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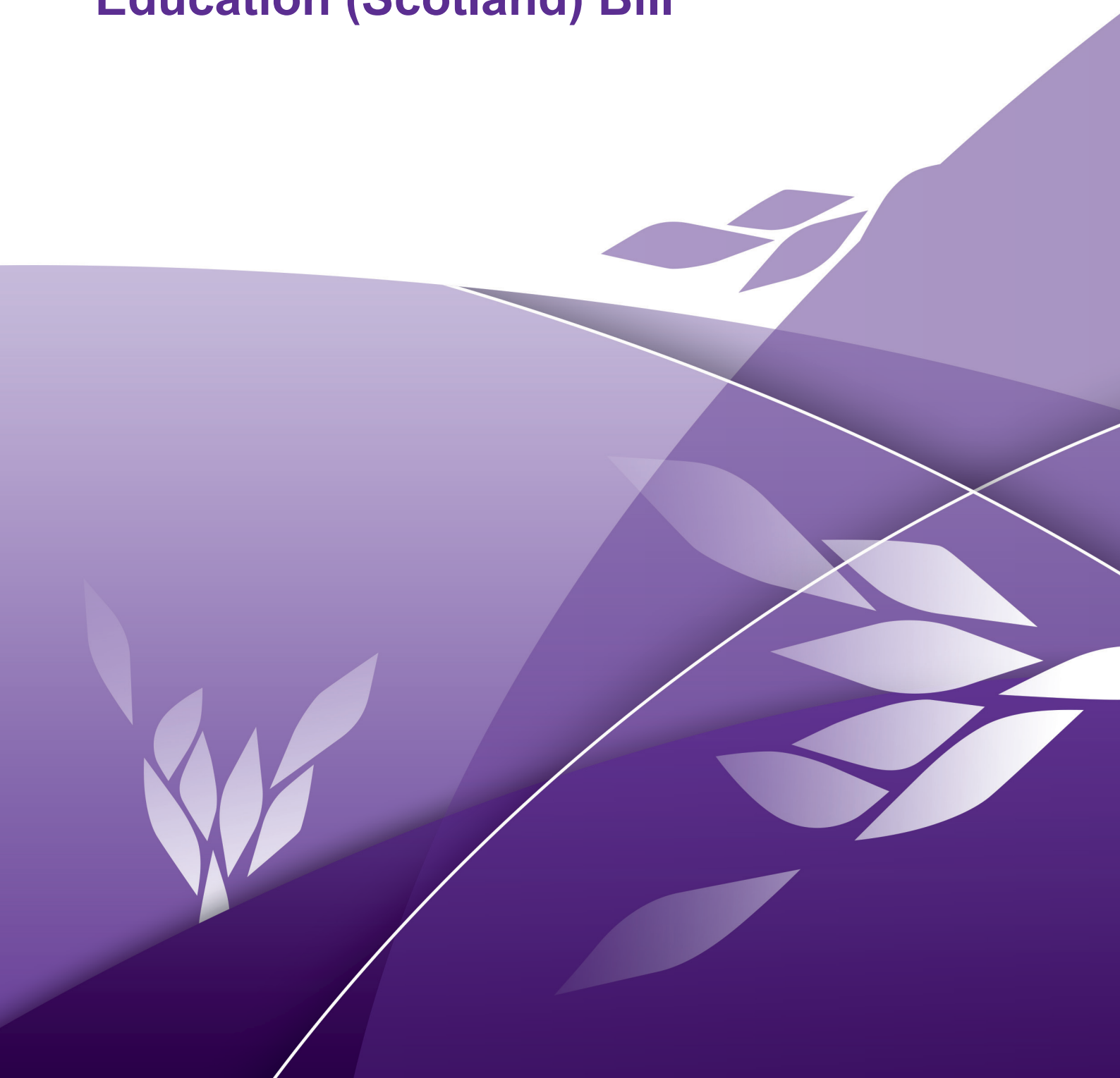
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Education and Culture Committee

Stage 1 Report on the Education (Scotland) Bill



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Contents

| | |
|--|-----------|
| Introduction | 1 |
| Inequalities of Outcome | 2 |
| Context | 2 |
| Our work | 3 |
| Reaction to the Bill's proposals | 3 |
| Clarity of terminology | 4 |
| What improvements are expected? | 5 |
| Reporting | 6 |
| Content of reports | 7 |
| A joined-up approach | 8 |
| Existing reports | 9 |
| Extending the duty | 10 |
| Funding | 10 |
| Early years | 11 |
| Gaelic Education | 12 |
| The decision-making process | 13 |
| The Scottish Government's response | 13 |
| Provision outwith primary schools | 15 |
| Secondary schools | 15 |
| Other provisions | 16 |
| Supporting GME and GLE | 16 |
| Promoting GME and GLE | 17 |
| Bòrd na Gàidhlig | 17 |
| Promoting growth | 18 |
| The wider context | 20 |
| Additional Support for Learning | 21 |
| What the Bill does | 21 |
| Extending rights to children | 22 |
| Capacity and best interest | 22 |
| Parents' Role | 23 |

| | |
|--|-----------|
| Context | 24 |
| Response to the proposals | 24 |
| Capacity | 25 |
| Best interests/ role of education authorities | 26 |
| Young people | 26 |
| Response to criticisms | 27 |
| Limits on extending rights | 29 |
| Equity | 31 |
| Section 70 Complaints | 32 |
| Changing timescales | 33 |
| Making processes clearer | 34 |
| Chief Education Officer | 35 |
| Possible benefits and disadvantages | 35 |
| Council structures | 37 |
| Nature of the role | 38 |
| Registering teachers with the GTCS | 39 |
| Possible benefits and disadvantages | 39 |
| Transition period | 41 |
| Costs of transition | 42 |
| Defining 'teacher' | 43 |
| Other provisions | 43 |
| Annexe A – Gaelic translation of paragraphs 73 to 132 | 47 |

Education and Culture Committee

The remit of the Committee is to consider and report on matters falling within the responsibility of the Cabinet Secretary for Education and Lifelong Learning; matters relating to youth employment, skills and employment training, implementation of the recommendations of the Commission for Developing Scotland's Young Workforce, Skills Development Scotland and other matters falling within the responsibility of the Cabinet Secretary for Fair Work, Skills and Training, and matters relating to culture and the arts falling within the responsibility of the Cabinet Secretary for Culture, Europe and External Affairs.



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Introduction

1. The Education (Scotland) Bill was introduced in the Scottish Parliament by the Scottish Government on 23 March 2015. The Bill contains a number of distinct provisions, which we explore in the sections that follow.
2. We support the Bill's general principles and this report provides our views on how the Bill could be improved in order to deliver meaningful change.
3. Our consideration of the proposed legislation was greatly enhanced by the written submissions and oral evidence provided, and we thank all those who helped to inform our scrutiny. All the evidence received is available on our website¹.
4. One of our defined roles at Stage One of the scrutiny process is to report on the Bill's Financial Memorandum and Policy Memorandum. We are content with the information provided in the Financial Memorandum. We discuss financial matters at various points in our report and have taken account of the Finance Committee's separate report on the Financial Memorandum in doing so. The Delegated Powers and Law Reform Committee has also reported on the Bill and we note that its recommendations have been accepted by the Scottish Government.
5. We have some concerns about the Bill's Policy Memorandum, which we express in various sections below. In general, our view is that the Policy Memorandum should have provided more detail on the rationale for certain provisions being included in the Bill. This is not the first time this session that we have had concerns about the quality of a Policy Memorandum published to accompany a bill. **We request detail from the Scottish Government of the efforts it is making to improve the quality of information it provides in these documents.**
6. On a related note, we highlight that the Scottish Government did not consult on all sections of the Bill in advance of its introduction, in part because some provisions were added at a late stage. We acknowledge the Scottish Government's prerogative to introduce provisions later on, but this made our scrutiny more difficult. **We recommend that detailed consultation should, wherever possible, be carried out in advance of a Bill's publication. If consultation is not undertaken, the Scottish Government should explain why this is the case.**

Inequalities of Outcome

7. Part one of the Bill imposes duties in relation to reducing pupils' inequalities of outcome. The Scottish Government and education authorities are to have "due regard to the desirability" of reducing "inequalities of outcome" experienced by pupils which result from "socio-economic disadvantage".
8. This duty applies when—
 - Education authorities make "decisions of a strategic nature" about how to carry out their functions relating to school education
 - Scottish Ministers exercise their powers relating to school education.
9. While the Bill specifies socio-economic inequalities, Scottish Ministers may make regulations to reduce inequalities of outcome experienced by pupils for other reasons.

Consultation, guidance and reporting

10. The Bill also says education authorities must—
 - Consult certain groups when making and implementing strategic decisions
 - Have regard to any guidance issued by Scottish Ministers.
11. Scottish Ministers and education authorities must both report every two years (separately) on how they have implemented the duty and, in essence, what educational benefits have been or will be delivered to the pupils in question.
12. The Bill does not place anyone under a duty to reduce inequality. Rather, education authorities and the Scottish Ministers are to report on the action they have taken in attempting to do so.

Context

13. While the Bill does not actually use the term, the Scottish Government's intention is that the legislation will help to narrow the 'educational attainment gap' that persists between children from differing socio-economic backgrounds. This issue has been subject to particularly intense recent debate and the First Minister made relevant policy announcements while our consideration of this report was underway². Several other interventions are also ongoing to address the attainment gap, including the creation of a £100m Attainment Scotland Fund³.
14. There have been attempts, over a period of decades, to narrow the attainment gap in order to benefit children from disadvantaged backgrounds. According to the Royal Society of Edinburgh, however, these efforts have not delivered a corresponding level of improvement—

- ” Over a period of at least fifty years, many of the most important initiatives taken in Scottish school education have been intended to improve outcomes for the disadvantaged
- ” In these circumstances the rate of progress is all the more disappointing and demonstrates the intractability of the problem.

15. The SPICe bill briefing notes that the attainment gap is narrowing, albeit slowly, and that Scotland is around the OECD average in the effect that social background has on pupil attainment.⁴

Our work

16. We have already carried out a considerable amount of work on educational attainment this session and recently considered some of the factors that may help to close the educational attainment gap.
17. This work has informed our scrutiny of the Bill and provided an insight into the challenges involved in changing outcomes for the better. Our work has demonstrated the need for a coherent, evidence-based and sustained programme of improvement. We are also aware that schools cannot fully deliver all the changes required by themselves, bearing in mind the complex and wide-ranging causes of educational inequalities.
18. We appreciate that the Bill is just one part of a much wider range of measures aiming to narrow the gap, and understand that legislation, by itself, will not bring about the desired improvements. We will take evidence from the Scottish Government and local authorities later this session on wider issues around educational attainment, and have therefore restricted our comments to the impact the Bill itself may have.

Reaction to the Bill's proposals

19. Those who provided evidence to us recognised that the Bill, in isolation, will not make a significant difference to tackling inequalities or provide education authorities with any new powers or resources.
20. COSLA, in particular, had a number of significant reservations about the provisions, although it acknowledged the clear requirement for improvement to be made. It considered that the duty was “unnecessary and fails to take into account existing legislation and the commitment of authorities to tackle poor attainment”⁵. Keir Bloomer of Reform Scotland described this part of the Bill as “pious thinking masquerading as law making”⁶.
21. Other organisations thought the provisions could be useful. While the exact wording varied, there was a recurring view that the Bill could bring a renewed focus to tackling the attainment gap, or act as a statement of intent. Some organisations considered it would help to strengthen accountability and

consistency, or establish a national approach to the issue. Save the Children said the Bill would “provide the impetus to build on the will and promising work that is already underway by Scottish Government and by a range of partners at local level...”.

22. The Cabinet Secretary for Education and Lifelong Learning, Angela Constance, said legislation was important “in sending a strong signal that, locally and nationally, we are committed to improvement ... and that we do not accept that our children’s background or circumstances are more important than their talents or efforts”.⁷

23. There is a broad cross-party and societal consensus that the educational attainment gap should be narrowed, particularly to benefit those children from the most deprived backgrounds. We therefore support the principle that this gap be addressed. The rest of this section provides our views on whether and if so how this part of the Bill could deliver more tangible change.

Clarity of terminology

24. One of the basic improvements required is for the Scottish Government to be clearer about the meaning of some terminology used in the Bill, accompanying documents and wider discussions. The Policy Memorandum uses a range of terms that do not appear in the Bill such as: “promote equity of attainment for disadvantaged children”; “narrowing the attainment gap”; and the correlation between a child’s “social deprivation/affluence and their educational attainment”. Further, key terms used in the Bill are undefined (e.g. “inequalities of outcome”, “socio-economic disadvantage” and “decisions of a strategic nature”).
25. A number of organisations highlighted their concern about these discrepancies.
26. We asked Scottish Government officials how teachers or education authorities would know whether a pupil’s inequality of outcome was due to socio-economic disadvantage or some other matter. Officials explained that, in essence, teachers’ or schools’ professional judgement would be important in such determinations, but that guidance would be produced to clarify various points of terminology.⁸
27. Similar difficulties around definitions arose while we were undertaking our broader work on the attainment gap. We noted, for example, some confusion over the meaning of the term ‘closing the attainment gap’ and asked the Scottish Government for clarification. We also noted that attainment was typically measured in terms of examination results, and asked whether closing the attainment gap would therefore mean more pupils from disadvantaged backgrounds having to do significantly better in exams than other pupils.

