

# **A Consultation on the provisions of the Education Bill**

**November 2023**

# Table of Contents

Foreword by the Cabinet Secretary for Education and Skills .....	2
About This Consultation .....	4
Introduction .....	6
Background .....	6
The case for change.....	8
Purpose of this consultation.....	9
Establishment of a New Qualifications Body .....	11
A diversity of high-quality qualifications .....	11
Excellence in learning and teaching .....	13
Involving Scotland's pupils and students in decisions that affect them.....	15
High standards for qualifications in Scotland .....	17
Qualifications in the education and skills landscape: A holistic system .....	19
Reform of education inspection.....	21
Purposes of inspection .....	21
Range of establishments and services .....	22
Maximising the impact of education inspection .....	23
Addressing the priority issues.....	24
Appendix 1 – Questions.....	27
Appendix 2 – References.....	29
Appendix 3 – Respondent Information Form .....	30

## Foreword by the Cabinet Secretary for Education and Skills



Having spent a decade working in education, I know that it is by far the most effective means we have to improve the life chances of our young people. Our education system must enable everyone to achieve their full potential regardless of background or where they live.

As I set out to Parliament in June, education and skills reform presents a golden opportunity to rebuild and reshape our approach, and to set a long-term direction for the way in which we provide support.

The case for reform is clear. We must address the changing needs of children and young people, teachers and practitioners, and adult learners, now and for the years ahead in a sustainable way.

Change of this scale cannot happen in isolation. Nothing short of holistic reform across the education and skills system will deliver what is needed. We must improve educational outcomes for our children and young people, and adults in learning, to ensure we deliver excellent learning and teaching for all. This means we need to work together in partnership to achieve this.

Our national education organisations are critical to our reform ambitions. They must be established with clear roles, responsibilities and functions. Yet, that alone is not enough. How they operate is also imperative, ensuring that the views and needs of those they serve are at the heart of what they do, and how they deliver support.

I am grateful to the Organisation for Economic Co-operation and Development (OECD), Professor Ken Muir, Professor Louise Hayward and James Withers for their careful and thoughtful reports on the approach to Qualifications and Assessment and the skills delivery landscape. Also, my thanks go to Professors Alma Harris and Carol Campbell who facilitated our 'National Discussion on Education' which received an overwhelming response and demonstrated a clear appetite for reform. Taken together they have provided extensive evidence to help inform our plans for the national education infrastructure in Scotland. The recommendations contained in these reviews have all helped to inform the case for change for almost every part of the education and skills landscape. It is vital that the Government continues to take time to consider the proposals thoroughly. I will continue to keep Parliament updated on the Government's approach to these reports.

This consultation paper specifically focuses on the new qualifications body and new approaches to inspection. Building on all the work and engagement to date, we have developed a number of proposals as to how we could establish a new qualifications body and the ways in which we could maximise the positive impact of inspection. We look forward to hearing reflections on the options set out. I place huge importance on an open and consultative approach to the future of Scotland's education and skills system and welcome your views through this consultation on the approach to the

national education bodies. Your views will greatly assist our decision-making and ensure that we deliver reform that makes a positive difference across Scotland.

I look forward to receiving your responses as we continue our work for the benefit of Scotland's children, young people and the wider learning community.

A handwritten signature in black ink, appearing to read 'Jenny Gilruth', written in a cursive style.

Jenny Gilruth MSP  
Cabinet Secretary for Education and Skills

## **About This Consultation**

This consultation seeks views on the policy options being taken forward by the Scottish Government in the Education Bill.

## **Responding to this consultation**

We are inviting responses to this consultation by 18 December 2023. Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.gov.scot/learningdirector/education-scotland-bill>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 18 December 2023.

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) and send to:

Email: [EducationReform@gov.scot](mailto:EducationReform@gov.scot)

Or write to us at:  
Education Reform Division  
Scottish Government  
2B – North  
Victoria Quay  
Edinburgh  
EH6 6QQ

## **Handling your response**

If you respond using Citizen Space (<https://consult.gov.scot/education-reform/new-qualification-body-and-approach-to-inspection>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published. If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

## **Next steps in the process**

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

## Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to [our email address using this link, EducationReform@gov.scot](mailto:EducationReform@gov.scot).

## Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in several different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>).

Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

## Introduction

The case for reform of Scotland’s approach to, and support for, education and skills is clear. The Scottish Government is working with partners to deliver system-wide change to ensure we improve education outcomes in Scotland. The establishment of a new qualifications body and the introduction of a new approach to inspection are key to enabling this system-wide change. The proposals within this paper lay the foundations for this. We are also continuing to work on a suite of reform which will further support and build on the proposals being considered here.

## Background

The following sections provide the context for these proposals.

### OECD Report

In 2020, Scottish Ministers commissioned a review by the Organisation for Economic Co-operation and Development (OECD), to help better understand how the Curriculum for Excellence (CfE) is being designed and implemented in schools in Scotland, and to identify areas for improvement. The report of June 2021<sup>1</sup> recognised that Scotland's CfE was among the pioneers of 21st century learning and offers a vision and philosophy of education widely supported and worth pursuing. Amongst other conclusions the report highlighted that:

- CfE is an “inspiring and widely supported philosophy of education” that is “equated with good curriculum practice internationally”.
- There is wide support for CfE among stakeholders due to significant engagement during implementation, however the OECD identified a gap between stakeholder involvement and their ability to effect improvement to the implementation of CfE. This gap can be resolved through a structure which sets out clear responsibilities and enables better shared ownership of CfE.
- Better alignment is needed between CfE and the wider assessment system, along with curriculum and system evaluation (this represents critical grounding for our approach to reform).
- The policy environment around CfE required greater coherence, including through alignment of CfE and assessment system objectives and rationalising the number of policy initiatives and institutional layers.
- A more structured and long-term approach to implementation of CfE should be adopted.

