
Equalities or Disabilities	1	1	2	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1		4	5
Local Authority	11	4		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	2			2
Youth Work Organisations			1	1
Total organisations	20	6	14	40
% of organisations answering	77%	23%		100%
Individuals				
Individuals	16	3	18	37
% of individuals answering	84%	16%		100%
All respondents				
All respondents	36	9	32	77
% of all respondents	47%	12%	42%	100%
% of all those answering	80%	20%		100%

A majority of respondents, 80% of those answering the question, **agreed** that this covers the requirements for medical inspection and rest room accommodation.

Individual respondents were more likely to agree than those from organisations (84% and 77% respectively).

Of those respondents who answered Question 10, 8 went on to make further comments.

A trade union respondent who was in agreement with the proposal stated that they supported the update to Regulation 18 which will improve minimum requirements, compared to current Regulations, especially in respect of pupils with complex needs.

Those who believed that the requirements were not currently being met were in the main equality or disability and local authority respondents.

Local authorities raised a number of concerns:

- That the current proposal does not fit well with the requirement to use school accommodation flexibility and that where new schools have such facilities for medical and rest room use they are infrequently used for this purpose. There is a concern that where primary schools were small, that this was not the best use of space and there was a question if it was required.
- Clarity was required on whether a separate medical room and rest room were required, given the apparent infrequent use.
- A specific dental exam room could be provided where deemed necessary however it may be appropriate to make alternative arrangements in partnership with the NHS.

An equalities or disabilities respondent was concerned that the Regulations don't sufficiently define complex needs or provide examples to aid professional or parental understanding. There is a view that the Regulations need to be expanded to meet the needs of a diverse population of young people within the mainstream school environment. The organisation had received feedback from parents that insufficient access to such supports had impacted on school placement, access to learning and raised issues of dignity and wellbeing. It was felt important that all schools should have the capacity to create appropriate facilities when required.

Individual respondents raised a number of issues including that more than 'short term' facilities were required for students, as it would be reasonable to provide accommodation for sick pupils whose parents cannot collect them immediately. It was also suggested that where the consultation document refers to 'schools that cater for complex needs' in fact all newly built schools should be capable of meeting these requirements and should have medical accommodation to cater for those needs.

Question 11 – Lighting. Do you agree that this covers the requirements for lighting? If not, why not?

Table 12: Question 11 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure		2	1	3
Early Years Organisations	1		1	2
Equalities or Disabilities	1	1	2	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace		2	3	5
Local Authority	13	2		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union		2		2
Youth Work Organisations			1	1
Total organisations	18	9	13	40
% of organisations answering	67%	33%		100%
Individuals				
Individuals	15	6	16	37
% of individuals answering	71%	29%		100%
All respondents	33	15	29	77
% of all respondents	43%	19%	38%	100%
% of all those answering	69%	31%		100%

A majority of respondents, 69% of those answering the question, **agreed** that this covers the requirements for lighting. Individual respondents were more likely to agree than those from organisations (71% and 69% respectively).

Of those respondents who answered Question 11, 15 went on to make further comments.

The comments were made by a broad range of respondents, both organisational and individual respondents.

A local authority respondent who believed the requirements were being met, felt that as appropriate lighting levels were determined by considering many different information sources, they had a preference for supplementary, non-statutory guidance on how this might be achieved.

The most frequently raised theme by those not in agreement, was the need to ensure appropriate lighting standards were met and how this could be best achieved. This was an issue for local authorities, building and infrastructure, equality or disabilities and trade union groups.

Sufficiently good lighting and lighting levels were considered essential for effective teaching and learning and as such the proposal to change the Regulations to require only 'appropriate' lighting with any further guidance being non-statutory was seen to seriously weaken the current position. There was an accompanying view that minimum standards should be established and set out in the Regulation.

A number of suggestions by local authorities were made in terms of how standards could be both set and maintained.

These proposals included:

- The more rigorous requirements of the Chartered Institute of Building Services Engineers (CIBSE) could be adopted; any designer should consult these and make sure proper lighting design meets the requirements. There are also specific CIBSE guides for school lighting.
- That required standards, once set, could be subsumed into the Building Standards Technical Handbook.
- A requirement should be made for the achievement of a silver / gold standard to be mandatory, to reflect the Scottish Government Statement of Sustainability.

The need to achieve and be recognised for this standard was also supported by a number of building and infrastructure, individual and trade union respondents. It was noted that this requirement should be mandated, and the Regulation adjusted to ensure that this is the case. There was a view that where guidance is non-statutory and only encouragement is given, desired outcomes are rarely achieved, and that there was a risk that recommendations might be ignored on the grounds of cost. Statutory guidance would have the additional benefit of ensuring a consistent approach is applied across all establishments.

Land and greenspace respondents supported the inclusion of external lighting as during the winter months outside play and education will depend on this. Again, there was a view that outside lighting should be subject to standards in excess of those determined to be safe illumination at present. For this reason, it was further recommended that as every school has a responsibility to deliver 'Learning for Sustainability' and that the Scottish Government in relation to this stated that school buildings, *grounds* and policies should support learning for sustainability.