28. The Scottish Government's response said attainment "denotes educational performance and the acquisition of the valuable skills, knowledge and attributes needed to succeed in life". It said this was currently measured by achievement in the senior phase and leaver destinations but noted that a new "national improvement framework" would "develop ways of assessing this throughout the broad general education".⁹
29. In other words, there is not currently a comprehensive definition or measurement of 'attainment' across all ages, which could be expected to have implications for attempting to narrow the attainment gap. We note the First Minister's announcement on 1 September that the Scottish Government will establish a national improvement framework and introduce new national standardised assessments for pupils in primaries 1, 4 and 7, and in the third year of secondary school. The Scottish Government intends to place the framework on a statutory footing through a series of amendments to this Bill.

What improvements are expected?

30. A further key issue that remains unresolved is the exact level of improvement that the Bill could realistically be expected to deliver (taking current measures of attainment and inequality into account) and the timescales that would be involved. We asked this question in our call for written submissions, but few organisations responded.
31. As part of our work on the attainment gap, and in advance of the Bill's publication, we wrote to the Scottish Government with similar questions about levels of improvement and timescales. Its response said "delivering equity in educational outcomes" was "difficult to quantify exactly".¹⁰ The Scottish Government's website mentioned an "agreed period" over which progress in reducing "inequity in educational outcomes" was to be made. However, the Scottish Government's response then said there was not "a fixed agreed period". Rather, all involved were to "work towards continuous and sustained improvement in educational outcomes".¹¹
32. The Scottish Government's overall ambition has sometimes been stated as 'closing the attainment gap' or as 'narrowing the attainment gap'. The First Minister recently said she wanted to "close the attainment gap completely".¹² These statements are similar but they may have quite different policy implications, for example, in terms of how success will be measured.
33. At this point, it is helpful to note that the Scottish Government remains committed to improving outcomes for all pupils, while focusing particularly on those who are doing less well. In oral evidence, Scottish Government officials said—

” Ideally, we want the pupils who are performing at the top to continue to increase their performance but at a slower rate than those at the bottom do. We would like everyone to move up but to have the gap narrowing throughout that process.¹³

34. The Cabinet Secretary stated—

” ...we do not want to hold back the highest-performing children until other children catch up ... what is paramount is continuous improvement and ensuring that the children and young people who are doing less well are enabled to improve their performance at a quicker rate—that is what we mean by “closing the gap”.¹⁴

35. **It is vital that all those with an interest in education have a clear understanding of the Scottish Government’s ambition and exactly what would be required to deliver improvement. However, there is evidence that this is not always the case and also that some terms used in the Bill and elsewhere are not fully understood. The First Minister has made further policy statements since our evidence-taking closed and we consider the Scottish Government should fully address the points we have highlighted above, in order to provide the clarity such a fundamentally important area of policy requires.**

36. **We agree there should be greater support for the most disadvantaged children, but this does not mean that all pupils will achieve exactly the same results. We also agree all children should be encouraged to achieve their full potential.**

37. **Education authorities and Scottish Ministers are to have “due regard to the desirability” of reducing inequalities of outcome. Given the consensus amongst the Scottish Government, local authorities and other stakeholders that narrowing the attainment gap is of fundamental importance, it is difficult to imagine a scenario where an education authority would not consider a reduction in inequality to be desirable. We therefore ask the Scottish Government to look at how the provision can be made more effectiveⁱ.**

Reporting

38. The duty on the Scottish Government and education authorities to report on their efforts to reduce inequalities is the most tangible output required by this part of the Bill. This section considers how the reports that will be produced could be made as meaningful as possible.

39. The Policy Memorandum said very little about the reports’ likely content and exactly what they may achieve. We therefore wrote to the Scottish Government to

ⁱ Liam McArthur proposed that the words “or find other ways of securing the objective of narrowing the attainment gap.” be included. The proposal was disagreed to by division: For 1 (Liam McArthur), Against 8 (George Adam, Chic Brodie, James Dornan, Mark Griffin, Stewart Maxwell, Gordon MacDonald, John Pentland, Mary Scanlon), Abstentions 0.

ask whether the Scottish Ministers' report would allow readers to understand the progress being made across Scotland by local authorities. The response said the exact structure of the Scottish Ministers' report was still to be agreed, but it should provide "a clear understanding of the progress we are making as a country to narrow the attainment gap"¹⁵.

40. The reply also said the report could highlight local examples of good practice but would not introduce 'league tables' directly comparing performance across local authorities. The Scottish Government considered that such comparisons fail to take account of "the range of differing factors which can influence performance in local authority areas and can stifle rather than support improvement"¹⁶.
41. COSLA was again very critical of these proposals, saying it had "strong concerns about local authorities being required to report to Ministers about the delivery of a service which they themselves are democratically accountable to local communities. COSLA argued that the reporting duty "undermines local democracy and would provide little in the way of useful information that could aid public scrutiny of education".¹⁷
42. In response to such criticisms, the Cabinet Secretary said it was "pragmatic and reasonable" for Scottish Government and local authorities "to be visible and accountable for what they do in evaluating what works and what does not, and what the remaining challenges are"¹⁸.
43. She also said there was "no point in people producing 32 varieties of report that cannot be compared to create that national picture".¹⁹

Content of reports

44. One issue on which there was consensus was that the production of reports should not simply amount to an exercise in bureaucracy or divert resources away from more important areas. Keir Bloomer of Reform Scotland expressed such views and also considered that "what we will get is competition among authorities to produce reports that make them look as good as possible".²⁰
45. We understand these concerns and consider the focus should therefore be on making the reporting process as effective as possible. In doing so, it is worth reiterating that the Bill is simply one part of a far more extensive programme of national and local activity to improve attainment and narrow the gap. Paragraphs 14 and 15 of the Policy Memorandum alone list fourteen different policies or initiatives that are of at least some relevance to these goals.
46. The sheer volume of ongoing activity may make it difficult to identify clearly the initiatives that have been most or least helpful in narrowing the gap (assuming this is achieved). It also raises questions about how reports could most usefully be structured, given that almost all education authority activity could have some bearing on narrowing the gap.

A joined-up approach

47. A fundamental issue, therefore, is how the reporting process could act as a driver for change by providing a clearer focus to education authorities; we have received evidence to suggest that better coordination and a more strategic approach is required.

48. East Dunbartonshire Council, for example, said—

” There requires to be a clearer and more coherent strategy nationally to raising attainment. The current initiatives require to be more clearly coordinated.²¹

49. South Lanarkshire Council said—

” There needs to be a deep, shared, research based understanding amongst professionals and Education authorities in relation to how we break the cycle of disadvantage and underachievement in order that resources and time are directed appropriately.²²

50. The Joseph Rowntree Foundation (JRF) undertook research into the extent to which policy advice to schools discussed relevant guidance in terms of poverty. It concluded that “poverty was not mentioned at all” and considered that the Bill would therefore be useful “as it will put poverty clearly on the agenda”²³.

51. JRF also highlighted the “101 initiatives coming out” and said it was not always clear how schools or local authorities chose from among those initiatives. It considered the important message for local authorities to be that collecting data is about improving teaching and learning in their schools—

” What will make an impact and a difference is the extent to which national advice, local authority advice and school advice line up and marry together, so that schools and head teachers are getting clear advice and signposts about what matters and clear information about what works.²⁴

52. A number of organisations cited research undertaken by JRF, which argued that policy on tackling the attainment gap should be based on ‘what works’ and that there was a need for far more effective evaluation of policy initiatives.

53. A few organisations suggested particular measures the Bill could specify to tackle the attainment gap.

54. Efforts to address the attainment gap have been underway for decades but considerable progress is still required. This suggests that at least some approaches have failed and may also suggest that far more radical change is needed. These considerations go beyond the Bill, which is simply one part of a much wider programme of ongoing reform. Nevertheless, it is reasonable to suggest that this legislation

could be most effective if it helped to establish a comprehensive and transparent reporting structure that: effectively identified successful and unsuccessful practice; helped to establish a more strategic and coordinated approach to tackling the attainment gap; and clearly demonstrated whether positive outcomes were being delivered. It would be in no one's interests for reports simply to list policies and programmes that have been adopted.

55. We do not consider legislation to be the correct place to specify detailed policies on attainment that education authorities or the Scottish Government should adopt, as this would be too prescriptive and run the risk of becoming out-dated. Rather, the Scottish Government, education authorities, COSLA and all others with an interest in education should have detailed and open discussions about the information that could most usefully be reported on, taking into account current gaps in research knowledge.
56. The Bill does not currently require guidance to be issued or consultation to be undertaken before the reporting structure is established and reports published. In light of paragraphs 47 to 52 above, we invite the Scottish Government to consider the merits of creating such a requirement. The Scottish Government should also explain the extent to which relevant education authorities will be expected to report specifically on the outcomes arising from their Attainment Scotland funding. This would be a useful indicator of the Fund's success.
57. Finally, the Scottish Government should provide examples of how, in exercising its powers in relation to school education, it intends to take into account inequalities of outcome. For example, we are interested in whether and how the duty will alter the Scottish Government's approach to the funding allocations it proposes in its draft budgets.

Existing reports

58. Some organisations also expressed concerns about how the Bill would fit in with the existing legislative framework, for example, the statutory National Priorities in education. The priorities include the requirement "to raise standards of educational attainment for all in schools". There were related concerns about how the Bill's new reporting duty would take account of existing reporting duties under other legislation.
59. The Scottish Government confirmed it was looking again at the National Priorities and reporting duties, and was considering amending the Bill at Stage Two in order to align the new reporting duties with existing arrangements.

60. **We welcome the Scottish Government's review of these issues.**

Extending the duty

61. The Bill would allow Scottish Ministers to extend the duty to other pupils, i.e. not just those experiencing socio-economic disadvantage.
62. There are differences in educational outcomes according to wide range of factors. Certain groups face particularly marked differences, for example, some children who are looked after or who have a disability. A number of written submissions welcomed the Bill's focus on socio-economic factors, while others considered it should include other groups, such as those mentioned. The Scottish Government said, in essence, that it had an open mind on this issue.
63. There is a link between poverty and disability/ looked after status. Therefore, should the Scottish Government succeed in its policy aim of narrowing the attainment gap, some looked after and disabled children would also benefit. However, it is not clear that all such children would automatically benefit.

64. It is understandable that the Scottish Government, in tackling the educational attainment gap, would seek to prioritise action for the largest group of people who would benefit. **However, we ask the Scottish Government to consider whether it would be logical to extend the duty to other groups of children whose educational attainment levels are particularly low.** Such an approach would complement recent work on the Commission for Developing Scotland's Young Workforce, which focussed strongly on inequalities.

Funding

65. A number of organisations, including various local authorities, considered legislating on inequalities to be unnecessary as the problem was already well understood and being addressed by education authorities. Various groups also suggested a lack of funding was a barrier faced by education authorities in attempting to do more to tackle the attainment gap. On a broader note, some have expressed a view that the Scottish Government's Attainment Fund should not be an area-based approach.
66. The Financial Memorandum anticipated minimal costs arising from these provisions of the Bill. Scottish Government officials explained why to the Finance Committee—

” The new duty ... is framed to require that education authorities have due regard to the desirability of reducing inequalities of outcome through the delivery of education. It does not demand that education authorities spend

more money than at present ... Rather, the Bill requires that when allocating resources, priority is given to narrowing the attainment gap.²⁵

67. In its report on the Financial Memorandum, the Finance Committee noted its surprise that the duty would have no significant costs despite it being a key element of the Bill. The Scottish Government's rationale was that "a lot was already being done and the duty was intended to ensure that this momentum was sustained"²⁶.
68. One organisation, the National Parent Forum of Scotland, said a possible benefit of the Bill was that—

” ... it could help prevent cuts to school budgets, as education authorities will be required to comply with the duties on reducing inequality. The duties would provide a strong argument against making cuts to provision that supports children who are at risk of not achieving their full potential.²⁷

69. **The new duty does not bring increased resources for education authorities but does require them to prioritise narrowing the attainment gap. Our budget scrutiny this year will involve consideration of spending on schools and, as part of this work, we will consider the effect this prioritisation may have on education authorities.**

70. **£100m of funding is available through the Attainment Scotland Fund but we do not know how much is spent in total on the many other ongoing initiatives to narrow the gap. Given how much of a strategic priority this is for the Scottish Government, we expect there to be evidence of a fully-costed plan and look forward to hearing details of the resources that would be needed to eliminate the link between disadvantage and educational attainment.**

Early years

71. There is one final, crucial issue we wish to raise in this section. A number of organisations argued that the duty should be extended to include pre-school education, highlighting statistics to show that significant educational differences open up at a very early age and can thereafter persist throughout schooling. We did not have time to discuss this suggestion in depth with the Cabinet Secretary. **We therefore call on the Scottish Government to explain why this part of the Bill does not include pre-school education and what the implications would be if it did.**

72. In doing so we note again that, unfortunately, a full consultation was not carried out on this part of the Bill in advance of its publication.

Gaelic Education

73. The Bill seeks to impose various duties relating to Gaelic school education—

- Education authorities are to—
 - assess the need for Gaelic medium education (GME) in primary schools, following a parental request
 - actively promote Gaelic medium education and Gaelic learner education (GLE)²⁸
 - support GME and GLE where it is provided.
- Bòrd na Gàidhlig is to produce guidance about the delivery of GME and GLE.

An entitlement to GME

74. Much of our discussion in oral evidence centred on the first duty above. This would involve the creation of a statutory process for local authorities to use when assessing a request from parents for Gaelic medium education to be provided in primary schools. The Bill does not require a local authority to provide Gaelic medium primary education even if it has assessed that sufficient demand and resources exist. A local authority must, however, provide reasons for its decision.

75. A recurring criticism of this provision is that it does not create an entitlement to GME. For example, the Gaelic parents group Comann nam Pàrant commented—

” Without a legal right, there is no long-term commitment to GME. Without that commitment, we do not see anything in the bill to prevent local authorities from discontinuing support for parents who have children in Gaelic-medium education at any level.