The Scottish Government accepted all twelve of the OECD’s recommendations in full and announced the intention to replace the Scottish Qualifications Authority (SQA), and reform Education Scotland including removing the inspection function from the agency.

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<sup>1</sup> [Scotland’s Curriculum for Excellence: Into the Future | en | OECD](#)

## The Muir Report

The following recommendations from the Muir report<sup>2</sup> are discussed within this consultation and your views on the proposed way forward are sought.

### A new qualifications body

- A new qualifications body should be established. This new body should be an executive Non-Departmental Public Body (NDPB).
- It should take on board SQA's current awarding functions, chiefly the responsibility for the design and delivering of qualifications, the operation and certification of examinations, and the awarding of certificates.
- Income-generating contract services currently provided by SQA for organisations, governments and businesses, should be included in the remit of the new NDPB. SQA's current international work should also be part of the NDPB's remit.
- The governance structure of the proposed qualifications body should be revised to include more representation from, and accountability to all learners, teachers, practitioners and the stakeholders with whom it engages.

### Inspection

- A new Inspectorate body should be established with its independence enshrined in legislation. Its governance should reflect this independence, with the body funded by the Scottish Parliament, staffed by civil servants and inspectors, the latter of which are appointed with the approval of His Majesty via the Privy Council.
- Critical roles of the independent Inspectorate will be to support improvement, evaluate major changes in the education system and report annually and over longer periods, on the performance of Scottish education.

Professor Kenneth Muir of the University of the West of Scotland was appointed in June 2021 to provide advice to the Scottish Government on the replacement of the SQA and reform of Education Scotland. This included separating out the Inspectorate from Education Scotland. Professor Muir engaged extensively across the education sector and carried out a public consultation with responses from a broad range of practitioners and stakeholders before publishing his report, 'Putting Learners at the Centre: Towards a Future Vision for Scottish Education'<sup>3</sup> in March 2022. The report recommended the establishment of a revised national infrastructure to simplify the education landscape and to ensure that all teachers and practitioners have greater clarity on the roles and functions of the national bodies.

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<sup>2</sup> [Putting Learners at the Centre: Towards a Future Vision for Scottish Education \(www.gov.scot\)](http://www.gov.scot)

<sup>3</sup> [Putting Learners at the Centre: Towards a Future Vision for Scottish Education \(www.gov.scot\)](http://www.gov.scot)



The Scottish Government's response to the Muir Report<sup>4</sup> accepted the recommendations in respect of the qualifications body in full and accepted in principle the recommendation to establish a new inspectorate that will be underpinned by legislation. However, we indicated that further consideration and consultation with stakeholders would be needed on how best to align education inspection with the wider inspection system, such as with early learning and childcare sectors, and the appropriate governance and reporting arrangements. We also highlighted that further consideration was required as to the location of accreditation and regulation which currently sits within the SQA, noting that Professor Muir<sup>5</sup> recommended that it should be moved to the new education agency. Further assessment was undertaken supported by specific engagement with stakeholders on the latter. The Government announced in December 2022 that regulation and accreditation would form part of the new qualifications body.

The Government established a programme of education and skills reform with an initial focus on the new national bodies which would replace the SQA and Education Scotland. One of the primary ambitions is to strengthen the system by ensuring there is greater clarity on the individual roles and responsibilities of the national bodies, as well as the relationship between them and with the wider education and skills system. A considerable amount of work has been undertaken with stakeholders to explore the options to address the themes arising from the recommendations in the Muir Report.

Two further reports were also commissioned by Ministers. In August 2022, James Withers was appointed to lead a review of the skills delivery landscape<sup>6</sup>, and in October 2022 Professor Louise Hayward was appointed to carry out a review of Qualifications and Assessments in Scotland<sup>7</sup>. These reported in June 2023. Further engagement on the recommendations in these reports will take place. Also in June 2023, the Scottish Government published its 'Purpose and Principles Initial Priorities'<sup>8</sup> which includes actions needed in response to key recommendations set out in the report by Withers. A National Discussion on Education<sup>9</sup> was also undertaken, facilitated by Professors Alma Harris and Carol Campbell, generating over 5,000 submissions.

## **The case for change**

There is much that we should be proud of across Scottish education and skills, and the learning, teaching and support that goes on every day in settings throughout the country.

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<sup>4</sup> [Putting Learners at the Centre: Response to the Independent Advisor on Education Reform's Report \(www.gov.scot\)](http://www.gov.scot)

<sup>5</sup> [Putting Learners at the Centre: Towards a Future Vision for Scottish Education \(www.gov.scot\)](http://www.gov.scot)

<sup>6</sup> [Fit for the Future: developing a post-school learning system to fuel economic transformation: Skills Delivery Landscape Review – Final Report \(www.gov.scot\)](http://www.gov.scot)

<sup>7</sup> [It's Our Future: Report of the Independent Review of Qualifications and Assessment \(www.gov.scot\)](http://www.gov.scot)

<sup>8</sup> [Post-school education, research and skills - initial priorities \(www.gov.scot\)](http://www.gov.scot)

<sup>9</sup> [National Discussion Scottish Education - Scottish Government consultations - Citizen Space](http://www.gov.scot)

Like so much else, our education system was tested to its limits during the COVID-19 pandemic and the impacts and pressures of that period are still being felt. The current fiscal situation across the UK has put extreme pressure on public finances and the effects of this will continue to be felt for some time.