A number of equality issues were raised with regards to the Regulation. It was felt that lighting which can be individually controlled would be the preferred option and should be left in the Regulations or in statutory guidance. This is due to the fact that learning areas are used flexibly, and lighting requirements vary. The needs of individual children may also vary and so this may be most appropriate in establishments where there is ASN provision. Appropriate lighting and design features for those who have a visual impairment was also deemed essential for students to access the curriculum and improve their overall environment. The recommendations made in the 'Optimising the Inclusive Classroom (OPTIC)' resources are designed to help in planning new and refurbished school buildings and it was suggested these be adopted in the Regulations and/or accompanying guidance.

A final comment by an individual respondent stated a preference that each room used by pupils or staff, except for changing space or where privacy is required, should have access to natural light.

Regulations which we proposed to remove

Question 12 - General Requirements. Do you agree this Regulation can be removed? If not, why not?

Table 13: Question 12 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1		1	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1		4	5
Local Authority	15			15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	1	1		2
Youth Work Organisations			1	1
Total organisations	23	2	15	40
% of organisations answering	92%	8%		100%
Individuals				
	17	2	18	37
% of individuals answering	89%	11%		100%
All respondents				
	40	4	33	77
% of all respondents	52%	5%	43%	100%
% of all those answering	91%	9%		100%

A majority of respondents, 91% of those answering the question, **agreed** that the General Requirements Regulation can be removed. Organisational respondents were more likely to agree than those from individuals (92% and 89% respectively).

Of those respondents who answered Question 12, 4 went on to make further comments.

Only one independent school respondent who agreed with the proposal to remove the general requirements Regulation went on to make a further comment. They suggested that if independent schools were included, it should be made clear that

the legal authority for commissioning new works lies within the autonomous Governing Body of the school, and not with any other national body.

All other comments were from organisational and individual respondents who were not in agreement and were particularly concerned with safeguarding governance and ensuring sufficient scrutiny was in place when high cost infrastructure decisions were made. Key themes included:

- The increasing challenge placed on local authorities to control their future spending priorities because of entering into PPI / PFI contracts; and the view that the associated contractual protections and guarantees built into these schemes are draining revenue budgets. The principles of best value have been undermined in such arrangements and the corresponding legacy has been the creation of too many inferior school buildings. It is therefore deemed important that Education Authorities should be required to seek written approval from Ministers who can retain oversight before the commencement of any new build or extension to an existing school at a cost more than 1 million.
- It was suggested that there is a need to establish agreed national standards for quality and inspection of completed works and their maintenance, particularly considering recent building standards issues in schools within Edinburgh and other local authorities. It was considered essential that the Minister can choose to scrutinise before approval, especially where local authorities may decide to approve building or funding in ways not currently anticipated.
- Some concern was expressed about school buildings being the responsibility of the local authorities, whilst there was a perception that what happens in them is removed from their control.

Question 13 - Sites for Primary and Secondary Schools. Do you agree that this Regulation can be removed? If not, why not?

Table 14: Question 13 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations			2	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace		3	2	5
Local Authority	14	1		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	1	1		2
Youth Work Organisations			1	1
Total organisations	20	6	14	40
% of organisations answering	77%	23%		100%
Individuals				
Individuals	11	6	20	37
% of individuals answering	65%	35%		100%
All respondents	31	12	34	77
% of all respondents	40%	16%	44%	100%
% of all those answering	72%	28%		100%

A majority of respondents, 72% of those answering the question, **agreed** that the Sites for Primary and Secondary Schools Regulation can be removed. Organisational respondents were more likely to agree than those from individuals (77% and 65% respectively).

Of those respondents who answered Question 13, 12 went on to make further comments.

Only two comments were received from respondents who agreed that the Regulation can be removed. These were to confirm that ministerial approval would be preferable before building commences under Regulation 4, and that further guidance and detail would be beneficial in the case that the Regulation is removed.

Responses from those not in agreement with removal were received from land and greenspace, local authority, trade union and individuals. The most common theme to be raised was that of stipulating the size of the school estate so a shared standard is adhered to. The agreement on a minimum size for school grounds would safeguard against schools being 'squeezed' into sites not big enough or building multi-floored facilities that cause congestion issues for the local community. It was also seen to be useful to retain a standard space per child to prevent such difficulties from happening.

The need for sufficient additional areas for car parking is not covered in the existing Regulations and this was seen to illustrate the need for statutory guidance and Regulations on the overall size of the site. If the Regulation was removed, there was a sense that the situation could be exploited and will lead to inconsistencies across local authorities.

The second most commonly raised issue was that of safeguarding outdoor space and the ability for children to play. Land and greenspace respondents were more likely to comment on this. There was a strong view that the Regulation should not be removed unless Regulation 20 specifies the minimum area for play provision over and above the pitch provision. External play areas were considered poorly protected under Regulation 7 and without minimum area guidance there was a concern that outdoor play space will lose out against other competing priorities. Rather than removing the Regulation it was thought preferable to ensure local authorities provided outdoor space of both suitable size and quality at all times. This should include access to natural space for physical health and mental wellbeing as well as learning. Children of all ages need access to garden space not only nursery based children. The role of active play in combating childhood obesity and improving health was reiterated as was the inequality that existed in areas of deprivation.