76. The organisation did, however, welcome the process established in the Bill because, in its view, “local authorities are not supportive and do not wish to deliver GME”.

77. Bòrd na Gàidhlig and Highland Council both supported a legal right to Gaelic-medium education but cautioned against including such a provision in this Bill. Highland Council stated—

” If we create a legal right now, the first question that we would ask would be whether it is possible to achieve that and to deliver that commitment. With the doubts that we have at the national level about the availability of teachers and other facilities in Gaelic-medium education ... we must take a step-by-step approach.

78. The Minister for Learning, Science and Scotland's Languages, Alasdair Allan, said the Bill “is reasonably balanced in the sense that it provides people with a process and with something approaching the entitlement that we have all been talking about...”. He added “...there is little point creating an entitlement to things that do not exist”.

79. Given the level of interest in this point, particularly within the Gaelic community, the Scottish Government should confirm whether it is still examining how to introduce an entitlement to Gaelic medium education where reasonable demand exists.

The decision-making process

80. This section of the report considers how the process mentioned above may work in practice. Section ten of the Bill will be key as it sets out various matters local authorities will have to take into account in determining whether, following a parental request and the other stages involved, they will provide Gaelic-medium primary education.
81. Two such matters are the cost of provision and the limited availability of qualified teachers, issues that were raised frequently in evidence. For example, some local authorities expressed concern that providing GME would divert funds from other areas. In contrast, Gaelic groups considered that providing GME was not to the detriment of other education provision.
82. Some organisations were concerned that such factors could be used as an ‘excuse’ by local authorities not to make provision. For example, Bòrd na Gàidhlig said section ten:

” ... has too many handicaps that would make it difficult for parents to get the education that they want and which could be used as an excuse by local authorities not to deliver that form of education.

83. Bòrd na Gàidhlig also highlighted the need to improve other parts of this section “...to ensure that we are not caught up in an extremely bureaucratic process in which arguments go back and forth”.²⁹

The Scottish Government’s response

84. Scottish Government officials acknowledged the difficulties around teacher recruitment as—

” ... probably one of the main obstacles that we are concerned about. Indeed, that will be one of the key areas of concern for local authorities looking at the bill. They will think, “That is all very well, but can we secure a teacher?”

85. Officials disagreed, however, that this section of the Bill could be used by local authorities to frustrate requests—

” local authorities will look at the same issues [in section 10] and say, “These are issues of substance. It is not a question of fobbing people off.” There are issues of substance that local authorities have to consider, be it teachers, cost, location or a building to house Gaelic-medium education in.

86. In oral evidence, the Minister repeatedly said he was looking at ways of strengthening parts of the bill. He made particular reference to the process around section ten, saying “... there may be opportunities in the bill, at some point, to go further along the line of entitlement ...”.

87. He added—

” If there is room for us to strengthen the bill, that will centre on questions about what happens at the end of the assessment process and the reasons that local authorities can give for not creating a Gaelic-medium unit. I think that those would be more proportionate ways in which to strengthen the bill.

88. The Minister also stressed that the legislation “is not about forcing local authorities to provide Gaelic. If there is no demand for Gaelic-medium education in a local community, nobody will make use of the bill”³⁰. This may have been a reference to comments made by COSLA, who thought the Bill may give Scottish Ministers powers to overturn local authority decisions on this decision-making process³¹. **We would welcome clarification from the Scottish Government on this point.**

89. Dr Allan appeared to rule out a proposed change suggested by various witnesses, namely that an appeals process should be established in the event that a local authority decided against GMPE provision. The Minister said an appeals structure “would be a fairly disproportionate and complex thing to introduce into the bill”³².

90. **We acknowledge the Bill does not create an entitlement to Gaelic medium education. However, there is merit in creating and enforcing a clearly-defined process for establishing parental demand. The process appears to take the necessary considerations into account, although it may place considerable demands on the parents who take part.**


91. **It is not exactly clear how the Scottish Government could strengthen the Bill “to go further along the line of entitlement” without actually creating an entitlement or “forcing local authorities to provide Gaelic”. One possible option would be to introduce a presumption that Gaelic be provided if certain conditions were met. However, significant**

concerns have been expressed about a lack of teachers, which may make such a presumption difficult to deliver.

Provision outwith primary schools

92. The process described above concerns **primary level** GME. Section 12 of the Bill gives Scottish Ministers the power, by regulations, to enable an education authority to treat a parental request as a request to assess the need for GME at the level of **early learning and childcare**.
93. There is no explanation of this provision in the Policy Memorandum, nor any indication of when, or in what circumstances, the Scottish Government may seek to make the regulations in question.

Secondary schools

94. The process does not extend to the provision of GME in **secondary schools**.
95. Written submissions from three local authorities agreed the Bill should be limited to primary schools. However, several submissions, primarily from Gaelic organisations and parents of children in Gaelic education, called for the Bill to be extended to secondary schools. The SQA agreed with this position, highlighting a decrease this year in the numbers being presented for SQA qualifications in the medium of Gaelic.³³
96. Despite acknowledging the lack of qualified teachers, Highland Council and Bòrd na Gàidhlig both also called for the Bill to have a stronger emphasis on secondary provision. Highland Council said it would like “references to all sectors—from nursery up to high school—to be fed into the bill, if possible”.
97. Bòrd na Gàidhlig highlighted research showing that seventy per cent of primary school children received teaching time in Gaelic but only about seventeen per cent did so in high school. It added—
 The bill must strengthen the links from the early years through to primary and on to high school ... The links must exist between all sectors so that children coming out of high school are fluent in Gaelic. Until that happens, we will never reach the targets that have been set.³⁴
98. ADES said there was a need for “urgent action” on a secondary GME curriculum, with specialist subject provision.

Scottish Government response

99. Given the expected increase in provision of primary level GME we were concerned that pupils’ language skills may suffer unless there was a similar

expansion in secondary schools. The Minister responded to such concerns as follows—

” The bill deals with children who are learning in Gaelic. At the moment, that is predominantly a feature of primary education, and that is why the bill primarily deals with that area.³⁵

100. He said he would like more secondary schools to be developing more Gaelic-medium courses—

” However, that depends on our having secondary teachers who are able and qualified to teach through the medium of Gaelic, and I would not like to give the committee any false impression of how many of them there are.³⁶

101. While we recognise the frustrations felt by those who wish the Bill to go further, we note the rationale for limiting this provision to primary schools rather than including secondary schools, although there are concerns about the number of teachers at both levels. The Bill’s provisions on early learning and childcare are different again and **the Scottish Government should explain the circumstances in which it would seek to make regulations in this area (as described in paragraph 92).**

Other provisions

102. This section considers the Bill’s other provisions relating to Gaelic, which are **not limited to Gaelic-medium primary education.**

Supporting GME and GLE

103. Where an education authority already provides Gaelic medium education or Gaelic learner education (GLE) it will be placed under a duty to support that provision. We asked the Scottish Government to explain how an education authority could be *providing* GME or GLE, but not be *supporting* it.

104. The Scottish Government’s response said support could involve many steps and that it would be possible, in theory, to provide GME or GLE without taking a number of these steps³⁷.

105. The Bill will therefore require that, at a minimum, support must include taking reasonable steps to ensure—

- GME and GLE teachers have such resources, training and opportunities as are reasonably necessary to adequately and effectively provide that education
- Pupils have such resources as are reasonably necessary to adequately and effectively receive and benefit from that education.

106. This new duty suggests that at least some existing provision of GLE and GME is not properly resourced. However, there is only a passing mention of this duty in the Policy Memorandum (in paragraph 31). There is no indication of the extent to which existing GLE/ GME provision is not adequately supported; whether this is more of an issue for primary or secondary schools; the impact this is having on pupils and teachers; whether there are resourcing difficulties for particular local authorities; and the specific improvement the duty is likely to deliver.

107. We call on the Scottish Government to address the issues we have highlighted above.

Promoting GME and GLE

108. The Bill places a duty on every local authority to promote GME and GLE, irrespective of whether they currently provide such education. The Scottish Government will issue guidance on how this duty is to be fulfilled, although we know that education authorities that do not currently provide GME will have to publicise the process whereby parents can request an assessment of the need for Gaelic-medium primary education (i.e. the process mentioned in paragraph 80 above).

109. The Scottish Government confirmed that some local authorities could be considered to have promoted GME by publicising this right, but not actually have to provide any GME.

110. The Scottish Government will produce guidance to local authorities on promoting GME and GLE. We consider this should encourage local authorities to work together more closely on promoting Gaelic.

Bòrd na Gàidhlig

111. The Bill places a duty on Bòrd na Gàidhlig to prepare guidance on how GME and GLE should operate in Scotland³⁸.

112. The Policy Memorandum says, in relation to GME, “there are aspects of both classroom practice and education authority delivery that could benefit from clarification”. It gives various examples, including the balance between GME and English medium education in GME classes. The guidance will also offer further direction on the “operation of some of the GME provisions in the Bill”. No mention is made of GLE provision.

113. Given some of the concerns it has expressed about this Bill, we are surprised that Bord na Gaidhlig has not used its existing power to issue

guidance “in relation to the provision of Gaelic education and the development of such provision”. **We welcome that this is now a duty and trust it will lead to an improvement in Gaelic provision.**

Promoting growth

114. Having discussed the Gaelic provisions of the Bill, this section considers how they may help to deliver the Scottish Government’s policy aim, which the Policy Memorandum describes as promoting the growth of Gaelic medium *primary* education (GMPE)³⁹. It is also relevant to note the Scottish Government’s wider target for there to be as many Gaelic speakers at the next census as there were in 2001.

115. Given that education authorities are already able to carry out an assessment of demand for GMPE, we asked the Scottish Government how they did so and why further legislation was required. The Scottish Government said it had worked with Bord na Gaidhlig to get a “sense of where there may be likely demand for GMPE across Scotland”, although it did not state where this demand would actually arise⁴⁰.

116. The Scottish Government justified the need for legislation by saying there were no agreed steps or considerations for the process of establishing demand for GMPE. The Minister considered those who wanted Gaelic-medium education in their communities would therefore welcome the Bill—

” There is no formal means whereby a local authority has to see, acknowledge and put on the public record the demand that exists locally. Most people who are campaigning for Gaelic-medium education would see such a requirement as strengthening their hand within the community and with the local authority.

117. The Bill does not set any targets in relation to, for example, increasing the number of Gaelic speakers in Scotland or the number of education authorities that provide GMPE. However, the Policy Memorandum said the proposed legislation “has the potential to lead to a faster rate of growth in GMPE”. Scottish Government officials went further in oral evidence, saying they were confident the Bill would “lead to faster growth in Gaelic-medium education throughout Scotland”.

118. Scottish Government officials also told the Finance Committee the new assessment process did not equate to the creation of a new duty for local authorities—

” ... we are putting in place a transparent, consistent and timed process for parents to make their request to local authorities for Gaelic-medium education. I do not see that as a new duty. It will put a new structure or shape on the duty that is already on local authorities to provide education

and to provide Gaelic-medium education if that should be the parents' wish.⁴¹

Rate of improvement

119. The Bill sets out a parent's right to ask for an assessment of Gaelic-medium primary education. The Financial Memorandum discussed the possible expansion of this education primarily in terms of the establishment of new GME units⁴².

120. The Financial Memorandum estimated that the Bill may result in the opening of one new GME unit every two years "beyond those which would have opened in any event". It adds—

” A more significant increase in the rate of new units opening as a result of the Bill is considered unlikely given other constraints on the system such as the availability of teachers ... we anticipate the average additional cost of the Bill to be half the cost of a new unit per year.

121. There were mixed views amongst stakeholders about the Bill's likely impact on Gaelic, although sometimes the discussion was in terms of the number of Gaelic speakers, sometimes the number of GME units and sometimes the number of local authorities providing Gaelic-medium education. Organisations did not quantify the Bill's likely effect on any of these areas.

122. We asked Highland Council and Bòrd na Gàidhlig why they considered there would be an increase in demand for Gaelic-medium primary education, when the Bill's Financial Memorandum said there was no expectation of a high number of parental requests arising from the Bill.

123. **Error! Hyperlink reference not valid.** demand for new Gaelic units and explained that there were still "empty chairs to be filled" in some schools and an opportunity to expand on numbers. Both Highland Council and Bòrd na Gàidhlig agreed that the Bill would lead to an expansion in GME.

124. ADES' written submission said the Bill in itself "will not directly bring a change to GME". In oral evidence, COSLA said the Bill would "probably not" lead to more authorities providing Gaelic-medium education. Its written submission expressed concern that the Bill "will indeed generate demand for faster growth in GME provision than is possible to deliver with the available resources".

125. There are mixed messages about whether, and the extent to which, the Bill itself will directly lead to increased Gaelic provision. Further, the discussion about increased provision was sometimes about primary education and sometimes in more general terms. There also seem to be different ways of measuring the growth of GMPE.

126. It is not possible to state with certainty the exact level of growth that will occur as a result of the Bill. However, we believe that any growth in

GMPE, however modest, will be valuable given the Scottish Government’s wider policy aim of restoring the number of Gaelic speakers to 2001 levels. In order to help evaluate the Bill’s future impact, the Scottish Government should state its projections of the likely increase in Gaelic speakers arising from these provisions.

The wider context

127. The Bill is part of a wider effort to increase Gaelic provision and the number of Gaelic speakers in Scotland. While we have not scrutinised these wider efforts in detail, various suggestions were made at Stage One as to how provision could be improved. These suggestions are summarised briefly below.

128. A key factor, as noted, is the number of teachers. The Bill does not take any steps to increase the recruitment, training or placing of Gaelic-medium teachers. However, the Minister said the Scottish Government and Bòrd na Gàidhlig had increased the number of teachers coming through this year “quite significantly”.

