

The Head Teachers Education and Training Standards (Scotland) Regulations 2019

Business and Regulatory Impact Assessment

August 2019



Scottish Government
Riaghaltas na h-Alba
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Final Business and Regulatory Impact Assessment

Title of Proposal

The Head Teachers Education and Training Standards (Scotland) Regulations 2019

Purpose and intended effect

The Head Teachers Education and Training Standards (Scotland) Regulations 2019 will require that all teachers appointed to their first headteacher post in local authority or grant-aided school from August 2020 must have been awarded the Standard for Headship by the General Teaching Council for Scotland (GTCS).

- **Background**

Since 2005 there has been an expectation that teachers should meet the Standard for Headship before being appointed as a headteacher by completing either one of two programmes (the Scottish Qualification for Headship or the Flexible Route to Headship) or through the judgment of the local authority as their employer. The two programmes are no longer available and were replaced by the Into Headship programme in 2015.

In 2015 the First Minister announced that the Scottish Government would make it a legal requirement that all new headteachers must hold the Standard for Headship. The Scottish Government document “Delivering Excellence and Equity in Scottish Education – A Delivery Plan for Scotland” stated that ‘We will make holding the Standard for Headship mandatory for all new headteachers by August 2019 and will consult by the end of 2016 on the legislation that will achieve this.’

Powers were acquired under the Education (Scotland) Act 2016, whereby section 28 amended the Education (Scotland) Act 1980 by inserting section 90A and 98DA into the 1980 Act which allow Scottish Ministers to make regulations prescribing the standards of education and training needed before a person could be appointed as a headteacher of an education authority, grant-aided or independent school. There was agreement during the passage of the Bill that the regulations relating to the independent sector would be delayed until after those covering the education authority and grant-aided sectors came into force and the new requirement for all teachers in independent schools to be registered with the GTCS had become embedded. Section 28(1) of the Education (Scotland) Act 2016 came into force on 1 January 2017.

The Standard for Headship is part of a suite of Professional Standards that are developed by the GTCS. The Standard for Headship supports the self-evaluation and professional learning of those in, or aspiring to, formal leadership roles in schools. All teaching standards are underpinned by the themes of values, sustainability and leadership and are integral to professional relationships and practices. The Standard for Headship is awarded by the GTCS on completion of the Into Headship programme, which is delivered by university providers and accredited by both the Scottish College for Educational Leadership, which is now incorporated into Education Scotland, and GTCS.

Seven universities are delivering the Into Headship programme and since it was introduced in 2015, 255 teachers across all 32 local authorities have completed the programme.

- **Objective**

The policy objective of these Regulations is to introduce a requirement that all teachers being appointed to their first headteacher post in either an education authority or grant-aided school from August 2020 must have been awarded the Standard for Headship by the GTCS.

- **Rationale for Government intervention**

A priority of the Scottish Government is to improve the life chances and education of all children in Scotland. Leadership is recognised as one of the most important aspects of the success of any school. Leaders at all levels who are empowered, and who empower others to take ownership of their own learning, have a strong track record of ensuring the highest quality of learning and teaching. This in turn helps to ensure that all children achieve the best possible outcomes. Highly effective leadership is key to ensuring the highest possible standards and expectations are shared across schools to achieve excellence and equity for all.

The continued improvements in the quality and standards of headteachers across all schools in Scotland will have a positive effect on children's learning and support the policy of raising attainment for all and closing the poverty-related attainment gap.

The proposed Head Teachers Education and Training Standards (Scotland) Regulations support three of the six drivers of improvement outlined in the National Improvement Framework – teacher professionalism, school leadership and school improvement.

Consultation

- **Within Government**

There have been on-going discussions with colleagues in both Learning Directorate and Education Scotland.

- **Public Consultation**

During the Parliamentary consideration of the Education (Scotland) Bill 2016 informal consultation was carried out with stakeholders.

A public consultation took place from December 2016 to March 2017 (<https://www.gov.scot/Resource/0051/00511400.pdf>) and received 42 responses. The Scottish Government response was published in April 2017 and can be viewed at <https://www.gov.scot/publications/consultation-draft-head-teacher-education-training-standards-scotland-regulations/>.

In general most respondents thought that the draft regulations were practical and a positive statement of intent with regard to ensuring that suitably prepared and qualified teachers are appointed to headteacher posts. Although it was suggested that introducing the qualification requirement may be seen as an additional barrier to achieving headship and impact on the number of applications for headteacher posts. Respondents also focused on 3 main areas: scope and exemptions, coming into force date and duration of temporary appointments.

With regard to the scope of the regulations some respondents thought that this should be widened. One suggestion was that the requirement to hold the Standard for Headship should also apply to Heads of Service and Quality Improvement Officers employed by education authorities. They considered that this was essential if they were to lead and manage headteachers. Other respondents thought that the requirement should apply to all headteachers both currently in post and future appointments.

A small number of respondents wanted the scope of the draft regulations to be more limited. They wanted the requirements to be optional for local authorities who could make decisions based on local circumstances. Again a small number thought that the regulations should not cover appointments to small rural schools where recruitment was traditionally difficult or to acting headteachers who had been in post for a certain length of time.