These challenging times mean we must look again at how we deliver our public services and, in the context of education and skills, how we deliver a system that consistently delivers the best outcomes for pupils and students for those we rely on to deliver excellent educational standards. Recent years have been challenging but they have also seen innovation, new practice, and enhanced collaboration across all parts of the system. We must take the opportunity to build on this.

The education and skills reform being taken forward by the Scottish Government aims to reshape the ways in which we support improvement in the quality of teaching and learning and achieve improved outcomes and experiences for pupils and students in every setting.

Feedback from across the system shows that our national education organisations are not always close enough to pupils and students. Reform provides an opportunity to increase trust and confidence in these organisations from practitioners, parents and carers and other stakeholders. There is a clear desire to simplify policies and institutions for clarity and coherence.

The establishment of a new qualifications body and delivering a new approach to inspection are important steps in changing the system for the better, while building on all that is good in Scottish education and skills.

### **Purpose of this consultation**

The purpose of this consultation is to seek views on:

- the proposals to replace the SQA and
- approaches to maximise the role inspection plays in providing assurance and supporting teachers and other practitioners to improve education in Scotland, including through legislation.

The feedback from this consultation will help inform the development of the Bill that will be introduced later this Parliamentary year.

The overarching policy objective of establishing a new qualifications body is to ensure that qualifications consistently meet the needs and expectations of their users, the education system, economy, industry and other providers who use and recognise qualifications and awards. A key priority for the new body is that it will involve pupils and students, teachers and practitioners, and wider stakeholders in its decision making. It will be accountable to and transparent with these stakeholders through robust governance and other arrangements.

As the new body takes shape we will encourage and promote an organisational culture that puts those who rely on its services at its centre. Close collaborative working with the education and skills system in designing the new body will ensure

the organisation can deliver on expectations and add value to the existing system from the outset.

This consultation paper sets out proposals for ensuring a robust governance structure and clear responsibilities are embedded in the new qualifications body. It is proposed that the body will have two distinct and separate responsibilities to achieve its overarching objectives: to develop and award qualifications; and to accredit qualifications in Scotland.

The consultation paper then sets out the proposals for taking forward a new approach to inspection. The intention is to strengthen the role inspection plays to ensure it secures accountability, provides assurance and drives improvement. There are a range of ways in which this could be achieved and this is set out in the chapter. Your responses to this consultation will help inform decisions as to the most effective approach for reforming education inspection, including the role that new legislation could play in contributing to these objectives.

In summary, the intention is to deliver bodies that are fit for the future and able to respond to the evolving education and skills landscape. The development of these bodies will reflect the potential scale of change ahead, should the recommendations of Professor Hayward<sup>10</sup> on Qualifications and Assessment and James Withers<sup>11</sup> on the Skills Delivery Landscape be taken forward, as well as enabling implementation of Scottish Government's Purpose and Principles for Post-School Education, Research and Skills<sup>12</sup>, and the initial priorities.

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<sup>10</sup> [It's Our Future: Report of the Independent Review of Qualifications and Assessment \(www.gov.scot\)](http://www.gov.scot)

<sup>11</sup> [Fit for the Future: developing a post-school learning system to fuel economic transformation: Skills Delivery Landscape Review – Final Report \(www.gov.scot\)](http://www.gov.scot)

<sup>12</sup> [Purpose and Principles for Post-School Education, Research and Skills \(www.gov.scot\)](http://www.gov.scot)

## **Establishment of a New Qualifications Body**

### **A diversity of high-quality qualifications**

In establishing a new qualifications body, the Scottish Government agreed with Professor Muir's following recommendations:

- It should take on board SQA's current awarding functions, chiefly the responsibility for the design and delivering of qualifications, the operation and certification of examinations, and the awarding of certificates.
- Income-generating contract services currently provided by SQA for organisations, governments and businesses, should be included in the remit of the new NDPB. SQA's current international work should also be part of the NDPB's remit.

The Scottish Government committed to ensuring the new body provides 'high integrity qualifications which meet the current and future needs of our society, our economy and our learners', with the breadth of awarding functions being retained and the ability to extend these services beyond Scotland.

Qualifications play an important part in Scotland's education, skills and economic landscape. They are used, delivered and recognised by a range of different groups and individuals in varying ways. Qualifications therefore need to cater to a range of different needs. For example, they are relevant to:

- Individuals who are studying towards and achieving qualifications;
- Those such as teachers and lecturers who provide the learning, teaching and support for their students to achieve these qualifications;
- Education institutions and training providers who use qualifications to recognise the achievements of people looking to access higher and further education, training and employment opportunities;
- Employers and industry who use qualifications to ensure people's skills, training and abilities meet national and employer specific workforce standards and requirements.

To enable these different needs to be met, there should be a wide range of qualifications of different types and ability levels to suit people's diverse interests and aspirations.

Qualifications should be adaptable to fit the current and future vision for Scottish education and skills, and to consistently meet the needs of our pupils and students, education institutions, employers and industries to enable success for all.

The way individuals are assessed for a qualification must be relevant to the type of qualification itself and reflect modern techniques and approaches to assessment.

Qualifications should be developed and delivered in a way that supports our teaching professions to deliver the highest quality learning and teaching.

Offering qualifications in a commercial capacity in Scotland, and in international settings, will support greater financial sustainability in public services and grow Scotland's global reputation in education.