129. Some of the suggestions made for increasing teacher numbers were as follows—

- expanding the courses being developed for secondary teachers (Bòrd na Gàidhlig)
- finding ways of attracting teachers to remote areas, and creating greater immersion skills for teaching in Gaelic (both Highland Council).

130. Various organisations also said local authorities should work more closely together on their Gaelic provision. For example, ADES said—

” It is important for local authorities to consider provision in the round and to plan collaboratively as often as they can. One local authority might not be able to sustain Gaelic-medium provision in one small area, but two or three local authorities could work together, share resources and get additional resources through the Gaelic specific grant.⁴³

131. ADES, Highland Council and Bòrd na Gàidhlig also stressed the importance of making better use of technology to develop Gaelic learning and teaching. For example, Bòrd na Gàidhlig proposed a “digital academy to allow Gaelic to be taught throughout Scotland”. ADES said—

” The development of a digital solution for a Gaelic secondary curriculum is long overdue.⁴⁴

132. It is striking that the organisations that provided oral evidence to us on the Gaelic provisions all talked of the need for creative ideas and solutions to increasing Gaelic provision. We are not sure, however, what is preventing

these creative ideas from being implemented effectively. **The Scottish Government should explain how, through the Bill or otherwise, it could help to improve teacher numbers and the use of digital technology in secondary schools.**

Additional Support for Learning

133. The Education (Additional Support for Learning) (Scotland) Act 2004 (the 2004 Act) provides the legal framework for addressing the additional support needs (ASN) of children and young people who face barriers to learning. 'Additional support needs' is a broad term and the Act aims to ensure that all children and young people receive the support necessary to ensure they benefit from school education. Additional support may be required for a variety of reasons.⁴⁵

What the Bill does

134. The 2004 Act also provides a number of rights to young people (i.e. those aged 16 and 17 who are still at school) and to parents. The Bill seeks to extend most of these rights to children (i.e. aged between 12 and 15), as long as—

- the children have “capacity” and
- exercising these rights would be in their “best interests”.

135. A support service to assist children in exercising their rights will also be established by the Bill.

136. The Policy Memorandum explains that the provisions stem from a recommendation made by the UN Committee on the Rights of the Child, that Scotland should give children the right to appeal to an Additional Support Needs Tribunal⁴⁶. The Policy Memorandum also describes the measures as “a significant development in the landscape of children’s rights” as they give children with capacity “the opportunity to directly influence and ask for support to be put in place for them”⁴⁷.

137. Two particular rights under the 2004 Act **will not be extended** to children, namely the right to make a placing request and the right to independent mediation.

138. As noted, young people already have rights under the 2004 Act. However, the Bill also introduces a ‘best interests’ test for young people i.e. it restricts their exercise of their existing rights by introducing this requirement. The Bill also redefines when young people are considered to have capacity

Extending rights to children

139. In general, the organisations we heard from welcomed the principle of extending rights to children. However, some strong concerns were expressed about the capacity and best interests tests, and how they could restrict a child's ability to exercise these rights in practice. Indeed, a number of bodies suggested the Bill may be in breach of international conventions, or unfavourably contrasted its provisions with existing law.
140. We received a submission from the Law Society of Scotland after our formal oral evidence-taking had concluded, which considered that some proposed changes may even be outwith the Parliament's power.⁴⁸
141. The Bill, and the Act it seeks to amend, are both complex. Given this, it is helpful to set out the Bill's proposals in more detail before considering the concerns expressed in evidence.
142. For simplicity's sake, the rights being extended can be divided into two categories—
- Those that relate to the child's relationship with the education authority⁴⁹
 - Those that relate to the Additional Support Needs Tribunals for Scotland ('the Tribunal'). These rights are basically about being able to appeal an education authority's decision ('making a reference').
143. A full list of the rights in question is set out in the annexe to the Policy Memorandum.
144. A child may ask an education authority to establish whether they have additional support needs (all the other rights are dependent upon this right having been granted first). In reality, however, an education authority will often itself determine, that a child has ASN. In other words, the rights do not necessarily have to be 'requested' by the child. As Govan Law Centre's written submission noted, "in most cases, the exercise or enforcement of the rights will not be necessary"⁵⁰.

Capacity and best interest

145. Where a child wishes to use any of the rights under the Bill, they must first notify the education authority or the Tribunal, as the case may be, of their intention to do so.
146. The education authority, or the Tribunal, will then determine the child's capacity.⁵¹ If the child has capacity, the education authority, or the Tribunal, will then determine whether exercising the right would be in the child's best interests.⁵²
147. If a child disagrees with a decision made by the education authority they will be able to appeal to the Tribunal. We understand this could involve two broad scenarios—

- Where an education authority has decided that a child cannot exercise a particular right (i.e. where the capacity and best interests tests are not met);
- Where a child has a right, but is not content with the education authority's decisions or actions in relation to that right.

148. The Tribunal has the power to overturn the authority's decision (i.e. the children would be able to exercise the right in question, or the education authority would have to modify its action).

149. We understand that the education authority has no role in assessing a child's capacity and best interests in relation to the child's right to make a reference to the Tribunal.

Parents' Role

150. Under the existing Act, a parent may exercise a right on behalf of their child.

151. The Bill proposes that a parent may exercise a right for their child even where their child does not wish to do so and does not want their parent to do so.

152. Various written submissions highlighted the issue of possible tensions between children's and parents' rights. We raised this matter in a letter to the Scottish Government in advance of our taking oral evidence. The reply stated—

” Where both parent and child wish to use their rights, it is expected that they will decide who uses the right in light of their own circumstances. In the situation where a parent disagrees with a decision taken by a child they will have the right to ask the ASNTS to review the decision by the education authority that the child has capacity to use their right or that the child is using their right in their own best interests. Similarly, where a child is unhappy with the provision of support they are being provided they will have the right to make an application to independent adjudication or appeal to the ASNTS.⁵³

153. There are children for whom the local authority is effectively acting as a parent and parents can exercise rights on their children's behalf under this Bill. We ask the Scottish Government to consider whether any safeguards are required so that an education authority, in making decisions around capacity and best interests, would be able to do so fairly and effectively for the children it looks after.

Parent's capacity

154. This Bill and the existing Act contain provisions about capacity for children and young people, but they do not provide for assessments of parental capacity. Where a parent exercises a right on behalf of their child (whether the child wishes

them to do so or not) we understand that the tests around the child’s capacity and best interest do not have to be met. Where a parent wishes to exercise a right on their child’s behalf but the child does not wish them to do so, we understand that the child will not be able to appeal their parent’s decision.

155. We asked various witnesses whether there should be any assessment of adults’ capacity, for example, in situations where a child with capacity wished to use a right but their parent did not wish them to do so. Scottish Government officials referred to circumstances where a parent may not have the capacity to act on their children’s behalf and said such assessments—

” ... would be considered in relation to other issues around, say, children’s hearings and social work services. As a result, it would not necessarily fall to the education authority to make such a consideration as part of the additional support for learning framework.

156. ADES added—

” If there was any doubt about the parents’ capacity, presumably social work colleagues would have a view about that.

157. There was some uncertainty in the answers provided about determinations of parental capacity, particularly in instances where a parent and a child with capacity may be in dispute. **We therefore request clarification on this point and the other points raised in paragraph 154.**

Context

158. Whilst acknowledging the concerns raised, we note that the Bill’s Financial Memorandum said—

- Appeals to the Tribunal about the capacity and best interests would be “exceptional”;
- Up to 50 referrals may be made by parents to the ASNTS in relation to the decision of an education authority that the child has capacity⁵⁴
- The likelihood of rights being used by children is “rare”.

Response to the proposals

159. As noted, some stakeholders were critical of these provisions. In particular, there were concerns about the capacity and best interests tests serving to restrict a child’s ability to exercise their rights, and education authorities’ role in these processes. The Equality and Human Rights Commission (EHRC) considered that

the capacity assessment and the best interests test could combine to “undermine the purpose of the bill”.⁵⁵

160. Stakeholders’ main concerns are explored in more detail below.

Capacity

161. In terms of capacity, the Faculty of Advocates considered that the Bill “is not consistent with Scots law generally and risks causing confusion”. With reference to other relevant legislation, the Faculty argued that—

” A child of any age who understands the issues may access legal remedies, with a rebuttable presumption that a child aged twelve understands (i.e. it is assumed the child is capable unless shown not to be) and the possibility of showing that a child under twelve has capacity.⁵⁶

162. Similar points were made by the EHRC and the Law Society of Scotland, amongst others.

163. The EHRC had a further concern about capacity. It referred to the Bill’s definition of when a child (or young person) would lack capacity, namely when a child does not have “sufficient maturity or understanding” due to matters such as a mental illness, developmental disorder or a learning disability.

164. The EHRC suggested this proposal may not comply with the United Nations Convention on the Rights of Persons with Disabilities—

” The test should be about the child’s understanding and not whether their lack of capacity arises from a mental illness or disability.⁵⁷

165. The Centre for Mental Health and Incapacity Law at Napier University said a “disability neutral” provision should be inserted—

” ... which refers only to ‘sufficient maturity or understanding’ and which requires the assessment of capacity to be based purely on the child’s maturity and ability to understand, whether or not this is affected by the presence of a mental disorder etc.

166. There is some ambiguity about the Bill’s proposed definition of when a child or young person lacks capacity. This is the case where a child or young person (emphasis added) “does not have sufficient maturity or understanding ... **by reason of**” various matters such as mental illness, developmental disorder, etc. As we understand it, the Bill does not say these matters automatically mean a person lacks capacity, rather, they are examples of how a person may not have capacity.

167. Inclusion Scotland considered that some of the concerns around the definition of capacity stemmed from a lack of consultation—

” The legislation goes way beyond what is reasonable without proper consultation on its consequences.⁵⁸

Best interests/ role of education authorities

168. A number of organisations also questioned the introduction of the best interests test for children. Govan Law Centre’s written submission, for example, said there was “no equivalent for adults in exercising their own rights”. The submission also highlighted what it considered to be an inappropriate role for education authorities in this process, a concern shared by various other organisations—

” If a child has legal capacity to exercise rights, then it is for them to determine whether it is in their best interests to do so. That is part of what it means to have rights – deciding whether and how best to use them. The “best interests” test is an obstacle to children exercising their rights, is overly complex and time consuming to challenge and effectively places a veto on the exercise of a child’s rights in the hands of the very body which the child would be seeking to challenge.⁵⁹

169. There was some support for, or at least acknowledgement of, the Scottish Government’s position on these matters. For example, Napier University noted that the introduction of the best interests test “appears to reflect the requirements of international human rights instruments”⁶⁰.

170. The written submission from the Additional Support Needs Tribunals for Scotland acknowledged that an education authority being responsible for assessing best interests “may give rise to a perception of bias”. However, the Tribunal considered that an education authority could demonstrate impartiality and objectivity “by allocating the assessment to a person or agency within the education authority who is not ordinarily engaged with the child or young person”⁶¹.

171. This view was challenged by the Law Society of Scotland—

” Whatever the safeguards, the performance of the functions of assessing and denying access to the procedure will breach Article 6 [of the ECHR] if carried out by any person or group of persons within or controlled by the education authority which is party to the proceedings.

172. The Law Society considered the Bill could be brought within the Parliament’s power if these decisions were taken instead by an independent and impartial tribunal, such as the Additional Support Needs Tribunals for Scotland.

Young people

173. As noted, young people already have rights under the Act but the Bill introduces additional steps they would have to go through before being able to exercise their rights. Specifically, the Bill will introduce a best interests test for young people. This change in approach was not explained in the Policy Memorandum and was

described by the EHRC as a “retrograde step”⁶². The Law Society considered that it would contravene the UN Convention on the Rights of Persons with Disabilities⁶³.

174. The Bill also expands the existing definition of when a young person lacks capacity, by including “a matter related to having additional support needs”. This is a significant addition because additional support needs is a broad concept.⁶⁴

175. We are concerned about the circularity of a provision in a Bill concerned with ASN, that decisions about whether a young person has the capacity to exercise their rights around ASN may depend on whether that young person has ASN. We therefore ask for an explanation of the need for this provision.

Response to criticisms

176. We questioned COSLA, ADES and the Scottish Government about the concerns expressed by stakeholders.

177. We were surprised to note COSLA’s written submissions did not comment on these provisions, although we did receive views from individual local authorities. ADES did not accept the suggestion that there would be a conflict of interest for education authorities in making determinations on a child’s best interests—

” Authorities often have to balance the best interests of the child with other legal requirements and pressures, for example in dealing with school exclusions, placing requests and other cases that relate to individual children. However, the overriding principle has to be the best interests of the child.⁶⁵

178. The Minister agreed that local authorities were “best placed, and have the relationships in place”⁶⁶ to carry out assessments around best interests and capacity.

179. Dr. Allan also explained that a presumption of capacity “could have had a range of potential unintended consequences”. He added—

” Simpler solutions could have been found ...but I am not convinced that that would have been in the best interests of young people.⁶⁷

180. In terms of the rationale for the best interests test, Scottish Government officials said there were concerns that children and young people “might use their rights in a way that would undermine their assessed needs”.⁶⁸

181. Scottish Government officials provided the following example—

” ...let us suppose that an education authority and a family have asked for a child’s needs to be assessed and it has been established that speech and language therapy is required. The child, perhaps quite rightly, could have a disagreement with someone providing services for them—a speech and language therapist, for example. The child could want not to engage with that person any more, and that would be perfectly acceptable, but they could also use their rights to remove completely the support that has been identified as helpful to them.⁶⁹

182. Officials said the Scottish Government was trying to avoid giving a child rights “if using those rights would put them under pressure and mean that they are unable to cope with the process that they are going through”⁷⁰. They also recognised the differing perspectives on this issue, acknowledging that some saw the best interests element as being a barrier to children’s rights, while the Scottish Government saw it as “a safeguard to ensure that we are not putting children into difficult situations”⁷¹.