In respect of the implementation date some respondents felt that 1 August 2019 was arbitrary. There was a feeling among several respondents that much more detailed work was required on headteacher workforce planning, especially if that work pointed towards a shortage in the primary sector, before the regulations were brought into force. One particular concern was that the Into Headship programme would not have produced enough graduates by August 2019 to ensure a large enough pool of qualified teachers would be available. Other respondents pointed to recruitment issues relating to salary differentials for promoted staff, extra duties due to the Education (Scotland) Act 2016 and the Pupil Equity Fund would require consideration. About half of respondents (including the majority of local authorities, ADES, EIS, SLS and AHDS) thought that a more sensible and realistic date would be either August 2020 or August 2021.

With regard to the duration of temporary appointments most respondents said that there was a need to avoid a situation where temporary contracts were repeatedly renewed, in effect agreeing with the Scottish Government's core policy of capping the length of temporary appointments. Some thought that this clause may allow employers to keep rotating acting headteachers into posts without proper qualifications. Others had the different opinion that the draft regulations gave flexibility that was needed to balance complex staffing situations. Some respondents asked for an extension of the temporary appointment period from 24 to 30 months. This was to address a situation where somebody is appointed on a temporary basis but has missed entry to the annual intake to the Into Headship programme and find themselves waiting most of the year before being able to start the 18 month programme.

The point was made that parents, who are represented on appointment panels, are generally against acting appointments. Four local authorities said that the draft regulations should be changed to reflect a situation where employers can appoint on a permanent basis a teacher who has yet to meet the requirements of the Standard for Headship. This could be on the proviso that the teacher has up to three years to complete the Into Headship programme. This would enable the post to be more attractive to teachers and allow a degree of flexibility in completion for teachers where circumstances such as illness or maternity leave occur.

In considering the responses it was clear that the majority supported the terms of the Regulations. The main area of concern was the implementation date along with the length of time being allowed for temporary appointments. There was also a desire by a few to extend the regulations to local education authority staff and criticism that they may limit local authority flexibility. Others commented that parents are not generally in favour of acting appointments. All comments were given full consideration as to whether they should be reflected in the Regulation. However, it was concluded that the Regulations should be revised in 2 aspects. The implementation should be moved forward to August 2020 and the length of time of temporary positions should be extended from 24 to 30 months.

- **Business**

During the preparation of the Financial Memorandum required for the passage of the Education (Scotland) Bill 2016 through Parliament it was not considered that this particular aspect of legislation would have a direct effect on business including the grant-aided schools which it would affect given that the Into Headship programme and the arrangements for awarding the Standard for Headship by the GTCS were already in place and operational.

Options

During the passage of the Education (Scotland) Bill 2016 Ministers gave consideration to 2 options: continue with an expectation that all future headteachers should complete the Into Headship qualification and be awarded the Standard for Headship prior to appointment to a headship post; or make it a mandatory requirement. The latter option was considered as the most appropriate approach to take to ensure that teachers are fully prepared for the leadership role they will be taking on and that across Scotland school communities will benefit from headteachers who have the knowledge, skills and understanding required of senior leaders to deliver high quality learning and teaching.

Sectors and groups affected

The main sectors and groups affected by the legislative provisions in The Head Teachers Education and Training Standards (Scotland) Regulations 2019 are likely to be:

Public sector

The public sector organisations that will be impacted by the regulations are likely to be:

- Scottish Government
- Local authorities
- Scottish Ministers
- Education Scotland
- General Teaching Council for Scotland
- Universities

Private Sector

The private sector organisations that will be impacted by these regulations are likely to be:

- Grant-aided schools

Third Sector

- Third sector organisations who operate grant-aided schools

Benefits

A priority of the Scottish Government is to improve the life chances and education of all children in Scotland. High quality teaching and strong leadership are key features of a successful education system.

Introducing a requirement that all teachers working in local authority or grant-aided schools appointed to their first permanent headteacher post from August 2020 will have completed the Into Headship qualification and been awarded the Standard for Headship by the GTCS. This will provide school communities with assurances that headteachers have the knowledge, skills and understanding required of senior leaders to deliver high quality learning and teaching.

Costs

The costs of introducing this legislation will primarily fall upon the Scottish Government. The Into Headship programme is currently fully funded by the Scottish Government. The current cost to the Scottish Government is £3,066 per participant in fees and administrative costs incurred by Education Scotland in the region of £95,000 per annum. It is not anticipated that the introduction of the Regulations would incur any additional expenditure beyond that already committed.

Teachers in Scotland have a contractual entitlement to career-long professional learning. As their employer, local authorities play an important role in providing and facilitating access to professional learning. The Scottish Government provides Local Authorities with a block grant to deliver education which reflects this responsibility.

The Into Headship programme has been available since 2015 with local authorities and possibly the managers of grant-aided schools already budgeting for participants which will include costs associated with participants requiring some release from class duties and the provision of mentors to support aspirant headteachers. Therefore, we would not anticipate any additional financial requirements on local authorities or grant-aided schools as a result of the introduction of the legislative requirements.

