

Rt. Hon. Nicola Sturgeon MSP
First Minister
The Scottish Government
St. Andrew's House, Regent Road
Edinburgh
EH1 3DG



27 November 2015

Dear First Minister,

I have been asked to write to you on behalf of the Governing Boards and Head Teachers of the mainstream and Complex Additional Support Needs schools represented by the Scottish Council of Independent Schools. They share a particular concern about the Scottish Government's proposals for a Standard for Headship in grant-aided and independent schools, as recently proposed in an amendment to the Education Bill. The schools are keen to ensure that proposals do not distract from the key responsibilities of running their schools, discourage recruitment in what are special areas and leave schools and the Government open to potential legal action. Our schools are in full agreement with your views as stated on 18 August that "*When it comes to the education of our young people...what matters to me is what works*" and are keen to work with your Government to ensure that.

We have submitted detailed observations on the Into Headship proposals to your officials, prior to a series of meetings over the summer. We have also submitted written and oral evidence to the Scottish Parliament's Education and Culture Committee, on 17 November, all of which detail the concerns schools have about the principle as well as the practicality of extending a Headship standard to autonomous, independently-governed schools.

Further to that evidence, SCIS now understand from the Scottish College for Educational Leadership (SCEL) that the independent sector was never considered as part of the design of the new Standard for Headship. SCEL has also confirmed that the Equality Impact Assessment undertaken by them made no reference to the independent sector and was undertaken before the proposal to extend to the independent sector was made. As such, schools are concerned that the proposed amendment is unsuitable and untested as it relates to them, particularly those solely funded by external parental income and administered by independent boards of trustees.

In addition, SCIS has received legal representations which suggest that aspects of the proposal might be open to challenge under EU law on the basis of free movement, given that the requirement for headship would precede appointment and recruitment and is only available in one territorial area. It appears uncertain whether the proposal could be considered justified and proportionate for those of other nationalities seeking to apply to posts from outside Scotland, as some independent sector Heads do. SCIS would be keen to ensure that no Government proposal might involve the Scottish administration or the schools themselves in an unnecessary legal challenge to the detriment of all.

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Director - John Edward **Deputy Directors** - Sarah Randell and Nicola Dudley

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The substantial diversity within the sector – boarding/day; single-sex/co-educational; all-through/preparatory/senior; SQA/GCSE-A-level/International Baccalaureate; additional support needs; Rudolf Steiner; Council of International Schools, etc. – requires that governing boards apply very specific criteria to their search for suitable heads. Some have no formal head or staff hierarchy at all. Along with curricular, pastoral and administrative concerns, there are also responsibilities for budgeting, strategic planning, property and estate development, marketing, among many others. ASN schools – both grant-aided and financially independent – face limited available pools of people in a position to take up headship of a special school, particularly where there is a need for separate specialist qualification specific to the needs of the school concerned.

SCIS schools noted the potential flexibility in the amendment lodged with the Scottish Parliament this week and the provision for alternative arrangements. They seek clarification as to what flexibility and exemptions the Government might have in mind, what consultation process there will be about the regulations, and whether there is a more co-operative means to understand headship in independent schools? All schools are now GTCS accredited for Professional Update, as well as being registered with the Registrar of Independent Schools, Education Scotland, the Care Inspectorate and, where appropriate, the Office of the Scottish Charity Regulator. In addition, many independent school heads are members of professional Headship bodies, such as the Headmasters' and Headmistresses' Conference, which undertake rigorous headship training and mentoring, as does SCIS itself.

The independent sector have always sought an open, honest and constructive engagement with your Government and its predecessors and look forward to working together in the future. The sector has been keen to support publicly and energetically a range of recent developments including:

- the development of the Curriculum for Excellence, and a broad range of subjects;
- the review, design and assessment of the new National Qualifications, with engagement well beyond the proportionate size of the sector (quite unlike the situation in England and Wales) and some schools are looking to export Scotland's school education expertise overseas;
- the new School Inspection Framework introduced in recent years and currently under review;
- the development of the Care Inspectorate and the change of focus of pastoral inspection;
- OSCR's public benefit test – the strictest such test in the world. Means-tested fee assistance, derived mainly from parental income, is now Scotland's largest per capita widened access scheme;
- The operational independence of the GTCS and the introduction of Professional Update, as well as the new proposal for full registration of independent school teachers.