183. The Minister said he was “confident” the Bill was not incompatible with UN conventions, as suggested by some organisations—

” ...the entitlement is for all children to have their needs assessed. Obviously, only those young people who are assessed as having additional support needs will then go on to use some of those rights, but I am confident—not least because of the fact that the right to have their needs assessed exists for all young people—that it is equitable for all young people.⁷²

184. While the Bill provides a new definition of when a child or young person has and does not have capacity, the Scottish Government also intends to produce statutory and non-statutory guidance on what “capacity” and “best interests” mean and on the assessment of these matters.

185. We welcome the extension of rights to children. However, we have concerns about the complexity of these provisions and how they will be understood by the children who are supposed to benefit from them.

186. We understand the Scottish Government disputes the factual basis of some comments made by stakeholders, particularly around the child’s right to appeal and an education authority’s role in this process, but we remain concerned by the serious nature of some of these comments. In advance of the Stage One debate, the Scottish Government should seek to resolve such concerns by discussing the factual position with relevant stakeholders. This will ensure that the parliamentary debate focuses on the substantive policy issues.

187. One key issue in the debate will be whether the limitations attached to the extension of children’s rights should be considered as a safeguard

or as a barrier to children’s effective exercise of their rights. In other words, whether the best interests and capacity tests are merited.

188. It is not clear why the Bill defines both when a child has capacity and when a child does not have capacity. Unless there is a clear rationale for doing so, we consider it would be simpler to state when a child has capacity. Depending on the Scottish Government’s response, we also question why the Bill defines ‘lack of capacity’ by reference to various reasons. It would appear simpler to say that lack of capacity is due to a lack of maturity or understanding, without also stating particular reasons.
189. Young people already have rights under the Act. This Bill seeks to introduce a best interests test for young people and modify the existing definition of capacity. The Scottish Government should explain the rationale for this decision and the particular problem the change was designed to address.
190. Given the complexity of the legislation and the arguments expressed, the Scottish Government should also provide an update on the following issues in advance of the Stage One debate—
- The particular circumstances in which – as stated by the Minister – presuming children’s capacity “could have had a range of potential unintended consequences”;
 - The likelihood, in practice, of an educational authority determining that a child does not meet the capacity and best interests tests;
191. Given stakeholder concerns, whether the guidance on capacity and best interests will—
- State that these should be assumed in any particular circumstances;
 - Identify any circumstances in which a child aged under 12 could have capacity.

Limits on extending rights

192. As noted, two existing ASL rights will not be extended to children—
- The right to make a placing request (a request to go to a school outwith the child’s catchment area). Scottish Government officials explained it was conceivable that a child could end up in a school in a very different part of the country from their family, which would be disruptive to family life;
 - The right to request independent mediation, which allows disputing parties to seek to resolve their differences with the assistance of a mediator acting as an

impartial third party. However, the Bill will enable children to have their view taken into account during mediation.

193. The Policy Memorandum said mediation providers were supportive of this approach, while most of the written submissions we received that commented also supported this position. This included the submission from Children in Scotland, on behalf of two national ASN mediation providers, which said it would be “inherently unfair and unrealistic” to have children mediating with adults, and noted the harm this could cause children⁷³.
194. However, a number of organisations, including two local authorities, the Faculty of Advocates and Govan law centre, questioned or did not agree with the position on mediation. In oral evidence, Inclusion Scotland said it “failed to understand the reasoning”, pointing out that family mediation services “already provide considerable support to families when there is internal conflict”, which could be a way of addressing issues “without requiring the complex legislative framework that the bill proposes”⁷⁴.
195. In considering independent mediation, it is helpful to discuss the broader context of the support service the Bill will establish for children. This service is designed to enable children to exercise their new rights, and will include advocacy, legal advice and representation services. The Policy Memorandum notes that the service will “...provide a comprehensive support service for children to raise awareness of the extension of rights and to ensure support is available to them where they wish to act on their own behalf”⁷⁵. Those written submissions that commented expressed strong support in principle for the introduction of this service.

196. We welcome the support service that will help children exercise their new rights and consider it crucial that organisations involved explain these rights to children as clearly as possible.

197. We agree that extending rights on placing requests could be unnecessarily disruptive to family life. However, there is not such clear support for the Scottish Government’s position on mediation. The Scottish Government should explain why there is a blanket presumption against children – even those with capacity – participating in mediation, when they will be able to access other aspects of the support service.

198. We noted in paragraph 182 the Scottish Government’s justification for introducing the best interests element, namely to avoid children being put under pressure or being unable to cope. **We question why the statutory support service would be unable to assist such children, who may have been determined to have capacity.**

199. With the exception of the two rights discussed above, the Bill creates a similar system for children and young people. However, the support system for children will be statutory, while the support for young people and parents is not all statutory. **We ask the Scottish Government to explain the implications of creating a fully statutory support service for all concerned.**

Equity

200. One of the Scottish Government's justifications for these provisions⁷⁶ is that a child can bring a disability discrimination claim to the Tribunal under the Equality Act 2010 but not appeal against any decision taken by an education authority under the 2004 Act. According to the Policy Memorandum, there is therefore "potential inequity built into the legal framework, depending on which legislation is used to make decisions"⁷⁷.
201. However, children bringing a disability discrimination claim to the Tribunal are presumed to have capacity and do not have to undergo a best interests test. The Faculty of Advocates also noted that children under twelve may make an application to the Tribunal based on disability discrimination⁷⁸.
202. Various written submissions provided other examples of what they considered to be inequities between this Bill and other relevant legislation, for example—
- Govan Law Centre questioned why a support service was available to children under ASN legislation, but not to the same child making a claim to the same Tribunal under the Equality Act;
 - The Additional Support Needs Tribunals for Scotland contrasted the capacity and best interests tests under this Bill, with the lack of such provisions under the Equality Act. The Tribunal called for "mirror provisions" to be made to address this;
 - The Law Society of Scotland, and others, questioned the Bill's definition of 'young people', compared with other legislation, and the possible negative consequences. There was also some confusion as to whether 'young people', in this Bill and the Act it would amend, now encompasses 16 - 18 year olds at school, or just 16 and 17 year olds at school. Govan Law Centre said the 2004 Act should be amended to include children over 18 still at school⁷⁹.
203. Some submissions highlighted particular inequalities that looked after children may face. For example, the EHRC and Who Cares? Scotland noted recent research showing that fewer than half of the 12,500 looked-after children with additional support needs had been assessed for a co-ordinated support plan. We understand the Minister recently wrote to local authorities to question such figures.

204. The ASN provisions are, in part, designed to provide equity with other relevant legislation. Various stakeholders are not convinced this has been fully achieved. We have not been able to discuss in depth all such points, including those listed above. **We ask the Scottish Government whether it proposes to use the Bill to address any of the points highlighted about equity. The Scottish Government should also clarify the Bill's definition of 'young people' as there was some confusion about this in evidence.**

Section 70 Complaints

205. Section 70 of the Education (Scotland) Act 1980 enables a person to complain to Scottish Ministers that an education authority, or the managers of a school or educational establishment, have failed to undertake a statutory education duty. Ministers can order the education authority to perform the function by a certain date. If they do not do so, the Court of Session may order them to perform the duty.
206. The Bill proposes to prevent section 70 being used for issues that could be appealed to the Additional Support Needs Tribunal for Scotland (e.g. complaints around co-ordinated support plans and placing requests). The policy intention is that Scottish Ministers should not consider an issue or reconsider a decision which should be dealt with by ASNTS.
207. Scottish Government officials explained in oral evidence that people could still bring forward a section 70 complaint related to any of the other additional support for learning rights. The right to use section 70 as the basis for other relevant complaints is also unaffected.
208. We received relatively few responses on these provisions but there was general support for the Scottish Government's approach.
209. There was a majority view that the Bill would make clearer the respective roles of the Scottish Government and ASNTS in relation to section 70. However, some respondents questioned this—
- “in relation to sections 4,5 and 18 of the Children and Young People (Scotland) Act 2014 there could be an overlap between an additional support need and a wellbeing need which could lead to confusion so it will not always be clear cut when a complaint is solely for the ASNTs.” (Renfrewshire Council)
 - ENABLE said there was a possibility of cross-cutting issues arising in complex situations where it was not clear who should deal with the complaint.

- The Faculty of Advocates gave the specific example of transport, saying it may be a matter for the Tribunal (if specified in a co-ordinated support plan) and possibly also subject to section 70.

210. We agree with the Scottish Government that there should be no confusion about the roles of Scottish Ministers and the Tribunal with regard to section 70 complaints. The Scottish Government should therefore investigate the specific concerns summarised above and confirm whether these will be addressed by the Bill.

Changing timescales

211. The Bill also provides for regulations to be made to specify further the complaints process. The Scottish Government intends to prescribe fixed timescales for the various stages involved in a complaint; it has said that these statutory timescales “will address a consistent concern that the current process is overly lengthy and does not bring direct benefits.”⁸⁰

212. The intention is that timescales are to be reduced⁸¹ following consultation, but it is not clear how this is to be achieved, for example, whether certain steps in the current process are to be omitted. The Scottish Government said the proposed changes would allow the process to “continue to be robust” and confirmed that—

” Non-statutory guidance will be produced to provide clarity on what a section 70 complaint is, what it can be used for and what are the likely outcomes.⁸²

213. There was support for the Scottish Government’s aim of prescribing fixed timescales for the various stages involved in a complaint. However, a recurring comment was that the deadline proposed (a maximum of 112 working days where an Education Scotland investigation is required) could be too long for the children involved and could have a negative impact on them. Children in Scotland argued that—

” The welfare and wellbeing of the child caught in the middle of the dispute should always be the primary consideration.⁸³

214. ENABLE Scotland said parents needed to know what redress they could have if timescales were not met.

215. Several organisations agreed that the process for complaining should be clearer, especially for parents. The Scottish Parent Teacher Council, for example, commented—

” The existing system allows local authorities to procrastinate at every step, leaving families in limbo and impacting directly on outcomes for young people.⁸⁴

216. We welcome the Scottish Government’s intention to revise the process so that the time taken for a complaint to be resolved is reduced. It is unclear exactly how this will be achieved and what redress may be available if timescales were not met. We would welcome further information from the Scottish Government on these points.

Making processes clearer

217. Our main concern with this part of the Bill is that it should establish as clear and straightforward a process as possible for those who may exercise their rights. In relation to the current section 70 arrangements, the Scottish Public Sector Ombudsman (SPSO) stated—

” If I were a child or a parent with a complaint, I would be confused about where I should go. That cannot be right. Either we have to have clearer signposting about where to go for what or we have to have a simplified system.⁸⁵

218. The SPSO added that a key consideration was —

” ... to consider the proposals from the user up. What would be the simplest and easiest way for the user to get a fair hearing? If we present people with a complex landscape, they will go to the wrong place, go round in circles, get tired, drop out and not pursue their rights.⁸⁶

219. As noted, the Bill provides for regulations to be made to specify the complaints process. In devising these regulations, we consider it essential that the Scottish Government consult fully with the SPSO, likely users of the new system and all other interested parties, to ensure that the process established is as simple and easy to use as possible. The process established should also be communicated very clearly to all relevant parties.

Chief Education Officer

220. Section 20 of the Bill requires education authorities to appoint a chief education officer (CEO). It does not give the CEO a particular statutory function, rather, the role will be to advise the authority on the carrying out of its functions under relevant legislation.
221. The officer's *qualifications* are to be set out by Scottish Ministers in regulations. The officer's *experience* is to be determined by the education authority.
222. In oral evidence, Scottish Government officials explained why they considered the post of CEO to be necessary now (after a similar post was abolished in 1996). In summary, the rationale was as follows—
- Funding constraints have led to rationalisation in local authorities, making it necessary to ensure someone in the council has an education background;
 - The complicated landscape around educational legislation and related legislation means it would be beneficial to local authorities to have professional advice available within the authority⁸⁷.

Possible benefits and disadvantages

223. The provisions are designed to help effect improvement in local authorities. Of the written submissions that commented on this issue, ADES' was the most supportive, while COSLA's was particularly critical. There were mixed views from the eight local authorities that commented, although four were against the Bill's proposals.
224. There is agreement with the principle that all education authorities should be able to access good quality advice on educational matters. A key debate is whether there is a need for the post of CEO to be made a legislative requirement or whether education authorities are already provided with quality advice. We heard differing accounts in oral evidence about this matter.
225. Scottish Government officials initially said most education authorities had access to educational expertise. After we probed this point, officials then said—

” We are pretty certain that all local authorities have expertise within the council. It is about formalising that and putting it on a statutory footing.⁸⁸

226. COSLA's written submission stated—

” ...we believe all authorities will already employ someone senior within the authority who will have a recognised education qualification and experience, or will have in place arrangements which draw upon the skills

and expertise of all their staff ... to advise on the delivery of statutory functions.⁸⁹

227. In oral evidence COSLA added that expertise exists “in practically every local authority”. It added that one (unnamed) authority “would need to change its approach and appoint someone to carry out the role”.⁹⁰

228. However, ADES’ position in oral evidence was different—

” ...we believe that four authorities now potentially do not have the appropriate post in their structures ... they do not have someone who they can rely on as the port for such statutory legal advice. A council can get anyone to give advice, understand the law and know the business, but professional judgment is involved when it comes to some of the tricky issues ... and it is best if that advice comes from someone who is suitably qualified and experienced. It is also important that that advice comes from a single source, because no doubt different post holders in a council will have a range of views.⁹¹

229. ADES discussed the risks of not having a CEO to advise local authorities and added—

” We could bring forward evidence, but it would not be appropriate to do so at this point. It is a recent phenomenon that some authorities do not have such a post. We expect that that could create difficulties in some of the decisions that authorities have to make.⁹²

230. The Cabinet Secretary for Education and Lifelong Learning said she was “appalled and shocked” to discover that the chief education officer role had been removed from statute over 20 years ago.