Question 14 - Playroom accommodation in nursery schools and classes. Do you agree that this Regulation and all other reference to ELC within the Regulations is no longer required and can be removed? If not, why not?

Table 15: Question 14 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1	1		2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy	1		1	2
Land and Greenspace	1		4	5
Local Authority	13	2		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	2			2
Youth Work Organisations			1	1
Total organisations	23	4	13	40
% of organisations answering	85%	15%		100%
Individuals				
	14	4	19	37
% of individuals answering	78%	22%		100%
All respondents				
	37	8	32	77
% of all respondents	48%	10%	42%	100%
% of all those answering	82%	18%		100%

A majority of respondents, 82% of those answering the question, **agreed** that the Playroom accommodation in nursery schools and classes Regulation and all other references to Early Learning and Childcare (ELC) within the Regulations is no longer required and can be removed. Organisational respondents were more likely to agree than those from individuals (85% and 78% respectively).

Of those respondents who answered Question 14, 10 went on to make further comments.

Only 2 respondent comments agreed that all references to ELC provision within the Regulations were no longer required, and could be removed. Parallel systems

of Regulation were seen to have the potential to lead to duplication and confusion. It was however stated that whichever system is retained a minimum size for play rooms should be made explicit. Sufficient protection should also be in place to ensure the Care Inspectorate continues to apply the necessary Regulations set out. Agreement to remove this Regulation was also on the provision that the principles were unambiguously defined elsewhere.

The most frequently raised theme was in relation to the 'Space to Grow' guidance and the consultation stance that early years facilities will be sufficiently covered under this strategy. The guidance in 'Space to Grow' is not considered detailed enough and there is a question as to whether it includes all facilities requirements such as clear guidance on space standards in individual rooms. The document is seen to be aspirational but short of sufficient detail, and that there is no conflict in retaining such detail in the general school Regulations. There were several concerns that 'Space to Grow' is not mandatory and could lead to varying levels of accommodation. It was seen to be preferable to have all legislative standards relating to education facilities included within the current Regulation. Regulation was seen to offer a required level of protection.

Much was seen to have changed within early learning settings, but legislation was still required to increase its profile, and ensure the existence of outdoor play areas for young people. The stipulation of a minimum outdoor space requirement was considered important.

The second most frequently raised theme was that a more consistent approach to the application of standards in early years provision was required and this was seen to be preferable to 'scrapping the rules'. It was felt that early years facilities in a school or within a school ground needed to have complimentary Regulations and cannot be in conflict or separately regulated when building a new school.

Question 15 - Kitchen Premises – Do you agree that this Regulation can be removed? If not, why not?

Table 16: Question 15 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1		1	2
Equalities or Disabilities	1		3	4
Food and Catering		1		1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1	1	3	5
Local Authority	15			15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	1	1		2
Youth Work Organisations			1	1
Total organisations	23	4	13	40
% of organisations answering	85%	15%		100%
Individuals				
	15	1	21	37
% of individuals answering	94%	6%		100%
All respondents	38	5	34	77
% of all respondents	49%	6%	44%	100%
% of all those answering	88%	12%		100%

A majority of respondents, 88% of those answering the question, **agreed** that the Kitchen premises Regulation can be removed. Individual respondents were more likely to agree than those from organisations (94% and 88% respectively).

Of those respondents who answered Question 15, 6 went on to make further comments.

Of the comments received from respondents, two were in agreement that the Kitchen premises Regulation can be removed. A local authority respondent believed that the Kitchen Regulations should be referred to so users know where the guidance is located. An individual respondent felt that removal was reasonable

as long as local authorities are reminded that the requirements exist elsewhere and still have to be adhered to.

A number of those who were not in agreement did so on a point of factual disagreement. Within the consultation it is stated that the provision is covered by the Food Hygiene Regulations (2006) but this reference cannot be found, leading them to believe that the Regulation should be retained unchanged. It was also felt that there was no specific mention of minimal dining areas within school premises. The absence of this information led to a concern that schools could be built without kitchen premises and adequate dining facilities. It was seen to be vital that all schools can provide healthy and fresh food in adequate dining space in order to deliver the objectives outlined in 'Good Food Nation' and 'Better Eating, Better Learning'.

The importance of recognising and promoting the role of healthy and social eating in education and learning was supported. The importance of the Health Promotion and Nutrition Act 2007 and the Better Eating, Better Learning guidance was seen to go beyond the food hygiene requirements and ensures the adequate consideration of food provision within schools. The Government's commitment to food in schools should be continued, and retaining this Regulation would continue to promote the importance of food in educational settings.

There was an alternative view from a trade union respondent that the specific requirement for kitchen and dining space were already covered in the accommodation metrics used for the building of new schools, which in this respect they felt, rendered the Regulation superfluous. The concern was that as the metrics therefore do not form Regulation governed by legislation, they could conceivably be altered by Government without proper scrutiny, they would prefer if the Regulation remained.