Independent schools, both mainstream and ASN, are always willing to co-operate and work in partnership with local authorities, individual schools and pupils, and the Scottish Government. A key feature of all of schools is that independence for them indicates autonomy, but not distance or isolation from teaching and learning in Scotland – the advancement of which is the shared objective of the Scottish Government, Parliament and all the independent schools in SCIS.

We would be happy discuss the maintenance of that autonomy, and of what works in education, at any available opportunity.

Yours sincerely, [redacted]

John Edward
Director

Cc: Cabinet Secretary for Education
Learning Directorate

Davies D (Deborah)

From: John Edward <john.edward@scis.org.uk>
Sent: 26 November 2015 16:20
To: [redacted]@gov.scot
Cc: [redacted]@gov.scot; [redacted]@gov.scot; [redacted]@gov.scot;
 [redacted]@gov.scot
Subject: RE: Proposed amendment to the Education Bill -SCIS response

Dear [redacted], et al.

Many thanks for that comprehensive reply. We have had several specific inquiries from the GAS schools since the amendments were lodged, so that is useful.

I am sure we will be in touch, kind regards

John

John Edward
 Director
 SCIS
www.scis.org.uk
[@SCISSchools](https://twitter.com/SCISSchools)
 2015 SCIS CPD Programme

From: [redacted]@gov.scot [mailto:[redacted]@gov.scot]
Sent: 26 November 2015 15:42
To: John Edward
Cc: [redacted]@gov.scot; [redacted]@gov.scot; [redacted]@gov.scot; [redacted]@gov.scot
Subject: Proposed amendment to the Education Bill - SCIS response

John,

Thanks for your email seeking clarification on the Government's amendment to the 1980 Act.

As you are aware, the amendment will provide Ministers with the power to set education and training standards for headteachers working in all schools in Scotland. There are two regulation making powers, the first allowing for regulations in respect of education authority and grant aided schools while the second allows for regulations to be made in respect of independent schools.

The draft amendment allows for broad flexibility in the way regulations could be drafted. The flexibility would allow for the development of alternative arrangements in respect of the general requirement that all new headteachers must hold the Standard for Headship before being appointed. For example certain schools, posts or parts of the country could be exempted from the regulations or could be handled differently. The amendment would also allow for different coming into force dates for different parts of the sector. You will see this flexibility is available for both local authority controlled schools (90A in the amendment) and the independent sector (98DA). I should stress that the possible flexibilities discussed here are illustrative only and there are no plans in place as yet as to how they could be used.

Its also, I feel, worth mentioning again that there is no immediate plan to use the power in respect of independent schools. The Scottish Government will discuss appropriate arrangements with the sector and would be required to consult on draft regulations. Any regulations made under these powers are also subject to the affirmative resolution procedure in Parliament providing a further

level of scrutiny. Ministers are unlikely to make regulations until we are satisfied that appropriate arrangements are in place and issues such as the need to ensure effective equivalency procedures for headteachers coming from outside Scotland are resolved.

I hope this is helpful. Please feel free to give me a call if you would like to discuss the amendment further.

Best wishes

[redacted]

[redacted]

Scottish Government

Learning Directorate: People and Leadership

Tel: 0131 244[redacted]

www.engageforeducation.org

From: John Edward [<mailto:john.edward@scis.org.uk>]

Sent: 25 November 2015 11:06

To: Brand S (Scott)

Cc: Wood P (Paul)

Subject: Re: Proposed amendment to the Education Bill - SCIS response

Dear [redacted]

We have seen the Government's proposed amendments to the 1980 Act via the Education Bill.

Do you have any detail on the flexibility for independent schools that they appear to suggest?

Many thanks

John

Sent from John Edward's  

On 13 Aug 2015 at 08:22 [redacted]@scis.org.uk wrote:

Dear [redacted],

John Edward and I can make the following times:

28 August – after 12.30pm

31 August – after 2.30pm

2 September - after 2.30pm

14 September after 12 pm

15 September after 2pm

Let me know if any of these times suit.

Many thanks.