” I want to guard against that becoming the norm. I want to ensure that the senior management team of an education service contains someone with an education background, who has the appropriate qualifications and experience.⁹³

231. The Cabinet Secretary explained that, in the vast majority of cases, this would not be an additional post because there would be someone within the senior management team of the local authority education service who had the appropriate level of experience and qualifications.

232. Given the importance and complexity of their educational functions, we agree that all education authorities should appoint an officer to provide them with advice on these functionsⁱⁱ. Almost all authorities,

ⁱⁱ Two members of the Committee, Liam McArthur and Mary Scanlon, accepted that local authorities should have access to the appropriate educational advice and expertise, but were not persuaded of the

we were told, already have a person in post that provides such advice and the Bill may therefore simply have a nominal effect. We cannot be definite, however, about the number of local authorities that would be affected given the differing accounts provided by ADES, the Scottish Government and COSLA. In particular, we note ADES' evidence that "four authorities now potentially do not have the appropriate post in their structures" and question whether this would create any financial costs for local authorities that are not covered in the Financial Memorandum.

233. It is unfortunate that ADES did not consider it appropriate to bring forward further evidence on the number of authorities that may be affected. This does not make for transparent scrutiny. Further, it would have been helpful had the Policy Memorandum provided more detail on the problem the Bill is seeking to address. This could have included key information such as: how councils currently access advice on education functions; the number of councils that do not have an experienced and qualified educationalist in their senior teams; and the specific problems that have arisen or may arise from not having such a post.
234. From the views presented to us, the Bill could be interpreted as a way of dealing with an issue that, while of relatively limited concern now, could potentially become more serious in the future.
235. We consider that a formal consultation on this part of the Bill could have helped to resolve some of the disagreements set out above, or, at the very least, allowed the Scottish Government to consider more fully the implications of the provisions.

Council structures

236. As well as questioning the need for a statutory post of CEO, COSLA also expressed concerns about the Bill's possible impact on councils' internal management. In COSLA's view, the Bill "usurps local discretion in the construction of management structures that local authorities consider appropriate for the management of their responsibilities. In so doing, it usurps local democratic accountability".⁹⁴
237. ADES disagreed, saying the proposal was "simply a requirement to incorporate a post at a specific level in the structure".⁹⁵ It pointed out that, in some cases, a social work director runs children's services in an education authority and does not have access to an education officer to advise them.

need for the Scottish Parliament to legislate to make statutory the position of CEO within every local authority.

238. The Cabinet Secretary said she was “not telling local authorities how they should structure their organisations or deliver their services”. In response to our questions on whether a CEO could cover more than one authority, the Cabinet Secretary replied: “The purpose ... is not to restrict local authorities from making decisions and choices on shared services as they see fit.”⁹⁶
239. We have already stated our support for education authorities appointing an officer to provide them with advice on their functions. **We also agree this should not be done in a way that undermines local democratic accountability.**

Nature of the role

240. ADES’ written submission set out nine possible broad roles a CEO could perform, all except one of which starts with the wording ‘to ensure that’. However, the Bill says the CEO would ‘advise’ an authority. It was therefore not clear to us whether that would mean the CEO having the responsibility for ensuring certain matters are actually delivered, as ADES’ wording may imply.
241. We questioned the Cabinet Secretary about the role of the CEO. Ms Constance responded—

” The role would be advisory, but it would also relate to how local authorities discharge their legal duties, functions and responsibilities, whether that is in relation to additional support needs legislation, school improvement inspections or raising attainment.⁹⁷

242. The Cabinet Secretary later added—

” The role is wider than just an advisory role.⁹⁸

243. Ms Constance also said the role would be “fleshed out” in the regulations to be made under the Bill (the officer’s *qualifications* are to be set in regulations) and that she did not want to pre-empt that consultation—

” However, I am minded, along with the teaching trade unions, that there should be someone who has experience of teaching and working with children—someone who knows what it is like at the chalk face—within the senior management team of any education service.⁹⁹

244. The Cabinet Secretary also stressed that the provisions are not about the accountability of one person, “it is about increasing the accountability of the entire education system”¹⁰⁰.

245. We note the Cabinet Secretary does not wish to pre-empt the consultation on the CEO’s qualifications. However, she has already stated that she expects the post to be located within the senior management team of an education service and that the CEO would play more than an advisory role, which may go beyond the wording of

the Bill. There was also a clear desire in the written submissions we received for more information about the post. In order to understand fully the intentions behind this provision, the Scottish Government should therefore provide further detail to the Parliament on—

- **Whether the Bill requires to be amended if the CEO role is wider than providing advice;**
- **Whether the CEO will actually be responsible for “ensuring” any relevant education authority matters are delivered; and**
- **The ways in which the provisions would increase “the accountability of the entire education system”.**

Registering teachers with the GTCS

246. Scottish Ministers will be able to make regulations to require all current and future teachers working in independent and grant-aided schools to be registered with the General Teaching Council for Scotland (GTCS).

247. The Scottish Government expects that all teachers in grant-aided schools are, or will be, GTCS-registered by the time the regulations are made. In reality, therefore, the regulations will only affect teachers in independent schools. Even here, around 90% of teachers are already registered and the Minister noted—

” Registration is an issue that the sector has been working on with the Government for 15 years.¹⁰¹

248. The Bill’s Policy Memorandum did not specify how many independent school teachers would be affected by the changes. Scottish Government officials later clarified that approximately 645 teachers were not registered although 265 held qualifications needed to meet GTCS-registration criteria. A further 115 are music teachers whom the Scottish Government assumes “will secure registration”.

249. A key issue, therefore, is exactly how the remaining 265 teachers in independent schools will become GTCS-registered.

250. There is to be a transition period following commencement of the Bill, to allow teachers time to secure registration. The most recent update from the Scottish Government suggested this period would commence in 2017/18 and last 2 years, i.e. all teaching staff would require to be GTCS-registered by August 2019.¹⁰²

Possible benefits and disadvantages

251. The Scottish Government believes registration will bring benefits to teachers and offer assurances about teaching quality to the parents of children in the schools in question. It can also be inferred from the Policy Memorandum that the Scottish Government considers registration will help to tackle poor teacher quality and

weakness in the provision of education¹⁰³ The GTCS, with reference to recent inspection reports in some independent schools, said “there is still variation” in teaching quality in the independent sector.

252. There was a very marked difference of opinion in the written submissions that commented on this provision, with near unanimous support for the Scottish Government’s position from those not in the independent sector. Some of the perceived benefits of statutory GTCS-registration can be summarised as follows—

- Staff would be able to move across school types more easily;
- There must be formal routes of redress for anyone who wishes to raise an issue about a teacher, which is not always the case in relation to unregistered teachers.

253. The Association of Headteachers and Deputes in Scotland, however, could not identify a rationale for the Scottish Government’s proposals—

” Parents pay to send their children to these [independent] schools, a service they are electing to purchase on top of the state school system that they have already contributed to through taxes ... Presumably they are happy with their choice and have satisfied themselves that the quality of the offering was what it should be. So, assuming there is no hidden clamour from these fee paying parents why is the Government seeking to legislate?¹⁰⁴

254. The three independent sector bodies that provided evidence to us all expressed concerns about the proposals—

- The headmaster of Clifton Hall school said “I can think of no good reason to require independent schools to ensure that all teachers are GTCS registered” but later added that he had “no problem with the registration of individuals if the registration process is straightforward”,¹⁰⁵
- The International School of Aberdeen described the possible impact of registration as ‘devastating’ and said it would be a disadvantage for the school’s pupils;¹⁰⁶
- The Scottish Council of Independent Schools said its member schools did not generally take issue with registration, but did not agree that making GTCS registration compulsory “will incur any of the particular benefits outlined in the Policy Memorandum”. Its written submission listed a number of “disbenefits” including specific challenges around the provision of Steiner education and the teaching of classics, where “there is a dearth of registered teachers”.¹⁰⁷

Transition period

255. Some of the concerns expressed by the independent sector relate to the detail of the transition period, in particular the potential threat to schools' ongoing ability to hire non-registered teachers from outwith Scotland. From our detailed discussions with the GTCS and the independent sector, however, it appears that progress is being made on devising arrangements that would be acceptable to all parties.

256. The GTCS made clear it did not want to restrict registration or to see teachers "who deliver well in schools" losing their jobs. It also mentioned possible provisional arrangements that could provide at least an interim solution, for example—

” We might not necessarily be talking about full registration; for example, it might be entirely possible to have restricted registration in, say, the International School of Aberdeen, which would restrict the teachers in question to teaching in that school ...

” There are a number of creative ways in which we can adjust and revise the register by creating new categories to fit teachers who are coming closer to retirement and who are unlikely to move out of the school where they are teaching now, as well as to meet the needs of young teachers coming into the independent sector who might wish to keep as open a field as possible for their future career.

257. The GTCS did also state, however, that it wanted to "encourage full registration for everyone who teaches in the independent sector". It also considered the two year period for transitional arrangements would probably be "too tight", suggesting three years instead.

258. The GTCS strongly challenged comments made by some independent school representatives that it did not register teachers from other parts of the United Kingdom or worldwide. The GTCS also said it was unaware of any jurisdiction in the UK or Europe that did not have minimum registration standards for an individual to meet in order to teach.

259. In response to our questions about the progress being made on transitional arrangements, the Cabinet Secretary said she wanted "to find solutions that are helpful but do not dilute standards" and that the Scottish Government would "work hard with the sector to reach pragmatic conclusions".

260. We consider that requiring all teachers to register with the GTCS could bring benefits to the teachers concerned and could also provide some reassurance to parents.

261. As we have noted, no formal consultation was undertaken on these provisions in advance of the Bill's publication albeit the Scottish

Government did hold discussions with the independent school sector. We consider that a formal consultation would have fully identified, and perhaps resolved, the practical concerns that were highlighted to us. At this stage, we are still not certain about the transitional arrangements that will apply and whether they will assuage all concerns.

262. In advance of the Stage One debate, the Scottish Government should provide a further update on the state of discussions, including whether it agrees with the GTCS that the transition period should last for three rather than two years. The Scottish Government should also confirm that registration will not operate in a way that threatens the existence of any particular school.

Costs of transition

263. The Bill's Financial Memorandum anticipated that costs would be incurred by the independent sector and relevant teachers during the transition, but not by the Scottish Government or local authorities.

264. The Financial Memorandum also warns of possible financial consequences for smaller special schools "who may find it a challenge to attract GTCS registered teachers and this may affect the school's ability to continue to operate". It adds that these risks "should be mitigated by the proposed transitional arrangements".

265. In a subsequent letter to us, the Scottish Government suggested it may provide further support to the sector—

” It is recognised that the change being proposed will lead to some of the existing workforce needing to secure further qualifications and sufficient time and support mechanisms will be made available to achieve this.¹⁰⁸

266. We call on the Scottish Government to confirm whether—

- All the factors likely to result in costs to independent schools have been identified and agreed on by relevant parties**
- If so, whether costs additional to the Financial Memorandum will fall on the Scottish Government or any other bodies**
- Some teachers will incur costs as a result of the registration requirement, for example, in having to obtain qualifications that were not required when they were first awarded the post.**

Defining ‘teacher’

267. During our separate inquiry into the attainment of pupils with a sensory impairment, we were told that the GTCS considered some educational staff to be additional support workers rather than teachers of the visually impaired.

268. Given such concerns, we asked the Scottish Government to clarify who would be considered as a teacher under this legislation. The Scottish Government’s response stated—

” Building on The Requirements For Teachers (Scotland) Regulations 2005 (<http://www.legislation.gov.uk/ssi/2005/355/made>) we would suggest a teacher is anybody who is employed to teach in a school and has the appropriate professional skills and knowledge necessary to enable them to undertake the teaching duties allocated to them.¹⁰⁹

269. In oral evidence, the GTCS said—

” Our understanding is that a teacher is someone who delivers a formal curriculum or an element of it. There are teachers in the state sector and particularly in the independent sector that offer extra-curricular activities and perhaps have job titles other than “teacher”. A bit of clarity is therefore required on the definition of a teacher and to whom the bill will apply.

270. The Scottish Government should provide the clarity requested by the GTCS and confirm whether this will necessitate an amendment to the Bill.

Other provisions

271. The Bill also contains relatively minor provisions on which we took no oral evidence. The provisions relate to—

- free schools meals – according to the Policy Memorandum, these amendments “simply restate and clarify the law to avoid the potential for any confusion or misinterpretation for those using the legislation”¹¹⁰;
- kinship care – according to the Policy Memorandum, these amendments “will ensure that all children aged two and over who have, or have had, a guardian appointed under section 7 of the 1995 Act are entitled to the mandatory amount of early learning and childcare”.¹¹¹

¹ <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/88283.aspx>

² Education (Scotland) Bill. Written submission , Page 2

Education and Culture Committee

Stage 1 Report on the Education (Scotland) Bill, 9th Report, 2015 (Session 4)

³ <http://news.scotland.gov.uk/News/Smart-money-on-attainment-15d2.aspx>

⁴ Scottish Parliament Information Centre. (2015). [Education \(Scotland\) Bill](#).

⁵ COSLA, written submission.

⁶ Education and Culture Committee. Official Report, 9th June, col 20.

⁷ Cabinet Secretary for Education & Lifelong Learning. Written submission 23rd April 2015

⁸ Education and Culture Committee. Official Report, 28 April, col 7.

⁹ Education and Culture Committee. Official Report, 23 June, col 26.