The current requirement for schools to have a kitchen facility to prepare or heat meals for pupils, and adequate facilities for serving food and washing up was considered entirely sensible. It was however felt that this provision is one which a number of schools probably breach as they have insufficient space for children to sit down and eat together.

Question 16 - Washing accommodation for pupils. Do you agree that this Regulation is no longer required as it is met within the revised toilets and washing facilities Regulation? If not, why not?

Table 17: Question 16 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1		1	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1		4	5
Local Authority	15			15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	2			2
Youth Work Organisations			1	1
Total organisations	24	1	15	40
% of organisations answering	96%	4%		100%
Individuals				
	14	2	21	37
% of individuals answering	88%	13%		100%
All respondents				
	38	3	36	77
% of all respondents	49%	4%	47%	100%
% of all those answering	93%	7%		100%

A majority of respondents, 93% of those answering the question, **agreed** that the Washing accommodation for pupils Regulation is no longer required as it is met within the revised toilets and washing facilities Regulation. Organisational respondents were more likely to agree than those from individuals (96% and 88% respectively).

Of those respondents who answered Question 16, 2 went on to make further comments.

A single respondent offered an opinion on washing accommodation for children and this was to state a concern that girls were not protected by the proposed new Regulations.

Question 17 - Accommodation for staff. Do you agree that this Regulation can be removed? If not, why not?

Table 18: Question 17 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1		1	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1		4	5
Local Authority	15			15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union		2		2
Youth Work Organisations			1	1
Total organisations	22	3	15	40
% of organisations answering	88%	12%		100%
Individuals				
	13	3	21	37
% of individuals answering	81%	19%		100%
All respondents	35	6	36	77
% of all respondents	45%	8%	47%	100%
% of all those answering	85%	15%		100%

A majority of respondents, 85% of those answering the question, **agreed** that the Accommodation for staff Regulation can be removed. Organisational respondents were more likely to agree than those from individuals (88% and 81% respectively).

Of those respondents who answered Question 17, 8 went on to make further comments.

Half of the comments were made by those who were in agreement that the Regulation should be removed, and half disagreed.

Those in agreement, including independent school, local authority and individual respondents, offered a range of comments:

- The removal of the Regulation does not have any unforeseen implication for the accommodation of staffing in boarding and other residential schools.
- It would be helpful to cross reference to other pertinent legislation in the new Regulation. It would equally be helpful to refer to the Regulations, so users know where the guidance is located.
- It is important to ensure that local authorities recognise that Regulations exist elsewhere and that they still must be adhered to.

Trade union respondents focussed on appropriate provisions for the teaching workforce. There was a view that although the current Regulation may not be fit for purpose, it should be strengthened rather than be removed altogether. Although the Workplace Regulations do have a specific requirement for rest facilities and workstations, these are not sufficient for a school environment as it does not stipulate that separate accommodation for pupils is required. The Regulation should therefore be updated to include rest areas (staff rooms), sanitary facilities (including accessible facilities) and food consumption areas that are separate to pupil areas. The separate rest and meal areas away from workstations and the importance for privacy and dignity of school staff at work were considered essential and were not covered elsewhere.

A minority of comments were received from individual respondents and raised the following points:

- The Regulation could not be removed if there was an intention to remove the staff room facilities.
- That there may be some value in staff arrangements being inspected separately as a unified set of facilities within the school estate.

Question 18 - Storage Accommodation. Do you agree that this Regulation can be removed? If not, why not?

Table 19: Question 18 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1		1	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace		2	3	5
Local Authority	15			15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union		2		2
Youth Work Organisations			1	1
Total organisations	21	5	14	40
% of organisations answering	81%	19%		100%
Individuals				
	10	7	20	37
% of individuals answering	59%	41%		100%
All respondents	31	12	34	77
% of all respondents	40%	16%	44%	100%
% of all those answering	72%	28%		100%

A majority of respondents, 72% of those answering the question, **agreed** that the Storage Accommodation Regulation can be removed. Organisational respondents were more likely to agree than those from individuals (81% and 59% respectively).

Of those respondents who answered Question 18, 12 went on to make further comments.

One comment was made by a local authority respondent who was in agreement that the Regulation was removed, but felt it useful to reference the Workplace Regulations for guidance so users know where it is located.

The most frequently raised theme from other respondents was to articulate both the importance and wider value of adequate storage accommodation. Storage was seen to be more than a health and safety issue and was essential in supporting outdoor learning. Schools regularly struggle with storage for outdoor clothing and equipment. The proposal to remove the Regulation due to its inclusion in the Workplace Regulations is not seen to address the specific requirements of educational establishments and the support of best practice. Concerns were equally raised about safe and effective circulation being impeded by a lack of facilities for coats and bags within secondary schools. The specific references to and support of outdoor learning needs and the safe storage of appropriate equipment was considered helpful in preventing accidents. It was felt that Regulation 19 therefore cannot be removed as there are still too many schools with insufficient provision and pupil and school staff needs are different from other workplaces and should be considered differently.