Kind regards,

[redacted]

[redacted]

Deputy Director (CPD Co-ordinator)
Scottish Council of Independent Schools

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Tel: 0131 556 [redacted]
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www.scotlandsboardingschools.org.uk

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From: [redacted]@scotland.gsi.gov.uk [mailto:[redacted]@scotland.gsi.gov.uk]

Sent: 12 August 2015 15:16

To: Nicola Dudley

Subject: RE: Proposed amendment to the Education Bill - SCIS response

[redacted]

Thanks for this detailed response to the proposal that all teachers appointed to their first HT post must meet the Standard for Headship. Can I suggest that we meet sometime over the next few weeks to discuss this in more detail. Can you supply some dates for a meeting towards the end of August or early September? I can then agree with colleagues at this end.

[redacted]

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0131 244 0350

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From: [redacted] [mailto:[redacted]@scis.org.uk]

Sent: 12 August 2015 09:25

To: [redacted]

Cc: John Edward

Subject: Proposed amendment to the Education Bill - SCIS response

Dear [redacted],

Please find attached SCIS' response on behalf of members to the proposed amendment to the Education Bill to introduce a requirement for prospective headteachers to hold the Standard for Headship before appointment.

Kind regards,
[redacted]

[redacted]

Deputy Director (CPD Co-ordinator)
Scottish Council of Independent Schools
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 <https://twitter.com/SCIScpd>



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From: [redacted]@scotland.gsi.gov.uk [mailto:[redacted]@scotland.gsi.gov.uk]

Sent: 28 July 2015 08:31

To: John Edward

Subject: RE: Definition of Headteacher in independent schools

John

Thanks for this. Happy for you to send to me your concerns about the wider proposal and I will share with relevant colleagues.

[redacted]

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From: John Edward [<mailto:john.edward@scis.org.uk>]
Sent: 27 July 2015 17:15
To: [redacted]
Subject: RE: Definition of Headteacher in independent schools

Dear [redacted]

I think the majority of our mainstream schools might recognise the definition, while the picture is less clear for residential special schools. In both cases, some no longer just have a traditional head teacher.

Some large mainstream schools will have a Principal and then a Senior and Junior Head in overall control of the respective parts, while in special schools it is not uncommon to have a "Lead Professional for Education" but also to have other leads, for care or for allied health and nursing, for instance – and possibly a Chief Executive (the nearest individual equivalent to a Director of Education) or an overall "head" who is not Head Teacher but leads all of the services.

There is some evidence that that parents, as well as some school colleagues, are confused by these distinctions - so a wider definition of the role and its responsibilities might assist.

So, in terms of the Headship requirement in the Bill, it would seem to us that a focus on who performs the "Lead Professional for Education" role is key.

There are, of course, other concerns about the proposal which we will be in touch about soon – are they best addressed to you or are there other colleagues to include?

Kind regards

John

John Edward
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From: [redacted]@scotland.gsi.gov.uk [[mailto:\[redacted\]@scotland.gsi.gov.uk](mailto:[redacted]@scotland.gsi.gov.uk)]
Sent: 27 July 2015 09:34
To: John Edward
Subject: Definition of Headteacher in independent schools

John

As you are aware we are working to introduce an amendment to the Education Bill at Stage 2 requiring all newly appointed head teachers to have been awarded the Standard for Headship. Our legal colleagues are currently discussing the wording of the amendment. One issue that has arisen is whether or not we need to further define head teacher in the Bill beyond the common dictionary definition.

In terms of the definition of "head teacher" the term is already used in the 1980 Act without it being defined within that Act, in which case, the ordinary dictionary definition applies (the Oxford English Dictionary defines the term as "the principal teacher or administrator of a school; a head master, a head mistress"). Do you consider that the ordinary dictionary definition is not broad enough to cover head teachers at independent schools?

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Tha am post-d seo (agus faidhle neo ceanglan còmhla ris) dhan neach neo luchd-ainmichte a-mhàin. Chan eil e ceadaichte a chleachdadh ann an dòigh sam bith, a' toirt a-steach còraichean, foillseachadh neo sgaoileadh, gun chead. Ma 's e is gun d'fhuair sibh seo le gun fhiosd', bu choir cur às dhan phost-d agus lethbhreac sam bith air an t-siostam agaibh, leig fios chun neach a sgaoil am post-d gun dàil.