¹⁰ http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Educational%20attainment/Cab_Sec_for_ELLL_IN_20150116.pdf

¹¹ http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Educational%20attainment/Cab_Sec_for_ELLL_IN_20150116.pdf

¹² <http://news.scotland.gov.uk/News/A-world-leader-in-education-1c10.aspx>

¹³ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=9923&mode=pdf>

¹⁴ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039&mode=pdf>

¹⁵ [Letter to Education and Culture Committee, 23rd April 2015](#)).

¹⁶ [Letter to Education and Culture Committee, 23rd April 2015](#)).

¹⁷ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/COSLA.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/COSLA.pdf)

¹⁸ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039&mode=pdf>

¹⁹ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039>

²⁰ (col 24, 9th June)

²¹ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/East_Dunbartonshire_Council.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/East_Dunbartonshire_Council.pdf)

²² [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/SouthLanarkshireCouncil.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/SouthLanarkshireCouncil.pdf)

²³ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10003>

²⁴ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10003>

²⁵ <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/90649.aspx#anna>

²⁶ <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/90649.aspx#anna>

²⁷ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/NationalParentForum_of_Scotland.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/NationalParentForum_of_Scotland.pdf)

²⁸ Gaelic medium education (GME) is the teaching and learning of subjects through the medium of the Gaelic language. Gaelic learner education (GLE) is the teaching and learning of the Gaelic language as an additional language, similar to learning other languages such as French.

²⁹ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10023>

³⁰ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039>

³¹ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/COSLA.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/COSLA.pdf)

³² <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039>

³³ [Education \(Scotland\) Bill. Written submission](#).

³⁴ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10023>

³⁵ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039&mode=pdf>

³⁶ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039&mode=pdf>

³⁷ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/ELLL_Cab_Sec_to_SM_IN_20150423.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/ELLL_Cab_Sec_to_SM_IN_20150423.pdf)

³⁸ Under existing legislation, the Bord already has the power to issue guidance which education authorities must have regard to when they are producing their annual statement of improvement objectives.

³⁹ to The Policy Memorandum (paragraph 35 + 30) states that a main policy aim of the Bill is

⁴⁰ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/ELLL_Cab_Sec_to_SM_IN_20150423.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/ELLL_Cab_Sec_to_SM_IN_20150423.pdf)

⁴¹ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=9981>

⁴² The Scottish Government explained that a Gaelic unit is where Gaelic medium education is available in a two stream school - GME and English medium education. The classes where GME takes place are referred to as a Gaelic unit.

⁴³ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039&mode=pdf>

⁴⁴ Education (Scotland) Bill . Oral evidence, 23rd June 2015

⁴⁵ Derived from <http://www.gov.scot/resource/doc/348208/0116022.pdf>. The Act has been amended by the Education (Additional Support for Learning) (Scotland) Act 2009.

⁴⁶ Education (Scotland) Bill Policy Memorandum (SP Bill 64 , Session 4 2015)

⁴⁷ Education (Scotland) Bill Policy Memorandum (SP Bill 64 , Session 4 2015)

⁴⁸ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/EDBillLawSocScot.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/EDBillLawSocScot.pdf)

⁴⁹ For example, to receive information or advice about a child or young person's additional support needs.

⁵⁰ [Education \(Scotland\) Bill. Written submission.](#)

⁵¹ The Act defines both when a child has capacity and, separately, when a child lacks capacity.

⁵² Scottish Government officials said that, in most cases, they expected education authorities to make the decision on capacity by using information on the child that is already available to them.

⁵³ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/ELLL_Cab_Sec_to_SM_IN_20150423.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/ELLL_Cab_Sec_to_SM_IN_20150423.pdf)

⁵⁴ According to the Financial Memorandum, around 45,000 pupils aged 12-15 have additional support needs.

⁵⁵ Education (Scotland) Bill. Written Submission , Page 24

⁵⁶ Education (Scotland) Bill. Written Submission, Page 15

⁵⁷ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10003>

⁵⁸ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10003>

⁵⁹ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/GovanLawCentre.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/GovanLawCentre.pdf)

⁶⁰ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/CentreforMentalHealthandIncapacityLawRightsandPolicyEdinburghNapierUniversity.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/CentreforMentalHealthandIncapacityLawRightsandPolicyEdinburghNapierUniversity.pdf)

⁶¹ Education (Scotland) Bill. Written Submissions.

⁶² Education (Scotland) Bill. Policy memorandum (SP Bill 64 Session 4 2015)

⁶³ Education (Scotland) Bill. Policy memorandum (SP Bill 64 Session 4 2015)

⁶⁴ “where, for whatever reason, the child or young person is, or is likely to be, unable without the provision of additional support to benefit from school education” (s.1, 2004Act).

⁶⁵ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039>

⁶⁶ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039>

⁶⁷ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039>

⁶⁸ Education (Scotland) Bill. Oral Evidence, 23rd June 2015

⁶⁹ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=9923>

⁷⁰ Education (Scotland) Bill. Oral Evidence, 23rd June 2015

⁷¹ Education (Scotland) Bill. Oral Evidence, 28th April 2015

⁷² <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=9923>

⁷³ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/Resolve_ASN_Mediation_and_Common_Ground_Mediation.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/Resolve_ASN_Mediation_and_Common_Ground_Mediation.pdf)

⁷⁴ Education (Scotland) Bill. Written Submission, Page 19

⁷⁵ Education (Scotland) Bill, Policy Memorandum (SP Bill 64, Session 4 2015)

⁷⁶ Education (Scotland) Bill, Policy Memorandum (SP Bill 64, Session 4 2015) Paragraph 48

⁷⁷ Education (Scotland) Bill, Policy Memorandum (SP Bill 64, Session 4 2015)

⁷⁸ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/FacultyofAdvocates.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/FacultyofAdvocates.pdf)

⁷⁹ [Education \(Scotland\) Bill, Written Submission](#)

⁸⁰ Between 2009 and 2012, 20 complaints were made to Scottish Ministers under section 70. Four took up to six months to resolve, eight took 6-12 months to resolve and the rest took over 12 months.

⁸¹ The proposed timescales are as follows—

- up to a maximum of 112 working days where an investigation by Education Scotland is required;
- within 40 working days where an investigation is not required.

⁸² [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/ELLL_Cab_Sec_to_SM_IN_20150423.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/ELLL_Cab_Sec_to_SM_IN_20150423.pdf)

⁸³ [Education \(Scotland\) Bill. Written Submission](#)

⁸⁴ [Education \(Scotland\) Bill. Written Submission](#)

⁸⁵ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10003>

⁸⁶ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10003#sthash.X9uGUCpw.dpuf>

Education and Culture Committee

Stage 1 Report on the Education (Scotland) Bill, 9th Report, 2015 (Session 4)

⁸⁷ Education & Culture Committee. Oral Evidence , 28th April 2015

⁸⁸ Education & Culture Committee. Oral Evidence, 28th April 2015

⁸⁹ [COSLA. Written submission to Education & Culture Committee, 11th May 2015, Paragraph 9](#)

⁹⁰ COSLA explained that this local authority “has systems in place to allow its managers to work collegiately with all the head teachers so that they can determine educational advice for the authority”.

⁹¹ [Education & Culture Committee. Oral Evidence, 23rd June 2015](#)

⁹² [Education & Culture Committee. Oral Evidence, 23rd June 2015](#)

⁹³ [Education & Culture Committee. Oral Evidence, 23rd June 2015](#)

⁹⁴ [Education & Culture Committee. Oral Evidence, 23rd June 2015](#)

⁹⁵ [Education & Culture Committee. Oral Evidence, 23rd June 2015](#)

⁹⁶ [Education & Culture Committee. Oral Evidence, 23rd June 2015](#)

⁹⁷ [Education & Culture Committee. Oral Evidence, 23rd June 2015](#)

⁹⁸ [Education & Culture Committee. Oral Evidence, 23rd June 2015](#)

⁹⁹ [Education & Culture Committee. Oral Evidence, 23rd June 2015](#)

¹⁰⁰ [Education & Culture Committee. Oral Evidence, 23rd June 2015](#)

¹⁰¹ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039>

¹⁰² [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/SG_Reg_of_independent_schools.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/SG_Reg_of_independent_schools.pdf)

¹⁰³ See paragraphs 98 and 99 of the Policy Memorandum.

¹⁰⁴ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/AssociationofHeadteachersandDeputesinScotland.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/AssociationofHeadteachersandDeputesinScotland.pdf)

¹⁰⁵ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10023>

¹⁰⁶ [Education \(Scotland\) Bill. Written Submission](#)

¹⁰⁷ [Education \(Scotland\) Bill. Written Submission](#)

¹⁰⁸ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/SG_Reg_of_independent_schools.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/SG_Reg_of_independent_schools.pdf)

¹⁰⁹ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/SG_Reg_of_independent_schools.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/SG_Reg_of_independent_schools.pdf)

¹¹⁰ Education & Culture Committee. Policy Memorandum (SP Bill 64, Session 4, 2015)

¹¹¹ Education & Culture Committee. Policy Memorandum (SP Bill 64, Session 4, 2015)

Annexe A – Gaelic translation of paragraphs 73 to 132

Foghlam Gàidhlig

73. Tha am Bile airson grunn dhleastanasan a thaobh foghlam sgoile Gàidhlig a chur mar fhiachaibh—

- feumaidh ùghdarrasan foghlaim —
 - measadh feum airson foghlam tro mheadhan na Gàidhlig (FTMG) sa bhun-sgoil, às dèidh iarrtas bho phàrant
 - a bhith gnìomhach a’ cur foghlam tro mheadhan na Gàidhlig agus foghlam luchd-ionnsachaidh na Gàidhlig (FLIG) air adhart¹¹²
 - taic a chur ri FTMG agus ri FLIG far a bheil e ga thoirt seachad.
- feumaidh Bòrd na Gàidhlig stiùireadh a chur a-mach air libhrigeadh FTMG agus FLIG.

Còir air FTMG

74. Bha mòran den deasbad againn ann am fianais beòil a’ buntainn ris a’ chiad dhleastanas gu h-àirde. Dh’fheumte pròiseas reachdail a chruthachadh a chleachdadh ùghdarrasan ionadail nuair a gheibheadh iad iarrtas bho phàrantan airson foghlam tro mheadhan na Gàidhlig ann am bun-sgoiltean. Chan eil am Bile ga dhèanamh riatanach do ùghdarras ionadail foghlam tro mheadhan na Gàidhlig a libhrigeadh fiù ’s ma tha iad air measadh gu bheil iarrtas agus goireasan gu leòr ann. Feumaidh ùghdarras ionadail, ge-tà, innse carson nach eil iad dol a libhrigeadh FTMG anns an t-suidheachadh sin.

75. ’S e gearan leantainneach mun chumha (*provision*) seo den Bhile nach eil i a’ stèidheachadh còir air FTMG. Mar eisimpleir, thuirt buidheann nam Pàrantan Gàidhlig, Comann nam Pàrant —

“Mura bi a’ chòir laghail ann, chan eil tèarainteachd sam bith aig pàrantan ann am foghlam tro mheadhan na Gàidhlig, agus mar sin chan eil sinne a’ faicinn càil anns a’ bhile a tha dol a chur stad air ùghdarrasan ionadail o bhith a’ cur stad air cumail taic ri pàrantan ma tha a’ chlann aca ann am foghlam tron Ghàidhlig aig ìre sam bith.”

76. Chuir a’ bhuidheann fàilte, ge-tà, air a’ phròiseas a tha am Bile a’ stèidheachadh “air sgàth ’s nach eil ùghdarrasan ionadail taiceil agus nach eil iad airson foghlam tro mheadhan na Gàidhlig adhartachadh.”

77. Chuir Bòrd na Gàidhlig agus Comhairle na Gàidhealtachd taic ri còir laghail do fhoghlam tro mheadhan na Gàidhlig ach 's e a' chomhairle a bh' aca gun a bhith a' cur cumha den leithid anns a' Bhile seo. Thuirt Comhairle na Gàidhealtachd—

“Ma chruthaicheas sinn an-dràsta còir laghail, 's e a' chiad cheist a dh'fhaighnicheas sinn mar chomhairle: a bheil e comasach dhuinn a dhèanamh? A bheil e comasach dhuinn seo a libhrigeadh? A bheil e comasach ar dleastanas a chumail ris a' chòir a tha sin? Leis a' ghearán a tha againn aig ìre nàiseanta mu dheidhinn ghoireasan, thidsearan agus goireasan eile air fad ann am foghlam tro mheadhan na Gàidhlig, tha sinn ga dhèanamh ceum air cheum”.

78. Thuirt am Ministear airson Ionnsachadh, Saidheans agus Cànan na h-Alba, Alasdair Allan, gu bheil am Bile “an ìre mhath cothromach airson 's gu bheil e a' toirt pròiseas do dhaoine agus rudeigin faisg air a' chòir air an robh sinn uile a' bruidhinn...”. Thuirt e cuideachd, “...chan eil mòran feum ann a bhith a' stèidheachadh còir air rud nach eil idir ann”.

79. Air sgàth na tha de dh'ùidh anns a' cheist seo, anns a' choimhearsnachd Ghàidhlig gu h-àraidh, bu chòir do Riaghaltas na h-Alba innse a bheil iad fhathast a' rannsachadh ciamar a bheirear còir a-steach air foghlam tro mheadhan na Gàidhlig far a bheil iarrtas reusanta air èirigh.

Am pròiseas co-dhùnaidh

80. Tha an earrann seo den aithisg a' beachdachadh air ciamar a b' urrainn don phròiseas a chaidh ainmeachadh gu h-àrd a bhith ag obair. Tha earrann deich den Bhile aig cridhe na ceiste seo oir tha e a' cur grunn cùisean air dòigh air am feum ùghdarrasan ionadail beachdachadh nuair a tha iad a' co-dhùnadh, às dèidh iarrtas fhaighinn bho phàrant agus na h-ìrean eile a tha an lùib a' ghnòthaich, an libhrig iad foghlam bun-sgoile tro mheadhan na Gàidhlig.