Some factual concerns were raised regarding the citing of Regulation 17 of the Workplace Regulations as a reason for withdrawal as this was seen to refer to the flow of pedestrians and vehicles not with storage. There would be some value in revisiting this assumption. A land and greenspace respondent did however note that there was a regulatory provision for external storage for sports and play equipment, which is of importance for nursery and primary schools.

Further detail or guidance in relation to the existing Regulation was requested by a minority of respondents:

- It would be helpful to provide guidance on the metrics for storage accommodation by cross referencing to Regulation 17 of the Workplace Regulations given the varying size of the school rolls.
- The Regulation is lacking detail in terms of how much storage there is, also where cloakroom spaces are to be cited near exits or entrances for reasons of practicality.
- If the Workplace Regulations are to be adopted, then these need to be spelled out in education terms.
- Guidance on design and the extent of storage to be provided would be of use. This would improve understanding of sufficient metrics and for organisations to moderate their actions accordingly.

Question 19 – Ventilation. Do you agree that this Regulation can be removed? If not, why not?

Table 20: Question 19 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations			2	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1		4	5
Local Authority	13	2		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	1	1		2
Youth Work Organisations			1	1
Total organisations	20	4	16	40
% of organisations answering	83%	17%		100%
Individuals				
	14	1	22	37
% of individuals answering	93%	7%		100%
All respondents	34	5	38	77
% of all respondents	44%	6%	49%	100%
% of all those answering	87%	13%		100%

A majority of respondents, 87% of those answering the question, **agreed** that the Ventilation Regulation can be removed. Individual respondents were more likely to agree than those from organisations (93% and 83% respectively).

Of those respondents who answered Question 19, 5 went on to make further comments.

An individual responded commented in support of the Regulation being removed and asked that it was made clear to local authorities that the content of the Regulation exists elsewhere and that they must be adhered to.

The majority of the further comments came from local authority respondents and supported the view that ventilation within schools needed to be given a higher priority. A direct correlation was seen between good ventilation and effective teaching and learning and a concern that in many new schools CO2 levels are higher than recommended. The guidance within the Technical Handbook (2.14) is not seen to be sufficient in terms of the ventilation specification and unique requirements of schools. Guidance is however available from the CIBSE and a cross reference within the Regulation to the Building Regulations would avoid any conflictual information. While there is guidance and approved codes of practice offering some protection to employees, it is the learning of the children and young people that can be impaired when it takes place in stuffy environments. Without the existence of specialised Regulations, the need to address these issues can be ignored.

Question 20 - Heating. Do you agree that this Regulation can be removed? If not, why not?

Table 21: Question 20 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations	1	1		2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1		4	5
Local Authority	14	1		15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union		2		2
Youth Work Organisations			1	1
Total organisations	21	5	14	40
% of organisations answering	81%	19%		100%
Individuals				
	12	3	22	37
% of individuals answering	80%	20%		100%
All respondents				
	33	8	36	77
% of all respondents	43%	10%	47%	100%
% of all those answering	80%	20%		100%

A majority of respondents, 80% of those answering the question, **agreed** that the Heating Regulation can be removed. Individual respondents were just as likely to agree than those from organisations (80% and 81% respectively).

Of those respondents who answered Question 20, 6 went on to make further comments.

All but one of the comments received were from those who felt the Regulation should be maintained. A local authority respondent agreed on the basis that a maximum temperature control should be stipulated. This was reiterated by others.

The most commonly raised theme was in relation to the consultation paper stating that heating and cooling requirements were contained in Regulation 7 of the Workplace Regulations. Trade unions were most likely to raise these concerns. There was disagreement with the definitions used in the Workplace Regulations describing temperatures as needing to be 'reasonable', and equally in the Approved Code of Practice which uses phrases such as temperatures 'could be' rather than 'must be'. The temperature requirements in the Code are also lower than the existing Regulations. Trade Unions describe temperature concerns as the issue most frequently cited by their members and that this leads to fatigue, tiredness, loss of concentration and increased risk of accidents. Learning is also impeded. It was also asserted that although temperature requirements are covered by Regulation 7 of the Workplace Regulations, confirmation was requested that these equally apply to non-employees and can therefore only be considered guidance when applied to school settings.

Schools were not seen to be the same as adult office settings and their requirements should be examined in more detail. An example of this was the Regulation of early years facilities and the potential for them to be regulated by adult workplace guidelines. Some considered that it would be helpful to have an acceptable range of temperature for learning areas which could be achieved by heating and cooling systems. The overarching view however within the comments, was that the School Premises Regulations should continue and include such further detail.

Question 21 – Self – Governing Schools. Do you agree this Regulation can be removed? If not, why not?

Table 22: Question 21 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	1	1	1	3
Early Years Organisations			2	2
Equalities or Disabilities	1		3	4
Food and Catering			1	1
Independent Schools	3			3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	1		4	5
Local Authority	14		1	15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	2			2
Youth Work Organisations			1	1
Total organisations	22	1	17	40
% of organisations answering	96%	4%		100%
Individuals				
	13	2	22	37
% of individuals answering	87%	13%		100%
All respondents	35	3	39	77
% of all respondents	45%	4%	51%	100%
% of all those answering	92%	8%		100%

A majority of respondents, 92% of those answering the question, **agreed** that the Self-Governing Schools Regulation can be removed. Organisational respondents were more likely to agree than those from individuals (96% and 87% respectively).