The Scottish Government is therefore proposing that the new qualifications body will be responsible for ensuring all these activities are delivered effectively as part of its qualifications provision. In doing so, the qualifications body will support our key priority – to have diverse, high quality, robust and relevant qualifications provided in Scotland that are universally recognised and respected in Scotland and beyond.

**Question 1: What changes should we consider in terms of how qualifications are developed and delivered that you think would improve outcomes for Scotland's pupils and students?**

## Excellence in learning and teaching

In establishing a new qualifications body, the Scottish Government agreed with Professor Muir's following recommendation:

- The governance structure of the proposed Qualifications Scotland body should be revised to include more representation from, and accountability to all learners, teachers, practitioners and the stakeholders with whom it engages.

The Scottish Government committed to creating a new body that 'supports our teachers and practitioners', and will ensure that our teaching profession, as key service users of the body, are part of the governance structure with clear roles in decisions on the development and delivery of qualifications.

Our teachers, lecturers and other education and skills professionals are the key to delivering better outcomes for pupils and students. It is through excellent learning and teaching that we will close the attainment gap, see greater levels of achievement and enable people to reach their full potential.

The knowledge and expertise of our teaching profession is integral to the development and delivery of high-quality qualifications in Scotland, with the profession playing a key role in all aspects of the system. For example, they:

- Deliver programmes of learning and training so individuals can obtain qualifications;
- Facilitate and support external assessment so individuals can have their skills, knowledge and competencies appraised and recognised;
- Provide holistic advice, guidance and support to individuals seeking qualifications.

With such a central role it is clear to us this knowledge and insight must shape how qualifications are developed and delivered. Our teaching professions must have clear and objective roles in the decisions taken on qualifications development and delivery and they must be able to hold to account those who make the decisions.

The Scottish Government is therefore proposing that the new qualifications body has robust and effective channels for our teaching professions to meaningfully shape the organisation's direction and delivery of its services. We are proposing three complementary ways of achieving this.

Firstly, the knowledge and insight of our teaching professions is needed at the highest levels of decision-making within the new organisation. That is why we are proposing that the Board that oversees the qualifications body has a requirement to have individuals on it with current practical experience of providing learning and teaching for a qualification. For example, we would like to see at least one teacher and at least one college lecturer included on the Board.

Secondly, the decisions the new qualifications body takes in relation to qualifications and assessment need to be informed by a wide range of views from our teaching professions and those that represent them. That is why we are proposing a dedicated committee as part of the organisation's decision-making structures that can provide these range of views on behalf of the teaching professions. This Committee could be made up of practising teaching professionals, representatives such as professional associations and teaching trade unions, and specialists in teaching practice and pedagogy. The Committee will influence the decisions of the organisation by providing advice on how it delivers its qualifications functions and activities. It would be drawn from a broad pool of people across the teaching profession.

Thirdly, the qualifications body must have greater transparency, communication with and accountability towards our teaching profession. That is why we are proposing that the qualifications body should develop a specific user "Charter" for our teaching professions in collaboration with them. This Charter would serve as a way to provide clarity on what our teaching profession should expect from the qualifications body when delivering qualifications and working with them. The Charter would help shape the qualifications activities delivered by the body and the culture of how these are delivered.

By bringing the expertise, knowledge and views of our teaching profession into the qualifications body it can ensure the decisions it takes are informed by those providing the learning and teaching for those studying for qualifications. This, in turn, will improve the experience of teachers delivering qualifications and better support the needs of young people and adult learners.

**Question 2: How best can we ensure that the views of our teaching professionals are taken into account appropriately within the new qualifications body, and do these proposals enable this?**

## **Involving Scotland's pupils and students in decisions that affect them**

In establishing a new qualifications body, the Scottish Government agreed with Professor Muir's following recommendation:

- The governance structure of the proposed Qualifications Scotland body should be revised to include more representation from, and accountability to all learners, teachers, practitioners and the stakeholders with whom it engages.

The Scottish Government committed to creating a new body that 'puts learners at the centre', and 'develop a governance structure that gives our pupils and students clearer roles in how qualifications are devised, delivered, supported, awarded and recognised'.

Pupils and students of all ages are key users of qualifications. They are the ones choosing the qualifications they want to obtain, the ones studying and training to achieve them, the ones being assessed, and the ones whose achievements are appraised and recognised by different parts of society.

There is a clear demand from pupils and students for greater involvement in the decisions that affect their education. The Scottish Government recognises this through its commitment to embed young people's voices across education, in our national education bodies, and to adhere to Article 12 of the United Nations Convention on the Right of the Child. This demand has also been seen repeatedly through feedback from pupils and students. It is clear there is a desire, expectation and capacity for greater involvement in decision-making.

Given the importance placed on qualifications in our society and the impact they can have on the life choices of our young people and adult learners, their needs and views must continue to be central considerations in all aspects of how qualifications are developed and delivered.

The Scottish Government is therefore proposing that the new qualifications body is set up to provide clear and meaningful roles to those studying for qualifications to shape and influence decisions relating to qualifications and assessment made by the body. As above, there are three ways we want to achieve this.

Firstly, understanding the views, knowledge and lived experience of those studying for qualifications are essential to delivering qualifications in pupils' and students' best interests. This understanding should be permanently present in the Board that oversees the qualifications body. That is why we are proposing that this Board includes members that can specifically reflect these views and shape decision making.