Dh'fhaodadh gum bi teachdaireachd sam bith bho Riaghaltas na h-Alba air a chlàradh neo air a sgrùdadh airson dearbhadh gu bheil an siostam ag obair gu h-èifeachdach neo airson adhbhar laghail eile. Dh'fhaodadh nach eil beachdan anns a' phost-d seo co-ionann ri beachdan Riaghaltas na h-Alba.

Rùnaire a' Chaibneit airson Foghlaim agus Ionnsachadh Fad-bheatha
Cabinet Secretary for Education and Lifelong Learning
Angela Constance BPA/MSP

F/T: 0300 244 4000
E: scottish.ministers@gov.scot



Mr John Edward
SCIS
61 Dublin Street
EDINBURGH
EH3 6NL



Ar faidhle/Our ref: 2015/0041343
10 December 2015

Dear John,

EDUCATION (SCOTLAND) BILL - STANDARD FOR HEADSHIP

Thank you for your letter of 27 November 2015 to the First Minister discussing the Scottish Government's proposals to make holding the Standard for Headship mandatory for all new headteachers. As Cabinet Secretary for Education and Lifelong Learning I am responsible for the Education (Scotland) Bill and your letter has been passed to me for reply.

Firstly, let me assure you that I understand the concerns expressed by your member schools. I would secondly like to take the opportunity to reassure you that in bringing forward the amendment to the Education (Scotland) Bill I have no intention to adversely impact the operation of schools in the independent and grant-aided sector. On the contrary the purpose of ensuring all headteachers in Scotland meet the Standard for Headship is to strengthen the leadership of all schools in the country which in turn will help to improve educational outcomes for all pupils.

I would like to address some of your central areas of concern. In particular it is worth highlighting that the secondary legislation that will underpin this requirement will not make the completion of 'Into Headship' qualification mandatory, rather, it will be the Standard for Headship itself which must be met. It will therefore be possible for prospective headteachers from outside of Scotland to work here if they are able to demonstrate they meet the Standard for Headship. The proposed amendment and likely subsequent secondary legislation would therefore work in a similar way to the requirement that all teachers in Scotland must be registered with the General Teaching Council for Scotland (GTCS). Equally it would be possible for SCIS to work with the Scottish College for Educational Leadership and the GTCS to develop a programme of learning that allows candidates to meet the Standard for Headship while providing a professional learning opportunity specifically designed for the independent and grant-aided sectors.

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As we will need to carefully consider the issues raised above I have not, as yet, suggested a coming into force date for regulations relating to the independent and grant-aided sectors. I am keen to work with the sector in considering solutions to these issues, the possible flexibility needed and the setting of a suitable timetable not simply for a coming into force date but also for a consultation on draft regulations.

With that in mind I would be happy to meet you, perhaps alongside a small number of representatives of the schools SCIS represents, in the New Year to discuss how to take this proposal forward in practical way that meets with the over-arching policy of Scottish Government while also benefitting your sector. Can I ask that you contact [redacted], my Diary Secretary, at email address [\[redacted\]@scotland.gsi.gov.uk](mailto:[redacted]@scotland.gsi.gov.uk) to arrange a meeting.

*Kindest Regards,
Angela Constance*

ANGELA CONSTANCE

From: Shirley.Anderson@gov.scot [mailto:Shirley.Anderson@gov.scot]
Sent: 16 December 2015 11:45
To: Fiona Hands; john.edwards@scis.org.uk
Cc: [redacted]@educationscotland.gsi.gov.uk; [redacted]@gov.scot; [redacted]@gov.scot; [redacted]@scis.org.uk; [redacted]@educationscotland.gsi.gov.uk; [redacted]; [redacted]; [redacted]; [redacted]@gov.scot
Subject: RE: Registration of Teachers in Independent and grant aided schools

All

To note the date for this event is 7 March and I am pleased to say The High School of Glasgow have kindly agreed to host it.

I think a short note to all schools at the beginning of January asking them to hold the date with details to follow would get it into people's diaries.