Of those respondents who answered Question 21, 3 went on to make further comments.

An Independent school respondent agreed that the Regulation could be removed, but queried that, as there have been recent applications for self-governing schools within the national system, would the proposed change have to be reversed if permissions were granted in the future for such schools?

An individual respondent who was not in agreement with the removal of the Regulation in relation to self-governing schools asserted that they did not believe the Regulations should be removed in light of the changes the Scottish Government were proposing.

Regulations to be applied to independent schools

Question 22 - Application of the Regulations to Independent Schools. Do you agree that the new Regulations should apply to Independent Schools? If not, why not?

Table 23: Question 22 – Responses by type of respondent.

Type of respondent	Yes	No	Not answered	Total
Organisations:				
Buildings and Infrastructure	2		1	3
Early Years Organisations			2	2
Equalities or Disabilities	2		2	4
Food and Catering			1	1
Independent Schools	2	1		3
Inspection, Regulatory and Advocacy			2	2
Land and Greenspace	2		3	5
Local Authority	14		1	15
Professional Body			1	1
Sports and Leisure			1	1
Trade Union	2			2
Youth Work Organisations			1	1
Total organisations	24	1	15	40
% of organisations answering	96%	4%		100%
Individuals				
	16	1	20	37
% of individuals answering	94%	6%		100%
All respondents				
	40	2	35	77
% of all respondents	52%	3%	45%	100%
% of all those answering	95%	5%		100%

A majority of respondents, 95% of those answering the question, **agreed** that the new Regulations should apply to Independent Schools. Organisational respondents were more likely to agree than those from individuals (96% and 94% respectively).

Of those respondents who answered Question 22, 5 went on to make further comments. These were provided by independent school and trade union respondents.

The respondents in agreement did so if it was clearly articulated that the legal and financial authority for schools in terms of commissioning of works, alteration etc, lay with the autonomous Governing Board of the schools in question, which acts as Company Directors and often as Trustees, and who cannot themselves be under ministerial direction. It was noted that the independent sector uses this autonomy to provide facilities that are at least as good as legislation requirements. The respondents who disagreed were concerned that independent schools could be disadvantaged if requirements to meet the new Regulations were very prescriptive in certain areas such as the criteria for the provision of outdoor recreation; yet grant funding or appropriate land purchase was just not available.

Those in agreement to include independent schools felt this was important to safeguard building standards, and that there was no logical reason for permitting independent schools to occupy buildings that were beneath acceptable standards. There was an accompanying view that the inclusion of independent schools was particularly important with respect to access requirements.

It was however stated that independent schools are unique in that they have their own individual ethos and this may translate into the need for different facilities. Schools are often selected as children are not suited to state school, so the application of state school restrictions would not be appropriate. There was a query about whether pupils in independent schools required the same levels of protection as ultimately all establishments remained subject to health and safety law and if parents were not happy about facilities they would just leave.

Business and Regulations

Question 23 – What are your views on the overall costs and savings identified in the Impact Assessment?

22 respondents provided comment on the overall costs and savings identified in the Impact Assessment.

The most frequently raised theme was that it was essential that the Regulations achieve better outcomes for children and young people and the achievement of any savings was secondary. This was most frequently commented on by local authorities, trade unions and individual respondents. It was felt that even if some costs did exist, clear and consistent Regulations covering children of all ages and in all provisions would be welcomed. This also provides an opportunity for schools to

ensure they are fully accepting and inclusive. The benefits for learners were of the utmost importance, as although essential to control costs, it should not be at the expense of learning opportunities or have a negative impact on the ability to deliver effective learning. Cost and savings should not be the principle driver. Although the primary purpose for the consultation was stated as reducing bureaucracy, a trade union respondent felt that some bureaucracy was necessary, and that the need for this had been borne out across the UK where the pursuit of deregulation has had catastrophic effects.

As the importance of the proposed changes is based on enhancing a learner's experience and impacting on educational outcomes, true cost neutrality can only be evident once the new Regulations are in place.

The most commonly held view by a small margin was that no savings will be achieved through the proposals. The potential for savings for not referring to a number of Regulations was considered to be illusionary, the hope is really that the Regulations won't overlap. It was noted that it may be possible to achieve some savings if space standards are to be reduced. It was felt that costs in relation to playing fields were unlikely to be cost neutral, as there were ongoing maintenance costs to be considered; synthetic pitches also have lifecycle replacement costs estimated to be approximately every ten years. There were a number of concerns raised about the financial calculations used for pitches and whether external covered spaces were included in the accommodation areas for early years. Doubt was also raised about savings on land costs for multi-storey schools and the ability for these to necessary accrue to the Council. For example, if land for a new school is being provided but is part of a major new development, there may be pressure to minimise the land allocation, to the detriment of both design and teaching and learning.