Secondly, the decisions made by the body need to be informed by a full range of different individuals looking to achieve a qualification. That is why we are proposing a dedicated committee as part of the organisation's formal decision-making



structures that bring these diverse views into the body. This Committee could be made up of those currently or recently studying for different types of qualifications such as a young person studying for a National Qualification or apprenticeship, or an adult learner undergoing relevant training for a qualification; members of organisations that advocate for different pupils and students; and specialists in pupil and student engagement. The Committee will influence the decisions of the organisation by providing advice on how it delivers its qualifications functions and activities.

Thirdly, the qualifications body must be consistently transparent with our pupils and students and must ensure it communicates effectively with them. Pupils and students must also have the ability to hold the body to account for the decisions it makes. This is why we are proposing that the body must develop a specific user “Charter” for our pupils, students and their advocates in collaboration with them. This will set out the expectations they should have of the organisation and is intended to ensure qualifications and how they are delivered meet the needs of those seeking to achieve qualifications.

By building the different needs and views of those with direct experience of taking qualifications into the organisation’s decision-making, we can ensure the provision of qualifications remains relevant to pupils and students; that qualifications are delivered in ways that meet their expectations and needs; and that qualifications fulfil their vital role in supporting better outcomes for people as they move through education into employment.

**Question 3: How best can we ensure that the views of pupils, students and other learners are appropriately represented within the new qualifications body, and do these proposals enable this?**

## High standards for qualifications in Scotland

In its response<sup>13</sup> to Professor Muir's report, the Scottish Government highlighted careful further consideration is required in relation to the scope of accreditation and where accreditation should sit in future, in particular ensuring that the independence of accrediting qualifications is appropriately secured.

The Scottish Government subsequently announced that responsibility for accrediting qualifications will sit with the new qualifications body. The creation of the new qualifications body itself presents an opportunity to make significant changes to the relationship between the awarding and accreditation functions, which will further strengthen their independence from one another.

Qualifications play a key role in recognising individuals' learning, skills, knowledge and wider achievements. It is therefore a priority that the Scottish qualifications system is trusted by and credible to all. This means ensuring and maintaining high standards for qualifications in Scotland.

To give pupils, students, employers, industries and professional associations sufficient options and confidence in the qualifications they choose to use there must be nationally recognised standards for the delivery and assessment of qualifications in Scotland. These standards must extend beyond the qualifications offered by our national qualifications body and to qualifications delivered by other awarding bodies. The process for doing this is known as accreditation.

Currently, all qualifications known as a Scottish Vocational Qualification (SVQ) must be accredited in order to be delivered in Scotland. Certain other qualifications must also be accredited, such as those in the licence trade sector and in the security industry sector which lead to a licence to practice. For all other qualifications, accreditation is voluntary. National Qualifications currently delivered in schools and other settings, provided by the SQA, go through a separate quality assurance process.

The Scottish Government believes that the accreditation function should remain at arms-length from government and therefore proposes it is held by the new qualifications body. This means the new qualifications body will be responsible for setting the standards for those awarding bodies offering qualifications in Scotland (apart from university degrees) which seek accreditation for their qualifications, as well as deciding what qualifications have met these standards in order to be accredited.

In the new qualifications body, the responsibilities for setting the standards and accrediting qualifications will be carried out separately and independently from the delivery of the body's qualifications. The approach to this will be emphasised and strengthened through specific governance measures. For example, this would

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<sup>13</sup> [Putting Learners at the Centre: Response to the Independent Advisor on Education Reform's Report \(www.gov.scot\)](http://www.gov.scot)

include having a Convener, directly appointed by Ministers, to specifically lead a committee responsible for overseeing accreditation and regulation. In addition, this Convener and the committee would also have separate accounting and reporting requirements, and the ability to advise Scottish Ministers directly on accreditation matters.

By having a qualifications body that sets and oversees the high standards for delivering qualifications in Scotland, we can ensure those who rely on qualifications have sufficient, quality choices that meet their needs. It is through this trusted service that we can support our pupils and students to achieve reputable qualifications that provide the best platform for success in education, training and employment.

**Question 4: How can we ensure qualifications being offered in Scotland are reliable, of a high standard and fit for purpose?**

## Qualifications in the education and skills landscape: A holistic system

In establishing a new qualifications body, the Scottish Government agreed with Professor Muir's following recommendation:

- Scottish Government and other national bodies should collaborate more effectively to ensure that policies align well with each other and with any revised vision for Scottish education.

Professor Muir also set out his key principles which should serve as the foundations for education reform, which included:

- Opportunities for increased collaboration and meaningful engagement between stakeholders, politicians at all levels, local authorities, professional associations, trade unions and the national agencies with responsibility for key aspects of education.

The qualifications body will have a key role in an interconnected education and skills landscape. It will be an important partner in implementing any decisions on James Withers' Skills Delivery Landscape Review<sup>14</sup>, the initial priorities for the Purpose and Principles for Post-School Education, Research and Skills<sup>15</sup>, and Professor Hayward's review of Qualifications and Assessment.<sup>16</sup> Its work must therefore be aligned with national education and skills strategies and it must work collaboratively with other national organisations.

The new body's responsibilities for qualifications in Scotland, as proposed in this chapter, will give it an influential position within the education and skills system and the economy. It is therefore vital that the range of system stakeholders with an interest in the qualifications body's work can shape, influence, communicate with and respond to the decisions it takes on qualifications. This will support a more coherent approach to education, skills and economic decisions. There are three overarching ways we want to enable this.