Thanks

[redacted]
 Scottish Government Policy Officer

Scottish Government, Learning Directorate, Performance and Strategy, Area 2C, Victoria Quay, Edinburgh, EH6 6QQ, e-mail [redacted]@gov.scot, Tele 0131 244 [redacted]

From: John Edward [mailto:john.edward@scis.org.uk]
Sent: 08 December 2015 16:57
To: Fiona Hands; 'Shirley.Anderson@gov.scot'
Cc: 'Alexander.O'Neill@educationscotland.gsi.gov.uk'; 'Scott.Wood@gov.scot'; 'Tracey.McRae@gov.scot'; Margaret Lannon; 'Denise.Brock@educationscotland.gsi.gov.uk'; Ken Muir; Tom Hamilton; Cheryl Loughbrough
Subject: RE: Registration of Teachers in Independent and grant aided schools

Dear All
 Working from Fiona's list:

- Monday 1 February- (am) and (pm)
- Monday 7 March - (am only)
- Thursday 10 March - 2.00pm onwards

Thanks again
 John

John Edward
 Director
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Email out of scope of the request

From: [redacted]@gov.scot [mailto:[redacted]@gov.scot]

Sent: 08 December 2015 16:04

To: [redacted]

Cc: [redacted]@educationscotland.gsi.gov.uk; [redacted]@gov.scot; [redacted]@gov.scot; [redacted]@scis.org.uk; john.edward@scis.org.uk; [redacted]@educationscotland.gsi.gov.uk; [redacted]

Subject: RE: Registration of Teachers in Independent and grant aided schools

[redacted]

Please could you check [redacted] and [redacted] availability for the following dates as I would like a couple of options in the event we are struggling to match them with a venue.

1, 2 and 4th Feb

1,3,7,8,10,14, 15 March

John

How are the above dates from your side?

[redacted]

Scottish Government Policy Officer

Scottish Government, Learning Directorate, Performance and Strategy, Area 2C, Victoria Quay, Edinburgh, EH6 6QQ, e-mail [redacted]@gov.scot, Tele 0131 244 [redacted]

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Smaoinichibh air an À rainneachd mus priont sibh seo!*

From: [redacted] @gov.scot [mailto:[redacted] @gov.scot]
Sent: 08 December 2015 11 :49
To: john.edward@scis.org.uk; [redacted] ;[redacted] @educationscotland.gsi.gov.uk
Cc: [redacted] @educationscotland.gsi.gov.uk; [redacted] @gov.scot; [redacted] @gov.scot;
[redacted] @scis.org.uk; [redacted]
Subject: RE: Registration of Teachers in Independent and grant aided schools

Thanks John and [redacted] who didn't copy everyone in but to enable both [redacted] and [redacted] to be present it looks like we should avoid February from 15 to 29th. With that in mind then we may wish to consider maybe a date in the first 2 weeks or it will have to fall into March. I would suggest we look at 3 or 10 February or 2 or 9 March.

[redacted]

Scottish Government Policy Officer

Scottish Government, Learning Directorate, Performance and Strategy, Area 2C, Victoria Quay, Edinburgh, EH6 6QQ, e-mail [redacted]@gov.scot, Tele 0131 244 [redacted]

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From: John Edward [mailto:john.edward@scis.org.uk]
Sent: 08 December 2015 10:56
To: [redacted] ; [redacted]@gtcs.org.uk; [redacted]
Cc: [redacted] ; [redacted] ; [redacted] ; [redacted]
Subject: RE: Registration of Teachers in Independent and grant aided schools

[redacted]

Many thanks.

Most of our school half terms run 15-19 February, but the boarding schools are more varied – some starting on 8 Feb and others not finishing until 21 or 22, so after that would be preferable.

We also have some substantial courses on in February, see 23-27 February here - <http://www.scis.org.uk/cpd/forthcoming-courses/>

I would think that only High School of Glasgow, St Aloysius, Glasgow Academy or Hutchesons' might have space that size, although cabaret style might be trickier. (We tend to use the Glasgow Hilton for bigger courses).

Many thanks

John

John Edward
Director
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From: [redacted]@gov.scot [mailto:[redacted]@gov.scot]
Sent: 08 December 2015 10:19
To: [redacted]@gtcs.org.uk; John Edward; [redacted]@educationscotland.gsi.gov.uk
Cc: [redacted]@educationscotland.gsi.gov.uk; [redacted]@gov.scot; [redacted]@gov.scot
Subject: Registration of Teachers in Independent and grant aided schools

Colleagues