The second most frequent response was that some savings could be achieved if the proposals were to progress. This view was most frequently held by inspection, regulatory and advocacy, local authority and individual respondents. It was felt that savings could be achieved by local authorities with one approach to space standards for early years facilities and supporting the development and use of appropriate outdoor space. Others stated that although in overall agreement, costs can change and fluctuate for a variety of reasons, so suggested costs can only be considered a guide. It was also highlighted that the best site to build a school is determined not only by cost but on the needs of the community to provide the best educational outcomes.

It was finally recommended that consideration should be given to reducing the overall running costs by making energy efficient options, such as solar panels, compulsory in new build schools.

Those respondents who considered the proposals to be cost neutral were most likely to be represented by equality or disability and local authority respondents and formed the smallest group. No comments were made beyond statements of confirmation.

Two additional comments were made for consideration by the Scottish Government:

- If the Regulations cover Independent Schools, mainstreamed or grant aided, then discussion should take place with schools to gain a realistic sense of possible costs.
- A minimum standard in school infrastructure for ICT provision should be applied. This would be through the Scotland wide area network connectivity and the provision of connectivity in the classroom, either wired or wireless.

Equality

Question 24 – Are there any impacts on equality?

22 respondents provided their views on potential equality impacts within the consultation.

Comments provided on potential equality impact represented a range of views both acknowledging positive progress but also highlighting areas for further consideration.

Local authority and trade union respondents were more likely to state that the proposals within the consultation had taken steps to reduce inequalities.

The potential removal of gender specific toilets was viewed as a benefit to all pupils who do not identify with their biological gender and this was to be welcomed, it was also felt that this would provide a real 'step up' for LGBTI pupils. The requirement to appropriately address the needs of gender neutral students was seen to be increasing and this had been addressed by the proposals. It was laudable that the Scottish Government were attempting to accommodate the needs of young people who do not fit into the binary male and female roles; however, the Scottish Government was encouraged to remember that these children are vulnerable for a variety of reasons, which should be considered when making any changes. The consultation was viewed as benefiting those with protective characteristics or disabilities where current Regulations are lacking.

A number of respondents, chiefly individual or local authority respondents felt that there was no positive or negative impact on those with protected characteristics but raised a number of related issues. It was a concern for several respondents that where the Regulations were not statutory variance may occur and local authorities with more constrained budgets could end up with poorer facilities. The concern was that this is also likely to result in poor outcomes for some learners or an exacerbation of the poverty related attainment gap. It was therefore seen as important to ensure the Regulations were continually updated to ensure reasonable adjustments are made in the workplace in relation to protected characteristics under the Equalities Act (2010).

A number of areas of *potential* inequality were highlighted and were on the whole related to the issue of gender neutral facilities. Under the Equalities Act (2010) transgender young people are protected from discrimination and have the right to be treated as their self-identified gender. It is important that these young people be allowed to use the toilet of their choice or gender-neutral facilities to eliminate discrimination and protect their safety and wellbeing. There was seen to be a direct conflict between the protective characteristic of gender reassignment and of sex. This area requires more in-depth investigation to complete a robust impact assessment that takes this into account.

Further comments made by the minority of respondents included:

- That acoustic conditions have the potential to impact negatively on children with specific hearing or communication needs.
- That all disabled toilets should be recognisable as male, female or gender neutral for those using them.

No respondents expressed the view that the consultation was having a direct negative impact on equalities.

Children's Rights and Wellbeing

Question 25 – Are there any aspects of a child's rights or wellbeing that you think might be affected either positively or negatively by the proposals covered in this consultation?

30 respondents provided comments on aspects of a child's rights or wellbeing that might be affected, either positively or negatively, by the proposals covered in this consultation.

A small number of respondents offered no specific comments but expressed that they felt there was no visible impact on children's rights or wellbeing and that indeed the new Regulations should have a positive impact on children by ensuring a new, more consistent and potentially higher standard is expected.

All other respondents highlighted aspects of the Regulations where they felt some consideration was required. The most commonly raised themes were:

Alignment with legislation and national strategy

A number of respondents from equality or disabilities, local authority and youth services confirmed the need to ensure that there was clear adherence to both law and national directives and these could be clearly illustrated within any new Regulations.

The UN Convention of Human Rights requires to be recognised and sets out that the best interests of young people must be prioritised in all developments and actions that affect them (Article 3), and that they have the right to express their views and have these considered (Article 12) regardless of their gender identity.

Being bullied or unable to be yourself can have a serious impact on a young person's mental and physical wellbeing and their future aspirations. There was also a view that Article 31 of the UN Convention on the Rights of the Child could be negatively impacted upon. (Article 31 details the right for children and young people to have fun in the way that they want to, and have the right to rest). It was felt important to note that natural play and non-formal learning spaces should be for children of all ages up to 18 years and that it was important to consider that the needs of older children will be different to those in the nursery and primary stages.

The Schools (Consultation) (Scotland) Act 2010 contains a duty to consult pupils where there is a proposal to establish a new school. Consulting pupils to gain their views as to design plans and new facilities would represent good practice and positively impact on children's rights and wellbeing.

It was also recognised that within all Regulations on school premises or within early years settings, that account must be taken of the overall needs of children and young people and that the Getting It Right for Every Child (GIRFEC) framework could be adapted to support this.