Firstly, there should be an effective national forum for providing independent and objective views from members' areas of expertise to the qualifications body. A similar forum, known as the Advisory Council, currently exists for the SQA and this proposal seeks to build on and strengthen this approach by enabling a revised model to be implemented in the new body.

Secondly, to deliver an effective and seamless education and skills system, it is imperative that roles and responsibilities of all national bodies are clear. The new qualifications body must work closely and collaboratively with all our national education and skills bodies, with the Scottish Government, and with our local and regional networks such as colleges and skills groups. It must be an exemplar

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<sup>14</sup> [Fit for the Future: developing a post-school learning system to fuel economic transformation: Skills Delivery Landscape Review – Final Report \(www.gov.scot\)](http://www.gov.scot/Resource/0044/0044_0001.pdf)

<sup>15</sup> [Post-school education, research and skills - initial priorities \(www.gov.scot\)](http://www.gov.scot/Resource/0044/0044_0002.pdf)

<sup>16</sup> [It's Our Future: Report of the Independent Review of Qualifications and Assessment \(www.gov.scot\)](http://www.gov.scot/Resource/0044/0044_0003.pdf)

organisation in how it works with others including: in areas of joint delivery; how it shares data and information within the system; how it communicates and engages with other organisations; how it receives and utilises advice and guidance from the system; and how it upholds Fair Work policies for staff working in the body.

Thirdly, the activities of the qualification body must be fair, transparent and provide equitable access for all. That means ensuring all parts of our society are informed as to what the qualifications body is doing, and why it is doing it. Clear and timely communication is key to creating a trusted and respected organisation. The qualifications body should embody these principles in all its activities and ensure that all with an interest can hold the organisation to account. For example, this includes key communications and reports being published in ways that are open to all, such as in Gaelic, or versions designed to support accessibility.

The qualifications body must provide national delivery and leadership on qualifications whilst also being part of a holistic education and skills system that delivers for all. It is through this joined up delivery that we will be best positioned to support people to achieve their potential in education and employment; improve the experiences of our teaching professions; and support Scotland's people and industries to thrive.

**Question 5: How do you think the qualifications body can best work with others across the education and skills system to deliver better outcomes for all?**

## Reform of education inspection

In considering the improvements to Inspection the Scottish Government accepted Professor Muir's recommendation in principle.

- A new inspectorate body should be established with its independence enshrined in legislation. Its governance should reflect this independence, with the body funded by the Scottish Parliament, staffed by civil servants and inspectors, the latter of which are appointed with the approval of His Majesty via the Privy Council.
- Critical roles of the independent Inspectorate will be to support improvement, evaluate major changes in the education system and report annually and over longer periods, on the performance of Scottish education.

Although the Scottish Government accepted the recommendation to establish a new inspectorate underpinned by legislation in principle, it did not accept the recommendation that the new inspectorate should be funded by the Scottish Parliament. Establishing the inspectorate using this model of funding would be very different to other inspectorate bodies. Additionally, a body funded by Parliament would not be staffed by civil servants and therefore runs counter to Professor Muir's staffing recommendation which the Scottish Government supports.

There are two options being considered as to how inspection is structured and located within the education landscape. Firstly, a new separate executive agency could be established which would have inspection of education as its main function. Another option would be to establish a new office-holder. These options are considered in detail below.

### Purposes of inspection

The Scottish Government supports the following **core purposes of inspection**:

- To provide public accountability and assurance on the quality of education to learners, their parents/carers and the Scottish Parliament.
- To support education providers, including schools, teachers and other practitioners to improve, through capacity building and sharing effective practice.
- To share evidence about education and training to support services to improve and inform the development of education policy.

These core purposes, which are broadly those of the current system, were endorsed by Professor Muir's report<sup>17</sup> and broadly supported through the associated consultation.

**Question 6: Do you agree or disagree with the purposes set out? Is there anything in addition you would like to see included?**

**Range of establishments and services**

The Scottish Government believes that it is important that education inspection continues to operate in the full range of establishments and services. This includes, for example:

- Primary and secondary schools (this includes public, grant-aided, and independent schools, and both mainstream and special/Additional Support Needs services, with or without residential provision);
- Nursery schools, i.e., those providing early learning and childcare, and funded partner providers of early learning and childcare;
- Gaelic education;
- Community learning and development services;
- Publicly funded colleges; private colleges; English language schools;
- Modern apprenticeship training;
- Education functions of local authorities;
- Educational psychology services;
- Career information, advice and guidance services;
- Initial teacher education;
- Compliance with Nutritional Regulations for educational establishments; and
- Grant-funded national voluntary organisations.

HM Inspectors of Education also currently contribute to inspection activity by other bodies that deliver inspection and regulation functions. This includes:

- Services for children and young people (at the request of the Care Inspectorate);
- Reviewing the educational provision provided to a 'looked after child or young person', who has subsequently died (at the request of the Care Inspectorate);
- Education provision in prisons and young offender institutions (at the request of HM Inspectorate of Prisons in Scotland).

In relation to publicly funded colleges and modern apprenticeships, the role of the education inspectorate sits alongside that of other bodies. The Scottish Funding Council has legal responsibility for the quality of fundable further and higher education provision in Scotland and currently provides funding to the education inspectorate to meet this responsibility in relation to further and higher education provided by colleges, on its behalf.

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<sup>17</sup> [Putting Learners at the Centre: Towards a Future Vision for Scottish Education \(www.gov.scot\)](http://www.gov.scot)

Skills Development Scotland (SDS) currently administers some Foundation and all Modern apprenticeships on behalf of the Scottish Government. The education inspectorate reviews the quality of delivery and impact of Foundation and Modern apprenticeship programmes and provides assurance of the quality of the apprentice experience funded by SDS to Scottish Ministers.