Scottish Firms Impact Test

The provisions of the Regulations include the appointment of headteachers in grant-aided schools. As these schools are operated by third sector and private organisations they were consulted during the passage of the Education (Scotland) Bill 2016 and had the opportunity to discuss with policy colleagues during the public consultation. It is not anticipated that complying with the legislation will create substantial impact on the operation of the schools.

Competition Assessment

The provisions in The Head Teachers Education and Training Standards (Scotland) Regulations relate to services for children in schools. It is unlikely that there will be any impact on competition within the current market.

Test run of business forms

No new business forms will be brought in with the implementation of the proposed legislation.

Legal Aid Impact Test

It is not expected that there will be any greater demand placed on the legal aid system by the commencement of any of the provisions within these regulations.

Enforcement, sanctions and monitoring

• Enforcement and Sanctions for Non-compliance

The effect of The Head Teachers Education and Training Standards (Scotland) Regulations is that from August 2020 any teacher appointed to their first permanent post as a headteacher in either a local authority or grant-aided school must have been awarded the Standard for Headship by the GTCS.

If an education authority or the managers of a grant-aided school were to appoint a person to their first permanent headteacher position who does not hold the Standard for Headship on or after 1 August 2020, then Scottish Ministers could consider action under section 70 of the Education (Scotland) Act 1980 (the 1980 Act). Section 70 applies where Scottish Ministers are satisfied that an education authority, the managers of a school or educational establishment or other persons have failed to discharge a duty imposed on them by or for the purposes of the 1980 Act or any other enactment relating to education.

• Monitoring

This will be achieved through engagement with local authorities, the GTCS and ES-SCEL by discussion and the exchange of data to ensure that the numbers being nominated by local authorities to undertake the Into Headship qualification and subsequently being awarded the Standard for Headship is sufficient to meet the demands of the education sector.

Implementation and delivery plan

The Head Teachers Education and Training Standards (Scotland) Regulations 2019 will come into force on 1 August 2020 and provide for the following:

From 1 August 2020 only teachers who have attained the Standard for Headship can be appointed as a headteacher in an education authority or grant-aided school. The Regulations also provide 2 exemptions. The first applies to any person appointed as a permanent headteacher who has been appointed to a position in an education authority, grant-aided or independent school on or prior to 1 August 2020. For individuals within that category the holding of the Standard for Headship is not a requirement. The second exemption enables education authorities or the managers of grant-aided schools to appoint a person to a headteacher post who has not attained the Standard for Headship on a temporary basis for a period not exceeding 30 months after 1 August 2020.

Post-implementation review

The Head Teacher Education and Training Standards (Scotland) Regulations 2019 will be reviewed again in 10 years.

Summary and recommendation

In considering whether regulation was necessary two options – to regulate or not - were explored in the Business and Regulatory Impact Assessment (BRIA) during the passage of the Education (Scotland) Bill 2016. It was agreed by Ministers that option one was preferable - to bring forward regulations that would require all teachers appointed to their first permanent headteacher post to hold the Standard for Headship awarded by the GTCS. The regulation making power was obtained through section 28 of the Education (Scotland) Act 2016 which came into force on 1 January 2017 allowing for regulations in respect of local authority and grant-aided schools to be made.

The regulations have been drafted based on the substantial discussions undertaken with stakeholders during the passage of the Education (Scotland) Bill 2016 and subsequently revised following the formal consultation in 2017. The impact of the revisions have been duly considered in respect of the business impact as set out in this document.

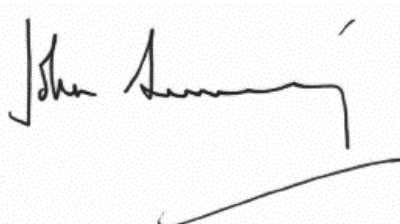
• **Summary costs and benefits table**

Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
<p>A priority of the Scottish Government is to improve the life chances and education of all children in Scotland. High quality teaching and strong leadership are key features of a successful education system. By introducing a requirement that all teachers appointed to their first permanent headteacher role must hold the Standard for Headship is a means of improving the standard and quality of leadership across all schools in Scotland. It will offer assurances to parents and school communities that headteachers have the knowledge, skills and understanding required of senior leaders to deliver high quality learning and teaching.</p> <p>It will also benefit teachers through the opportunities to undertake professional learning to support and prepare them for the role of headteacher.</p>	<p>The Into Headship programme is currently fully funded by the Scottish Government and therefore the introduction of the Regulations would not incur any additional expenditure beyond that already committed.</p> <p>The programme costs the Scottish Government £3,066 per participant in fees and administrative costs provided to Education Scotland -SCEL in the region of £95,000 per annum.</p>

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:



Date: 18 December 2018

Minister's name John Swinney

Minister's title Deputy First Minister and Cabinet Secretary for Education and Skills

Scottish Government Contact point: Shirley Anderson



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