Regulatory services

Observations made by inspection, regulatory and advocacy respondents raised a number of considerations. An intention within the consultation document is to remove all references to early learning provisions as this is now regulated through the Care Inspectorate and current guidance regarding space standards are outlined in design guidance 'Space to Grow'. It was agreed this development would reduce duplication and the current regulatory burden, but also noted that the Space to Grow guidance itself is being reviewed to reflect best practice and align with the Health and Social Care Standards (Particularly sections 5.1, 5.19 and 5.20). This will create a single point of reference for the Regulation of early learning and childcare services and address the needs of 2 and 3 year olds.

A further issue raised was the reference within several of the Regulations to joint primary and secondary accommodation. It was observed that in many of the new campus style schools, facilities such as learning and childcare provision, gymnasiums or playing fields are likely to be shared by the early learning or childcare provision. For this reason, it may also be pertinent to state the need for those designing and building school premises overall to take into account the Space to Grow recommendations.

Indoor space

Concern was expressed that with the movement of some Regulations into non-statutory guidance there is the potential for negative impact, particularly regarding the reduction in some facilities. Unless sufficient space exists per child and there is adequate and prescribed noise proofing in class rooms, there could be a significant and detrimental impact on children. Area metrics should not become so restrictive that they have a negative impact on education provision and that diminishing space requirements do not affect the successful integration of disabled pupils. The rights

of children and young people to high quality educational experiences could equally be impeded if they are in 'unsafe' environments that are potentially too hot or too cold.

Outdoor space

Following a similar principle to the points raised regarding indoor space, land and greenspace respondents in particular reaffirmed the value and appropriateness of outdoor play. An overarching comment was that under the UN Convention on the Rights of the Child (Article 31) a child has the right to leisure, play and participation in cultural and artistic activities. It was considered essential that all of these aspects were represented within the Regulations. An example of this was that if the areas required for play immediately adjacent to the school were not protected by legislation under Regulation 7 or 20, then this will in all likelihood have a negative effect on both children's rights and wellbeing. There was felt to be a real and positive opportunity to improve opportunities for a child's right to play and rest and use natural play spaces for quiet reflection. To achieve this, it was considered essential to address these needs separately from sports pitches and where children can participate in a variety of play styles.

A clear link was made between physical activity and play and its association with obesity, with an estimated 17% of Scotland's 2-15-year olds classified as such in 2014 (Active Kids Scotland, 2014). The incidence of obesity was also known to be raised in socio-economically deprived areas. Schools have an important role in meeting the 60 minute recommended moderate physical activity per day and to develop habits that will last a lifetime and will benefit children in the long term.

Sanitary Provisions

The importance of providing appropriate toilet, washing and changing facilities was frequently cited, and the potential impact inappropriate facilities could have on children's rights. Most comments were made by individual respondents and did not support the introduction of gender neutral facilities. One respondent felt that a child's right to privacy, dignity and safety were under threat from the disaggregation of sex specific spaces such as toilets. It was also noted that many children have issues using toilets in school due to embarrassment, at times preventing them from using them at all. The impact of 'forcing' them to share these facilities with people of the opposite sex, but who identify as the same sex is considerable and will negatively impact the rights of all. A further respondent expressed their genuine concern that all toilets cannot be gender neutral due to the vulnerability of young female students.

Kitchen and dining facilities

A comment from a food and catering respondent expressed a concern that if the Regulations on food and kitchens were removed and no equivalent provision put in place, then there would be no requirement on local authorities to provide adequate dining space. Were this to be the case, there was a fear that they would continue

to see children being rushed through their lunch so two sittings can be squeezed in to inadequate provision.

A final comment was made by an individual respondent that there was a lack of mention of other issues of importance within the consultation, for example the inappropriate association between alcohol and school premises that can be made through increasing community use. There was a belief that at times schools were used for social functions where alcohol was available and as such it should be made explicit in the Regulations that this was unacceptable.

Annex 1 - Organisations responding to the consultation

Stonewall Scotland
National Deaf Children's Society
The National Autistic Society
Nourish Scotland
Edinburgh Montessori Arts School
Scottish Council of Independent Schools
Northview House School (Curo Salus Ltd)
Care Inspectorate
Children and Young Peoples Commissioner Scotland
The Sterry-Walters Partnership Ltd
Scottish Natural Heritage
Fields in Trust
Grounds for Learning
Soil Association Scotland
Dumfries and Galloway Council
Renfrewshire Council Children's Services
Aberdeenshire Council
East Renfrewshire Council
South Ayrshire Council
North Ayrshire Council
Argyll and Bute Council
Shetland Islands Council
Perth and Kinross Council
Aberdeen City Council
East Lothian Council
Fife Council
Stirling Council
The Highland Council
South Lanarkshire Council
BMA Scotland
Sportscotland
NASUWT – The teachers Union
The Educational Institute of Scotland
YouthLink Scotland
Rybka Limited

Institute of Acoustics
The Association of Noise Consultants (ANC)
National Day Services Association
Smartplay Network
Enquire



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