**Question 7: Do you agree or disagree with the range of establishments to be inspected by HM Inspectors of Education? Is there anything you would change?**

**Question 8: Do you have any specific comments on the role of the inspectorate of education in the inspection of publicly funded colleges, initial teacher education, early learning and childcare and / or modern apprenticeships?**

### **Maximising the impact of education inspection**

While most respondents to Professor Ken Muir's consultation<sup>18</sup> supported the removal of the inspection function from Education Scotland, some indicated that this alone would not be enough to enhance the contribution of inspection to Scottish education.

There is clear support for reviewing the approach to education inspection, ensuring that the needs of children and young people are at the heart of the inspection process. This includes the need for greater focus on supporting teachers and other practitioners and providers to secure improvement, as well as building capacity in the education system to carry out self-evaluation.

Based on the evidence provided in Professor Muir's consultation<sup>19</sup> and subsequent engagement, we believe the following three **priority issues**, if addressed, would improve the operation and impact of inspection in the education system:

- Ensure that children, young people, adult learners, parents/carers, teachers and other practitioners, as well as the public, have confidence in the work of the inspectorate of education.
- Ensure the involvement of teachers and other practitioners, children, pupils and students, parents / carers, local authorities and providers in inspections.
- Ensure inspection evidence is being fully utilised to: (a) provide assurance and public accountability; (b) drive improvement and build capacity; and (c) inform practice and policy.

**Question 9: Do you agree or disagree with the priorities set out? Is there anything in addition that you would like to see inspection cover?**

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<sup>18</sup> [Education Scotland and the Scottish Qualifications Authority: consultation - gov.scot \(www.gov.scot\)](http://www.gov.scot/consultation/EducationScotlandandtheScottishQualificationsAuthority)

<sup>19</sup> [Education Scotland and the Scottish Qualifications Authority: consultation - gov.scot \(www.gov.scot\)](http://www.gov.scot/consultation/EducationScotlandandtheScottishQualificationsAuthority)



## Addressing the priority issues

This section seeks views on different ways the priorities in the previous section could be achieved – either through new legislation or through alternative options within current legislation.

Each of the three priority issues has been considered below - setting out the context and range of options for how we can take action to deliver on them.

1. Ensure that pupils and students, parents/carers, teachers and other practitioners, and providers as well as the public, have confidence in the work of the inspectorate of education.

At present, Education Scotland is responsible for supporting quality and improvement in Scottish education, and for inspection. As an Executive Agency, Education Scotland is responsible for operational decisions while remaining directly accountable to Scottish Ministers for its performance and use of public funds. This status safeguards the independence of inspection, review and reporting functions.

The inspectorate must continue to make judgements independently of providers and the Scottish Government. This enables it to evaluate the impact of interventions, the implementation of national policy and guidance, and the quality of education. That can encompass leadership and learning provision, as well as outcomes for learners. The inspectorate also has a key role in providing professional judgements on a provider's capacity to improve and / or actions it has taken to improve. The inspectorate must always be able to carry out its role and report its findings without fear or favour.

In some responses to Professor Muir's consultation<sup>20</sup>, concerns were expressed that having inspection and education development functions within the same body created potential conflicts of interest and could undermine the inspectorate's ability to perform its role well, including providing impartial comments on the impact of national guidance or programmes. This led Professor Muir to make a recommendation to Scottish Ministers that a new inspectorate body be established with its independence underpinned by legislation.

To address those concerns, and support public and professional confidence in the work of the inspectorate, we are seeking views on a range of options for taking forward reform.

Generally, there is limited legislation for the activities of the education inspectorate (set out in Education (Scotland) Act 1980) for the purposes of inspecting school establishments. Currently, Scottish Ministers have sole legislative power to 'cause' inspection (i.e. the legal power to determine when it happens and what provision is inspected). However, in practice, each year the HM Chief Inspector, currently within Education Scotland, sets out plans for the scale and priorities of the inspection and scrutiny programme across all education provision, from early learning to adult

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<sup>20</sup> [Education Scotland and the Scottish Qualifications Authority: consultation - gov.scot \(www.gov.scot\)](http://www.gov.scot/consultation/education-scotland-and-the-scottish-qualifications-authority)

learning. This is then agreed with the Cabinet Secretary for Education and Skills, who can also commission specific inspection and scrutiny activity.

One option we are seeking views on, that does not require new legislation, would be to remove the inspection function from the rest of the current executive agency (Education Scotland), to create a distinct and separate executive agency. Establishing this type of education inspectorate means it would remain directly accountable to Scottish Ministers and have a specific and separately defined remit.

Another option would be to take forward legislation to establish the role of '*HM Chief Inspector of Education for Scotland*' in law as an independent office-holder. As an independent office-holder, the HM Chief Inspector could have primary responsibility for setting the schedule, frequency and focus for inspections, as opposed to this remaining under the legislative control of Scottish Ministers.

**Question 10: Do you have a view on these options for establishing the new approach to inspection?**

2. Ensure the involvement of teachers and other practitioners, pupils and students, parents/ carers and local authorities and providers in inspections.

Reform of inspection presents an important opportunity to ensure that those who are involved in inspection (such as teachers and other practitioners), as well as children, young people, adult learners and other service users (and parents / carers where relevant) are more engaged around inspection. This could be achieved by making operational changes to the way inspection is carried out. There is also an opportunity to strengthen involvement in the governance arrangements for the inspectorate.

It is critical to public confidence that decision-making within the inspectorate is not unduly influenced by those it inspects. However, alongside that fundamental principle we could seek to ensure their perspectives are considered in the way in which the inspectorate operates. This could be the case whether the inspectorate operates as a distinct executive agency or as an independent office-holder.

Given there is currently no legislative underpinning for the governance of the inspectorate, new measures to strengthen governance and the voices of those involved in inspection could be considered within the current arrangements, for example by the setting up of a user focused advisory council.

Alternatively, this could be achieved through legislation, by requiring the Chief Inspector, as an independent office-holder set up by legislation, to establish an Advisory Council, with membership drawn from those likely to be affected by the Chief Inspector's work. It could also place a legislative duty on the Chief Inspector to have regard to any advice provided by the Council and, where advice is not followed, to set out the reasons why.

**Question 11: Do you have a view on how governance arrangements for the inspectorate could be developed to better involve providers, including teachers and other practitioners, pupils and students and parents / carers in inspection?**

3. Ensure inspection evidence is being fully utilised to: (a) provide assurance and public accountability; (b) drive improvement and build capacity; and (c) inform practice and policy.

Inspection evidence is a key source of providing evaluative reports for parents / carers and the public; and providing assurance nationally, locally and at school/provider level about the quality of education being provided.

Reform provides an opportunity to develop a reinvigorated approach to inspection and enhanced sharing of evidence on what is working well in Scottish education, what needs to improve and how that improvement should happen. To do this we need to ensure evidence and data from the inspectorate is used more effectively to report on the performance of Scottish education, to support improvement, and to build capacity for improvement across the system.

Expectations in relation to reporting could be strengthened without the need for new legislation. For example, Ministers could set an expectation that the inspectorate publish a range of documents, explaining how the inspectorate carry out their work, including inspection practices and findings. This could also include a specific requirement to report regularly on the overall performance of Scottish education, providing an overall view across the education system to inform Ministers, Parliament, providers and the wider public.

Alternatively, the same requirement for reporting could be set out in legislation. For example, the Chief Inspector (established in legislation), could be required to report annually on the carrying out of their functions; to report annually on the performance of Scottish education, and to lay reports directly before the Scottish Parliament. Legislation could also include a duty on the Chief Inspector to publish individual inspection reports.

**Question 12: Do you have a view on how we make sure evidence from inspections is being used as fully as possible to drive improvement and inform policy and on who the inspectorate should report to?**

## Appendix 1 – Questions

**Question 1:** What changes should we consider in terms of how qualifications are developed and delivered that you think would improve outcomes for Scotland's pupils and students?

**Question 2:** How best can we ensure that the views of our teaching professionals are taken into account appropriately within the new qualifications body, and do these proposals enable this?

**Question 3:** How best can we ensure that the views of pupils, students and other learners are appropriately represented within the new qualifications body, and do these proposals enable this?

**Question 4:** How can we ensure qualifications being offered in Scotland are reliable, of a high standard and fit for purpose?

**Question 5:** How do you think the qualifications body can best work with others across the education and skills system to deliver better outcomes for all?

**Question 6:** Do you agree or disagree with the purposes set out? Is there anything in addition you would like to see included?

**Question 7:** Do you agree or disagree with the range of establishments to be inspected by HM Inspectors of Education? Is there anything you would add or change?

**Question 8:** Do you have any specific comments on the role of the inspectorate of education in the inspection of publicly funded colleges, initial teacher education, early learning and childcare and / or modern apprenticeships?

**Question 9:** Do you agree or disagree with the priorities set out? Is there anything in addition that you would like to see inspection cover?

**Question 10:** Do you have a view on these options for establishing the new approach to inspection?

**Question 11:** Do you have a view on how governance arrangements for the inspectorate could be developed to better involve providers, including teachers and other practitioners, pupils and students and parents / carers in inspection?

**Question 12:** Do you have a view on how we make sure evidence from inspections is being used as fully as possible to drive improvement and inform policy and on who the inspectorate should report to?

## Appendix 2 – References

OECD (2021), Scotland's Curriculum for Excellence: Into the Future, Implementing Education Policies, OECD Publishing, Paris, [Scotland's Curriculum for Excellence: Into the Future | en | OECD](#)

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## Appendix 3 – Respondent Information Form

### A Consultation on the provisions of the Education Bill

**Please Note** this form **must** be completed and returned with your response. To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

Are you responding as an individual, group or an organisation?

- Individual
- Group
- Organisation

If responding as an individual or group, which of the following best describes your role in the education system?

- |   |  |
|---|--|
| <input type="checkbox"/> Parent / Carer                     | <input type="checkbox"/> Child / Young Person    |
| <input type="checkbox"/> Teacher / Lecturer / Practitioner  | <input type="checkbox"/> Support Staff           |
| <input type="checkbox"/> School / Centre Leader             | <input type="checkbox"/> National Agency Officer |
| <input type="checkbox"/> Local Authority / Regional Officer | <input type="checkbox"/> Employer / Industry     |
| <input type="checkbox"/> Other, please state:               |  |

If responding as an individual or group, which of the following best describes your sector?

- |                                      |  |
|--------------------------------------|--|
| <input type="checkbox"/> Early years | <input type="checkbox"/> Primary                               |
| <input type="checkbox"/> Secondary   | <input type="checkbox"/> Tertiary (Further / Higher Education) |

Full name or group name

Organisation name  
(if applicable)

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response.

Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

We may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

**Information for organisations:**

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, in the analysis report.





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