81. Am measg nan cùisean sin, tha cosgais foghlam a libhrigeadh agus an gainnead luchd-teagaisg le barantas freagarrach, cùisean a thogadh tric san fhianais a chuala sinn. Mar eisimpleir, bha dragh air cuid de dh'ùghdarrasan ionadail gun toireadh libhrigeadh FTMG ionmhas air falbh bho raointean eile. Ach, shaoil buidhnean Gàidhlig nach robh FTMG idir a' dèanamh cron air libhrigeadh foghlam eile.

82. Bha cuid de bhuidhnean draghail gun cleachdadh ùghdarrasan ionadail cùisean den leithid seo mar 'leisgeul' airson FTMG a dhiùltadh. Mar eisimpleir, thuirt Bòrd na Gàidhlig mu earrann deich: “Tha tuilleadh 's a' chòir de chnapan-starra ann an sin a bhiodh na dhuilgheadas do phàrantan gu h-àraidh. Cuideachd, dh'fhaodte gun robh na h-earrannan sin air an cleachdadh mar leisgeul dha na h-ùghdarrasan ionadail gun foghlam Gàidhlig a thabhann”

83. Nochd Bòrd na Gàidhlig cuideachd gum feumadh piseach a thoirt air pàirtean eile den earrann seo gus “dèanamh cinnteach nach eil sinn glacte ann am

pròiseas burocrataigeach far a bheil argumaid air ais 's air aghaidh agus nach eil adhartas mòr sam bith air a dhèanamh".¹¹³

Freagairt Riaghaltas na h-Alba

84. Dh'aontaich oifigearan Riaghaltas na h-Alba gun robh duilgheadasan ann a thaobh fastadh luchd-teagaisg—

“... dh'fhaodte gur e sin am bacadh as motha a tha a' cur dragh oirnn. Gu dearbh, sin aon de na rudan as motha a chuireas dragh air ùghdarrasan ionadail nuair a tha iad a' coimhead ris a' bhile. Saoilidh iad, “Tha sin glè mhath, ach am faigh sinn tidsear?”

85. Cha robh oifigich ag aontachadh, ge-tà, gum faodadh ùghdarrasan ionadail an earrann seo a chleachdadh gus bacadh a chur air iartasan—

“... seallaidh ùghdarrasan ionadail ris na h-aon chùisean [ann an earrann 10] agus canaidh iad, “S e cùisean subsainteach a tha seo. Chan e dìreach leisgeul airson daoine a chur dheth a th' ann.” Tha cùisean cudromach ann air am feum ùghdarrasan ionadail beachdachadh, leithid luchd-teagaisg, cosgais, àite no togalach far am bi foghlam Gàidhlig ga lìbhrigeadh.”

86. Ann am fianais beòil, thuirt am Ministear uair is uair gun robh e a' lorg dhòighean a ghabhadh pàirtean den Bhile a neartachadh. Thug e luaidh shònraichte air a' phròiseas mu earrann deich, ag ràdh “... is dòcha gum bi cothroman sa bhile, an ceann greis, a dhol nas fhaide a dh'ionnsaigh còir ...”.

87. Thuirt e cuideachd—

“Ma tha cothrom ann dhuinn am bile a neartachadh, bidh sin a' cuimseachadh air ceistean mu dè thachras aig deireadh a' phròiseas measaidh agus dè na h-adhbharan a bhiodh ceadaichte do ùghdarrasan ionadail a thoirt seachad nuair nach robh iad a' dol a stèidheachadh aonad foghlam tro mheadhan na Gàidhlig. Saoilidh mise gur iad sin dòighean nas cothromaiche air am bile a neartachadh.”

88. Chuir am Ministear an cèill cuideachd nach eil an reachdas “airson toirt air ùghdarrasan ionadail Gàidhlig a libhrigeadh. Mura h-eil iartas ann an coimhearsnachd airson foghlam tro mheadhan na Gàidhlig, cha chleachd daoine an sin am bile”¹¹⁴. Dh'fhaodte gu bheil seo a' buntainn ri beachd a bh' aig COSLA, gun toireadh am Bile cumhachd do Mhinistearan na h-Alba co-dhùnaidhean ùghdarrasan ionadail air a' phròiseas co-dhùnaidh seo atharrachadh. **Chuireamaid fàilte air soilleireachadh bho Riaghaltas na h-Alba air a' phuing seo.**

89. Bha e coltach gun robh an Dr Allan a' cur an aghaidh atharrachadh a chaidh a mholadh le cuid den luchd-fianais, gum bu chòir pròiseas tagraidh a chur air bhonn airson amannan nuair a dhiùltas ùghdarras ionadail FTMG bun-sgoile a libhrigeadh. Thuirt am Ministear gum biodh structar tagraidh “na rud gu math mì-reusanta agus toinnte a chur don bhile”¹¹⁵.

90. Tha sinn ag aontachadh nach eil am Bile a' cruthachadh còir air foghlam tro mheadhan na Gàidhlig. Ach gu bheil e iomchaidh pròiseas mìnichte soilleir a chruthachadh agus a chur an sàs gus iarrtasan phàrantan a mheasadh. Tha e coltach gu bheil am pròiseas a' gabhail sùim ris na cùisean uile air am feumar beachdachadh, ged a dh'fhaodadh e bhith na uallach mòr air na pàrantan a ghabhas pàirt.

91. Chan eil e soilleir ciamar dìreach a b' urrainn do Riaghaltas na h-Alba am bile a neartachadh “gus a dhol nas fhaide a dh'ionnsaigh còir” gun còir a stèidheachadh no a bhith “a' toirt air ùghdarrasan ionadail Gàidhlig a libhrigeadh”. B' e aon rud a dh'fhaodte a dhèanamh gum biodh e mar riatanas gun rachadh Gàidhlig a libhrigeadh nam biodh cumhaichean àraidh air an coileanadh. Ach, thogadh draghan mòra mu dhìth luchd-teagaisg, a dh'fhaodadh bacadh a chur air coileanadh riatanas den leithid.

Solarachadh taobh a-muigh bun-sgoiltean

92. Tha am pròiseas gu h-àrd a' buntainn ri FTMG **sa bhun-sgoil**. Tha earrann 12 den Bhile a' toirt cumhachd do Mhinistearan na h-Alba, tro riaghlaidhean, ga dhèanamh comasach do ùghdarras foghlaim dèiligeadh ri iarrtas pàrant a thaobh **foghlam tràth agus cùram cloinne**, mar iarrtas measadh FTMG.

93. Chan eil mìneachadh sam bith air a' chumha seo anns a' Mheòrachan Poileasaidh, no beachd air cuin, no dè na suidheachaidhean sam feuchadh Riaghaltas na h-Alba ris na riaghlaidhean sin a dhèanamh.

Àrd-sgoiltean

94. Chan eil am Bile a' dèiligeadh ri solarachadh FTMG ann an **àrd-sgoiltean**.

95. Tha tagraidhean sgrìobhte bho trì ùghdarrasan ionadail ag aontachadh gum bu chòir am Bile a bhith a' dèiligeadh ri bun-sgoiltean a-mhàin. Ach, bha cuid de thagraidhean, mar bu tric bho bhuidhnean Gàidhlig agus pàrantan cloinne ann am foghlam Gàidhlig, ag iarraidh gum biodh am Bile a' dèiligeadh ri àrd-sgoiltean cuideachd. Bha SQA ag aontachadh ri seo, a' togail mar a bha ìsleachadh am-bliadhna anns an uiread sgoilear a bha a' dol a-steach airson teisteanasan SQA tro mheadhan na Gàidhlig.¹¹⁶

96. Ged a bha iad mothachail nach robh gu leòr luchd-teagaisg barantaichte ann, bha Comhairle na Gàidhealtachd agus Bòrd na Gàidhlig cuideachd ag iarraidh gum biodh am Bile a' toirt barrachd suim do solarachadh san àrd-sgoil. Thuirt Comhairle na Gàidhealtachd gum bu toil leotha “Air ar son ne bu chaomh leinn faicinn iomradh a thoirt air h-uile raon—ro-sgoile, sgoiltean-àraich, a' biathadh suas dhan bhun-sgoil agus an uair sin dhan àrd-sgoil—agus sin a bhiathadh a-steach dhan bhile ma tha e comasach idir.”

97. Nochd Bòrd na Gàidhlig rannsachadh a sheall gun d'fhuair sgoilearan sa bhun-sgoil oideachadh tro mheadhan na Gàidhlig airson seachdad sa chiad den tìde aca ach nach d'fhuair iad ach seachd deug sa cheud e anns an àrd-sgoil. Thuirt iad cuideachd—

“Tha sin a’ ciallachadh gum feum an ceangal a bhith ann [sa bhile] eadar a’ bhun-sgoil agus an àrd-sgoil agus gum bi e comasach don chlann a tha a’ tighinn a-mach às an àrd-sgoil a bhith fileanta ann an Gàidhlig. Mura h-eil sin a’ tachairt, cha ruig sinn gu bràth an targaid a tha sin.¹¹⁷”

98. Thuirt Buidheann Cheannardan Foghlaim na h-Alba (ADES) gun robh feum air “obair sa bhad” air curaicealam FTMG san àrd-sgoil, le solarachadh chuspairean speisealta.

Freagairt Riaghaltas na h-Alba

99. Leis gu bheil dùil ri meudachadh ann an solarachadh FTMG aig ìre bun-sgoile, bha dragh oirnn gun rachadh sgilean cànan sgoilearan am mìosad mura robh an aon mheudachadh a’ tachairt san àrd-sgoil. B’ e freagairt a’ Mhinistear—

“Tha am Bile a’ dèiligeadh ri clann a tha ag ionnsachadh tro mheadhan na Gàidhlig. An-dràsta, tha sin a’ tachairt sa bhun-sgoil, airson a’ mhòr-chuid, agus sin an t-adhbhar a tha am bile a’ cuimseachadh air an ìre sin.¹¹⁸”

100. Thuirt e gum bu toil leis gum biodh barrachd àrd-sgoiltean a’ cruthachadh chùrsaichean meadhain-Ghàidhlig—

“Ach, tha sin an urra ri gu leòr luchd-teagaisg àrd-sgoile a bhith ann a tha comasach is barantaichte teagasg tro mheadhan na Gàidhlig, agus chan eil mi airson am beachd ceàrr a thoirt don chomataidh air cia mheud aca a th’ ann.¹¹⁹”

101. Ged a tha sinn ag aithneachadh nan draghan a th’ aig na daoine a tha airson ’s gun tèid am bile nas fhaide, tha sinn a’ toirt fa-near den argamaid airson an solarachadh seo a chuingealachadh ri bun-sgoiltean a-mhàin an àite gabhail a-steach nan àrd-sgoiltean, ged a tha dragh mun àireimh de thidsearan aig an dà ìre. Tha ullachaidhean a’ Bhìle a thaobh foghlam tràth agus cùram cloinne eadar-dhealaichte a-rithist agus **bu chòir do Riaghaltas na h-Alba mìneachadh dè na suidheachaidhean sam biodh iad airson riaghlaidhean a dhèanamh san raon seo (mar a chaidh a chur an cèill ann am paragraf 92).**

Cumhaichean eile

102. Tha an earrann seo a’ gabhail beachd air na cumhaichean eile sa Bhìle a’ buntainn ri Gàidhlig, **nach eil a’ buntainn dìreach ri foghlam tro mheadhan na Gàidhlig sa bhun-sgoil.**

Taic do FTMG agus FLIG

103. Nuair a tha ùghdarras foghlaim a’ libhrigeadh foghlam tro mheadhan na Gàidhlig no foghlam luchd-ionnsachaidh na Gàidhlig (FLIG) bidh e fo dhleastanas taic a thoirt don t-solarachadh sin. Dh’fhaighnich sinn do Riaghaltas na h-Alba ciamar a b’ urrainn do ùghdarras foghlaim a bhith a’ solarachadh FTMG or FLIG, ach gun a bhith a’ toirt taic dha.

104. B' e freagairt Riaghaltas na h-Alba gum faodadh taic a bhith a' gabhail a-steach grunn cheuman agus gum faodar FTMG no FLIG a libhrigeadh gun a bhith a' gabhail nan ceuman sin uile¹²⁰.

105. Bidh e mar riatanas sa Bhile, ma-thà, aig a' char as lugha, gum feum taic a bhith a' gabhail a-steach ceuman reusanta airson dèanamh cinnteach gu bheil—

- Goireasan, trèanadh agus cothroman riatanach aig luchd-teagaisg FTMG agus FLIG gus am foghlam sin a libhrigeadh gu freagarrach is gu h-èifeachdach
- Goireasan riatanach aig sgoilearan gus am foghlam sin fhaighinn agus piseach a thoirt às gu freagarrach is gu h-èifeachdach.

106. Tha an dleastanas ùr seo a' leigeil faicinn gur mathaid nach eil co-dhiù cuid de FLIG agus FTMG a th' ann an-dràsta a' faighinn nan goireasan a bu chòir. Ach, chan eil luaidh ga thoirt air a' chumha seo ach anns an dol seachad sa Mheòrachan Poileasaidh (paragraf 31). Chan eil dad ag innse dè cho mòr 's a tha duilgheadas dìth taic do FLIG/ FTMG an-dràsta; a bheil an trioblaid nas motha anns a' bhun-sgoil no san àrd-sgoil; dè a' bhuidhe a th' aige air sgoilearan agus luchd-teagaisg; a bheil duilgheadas sònraichte aig cuid de dh'ùghdarrasan ionadail a thaobh goireasan a libhrigeadh; agus an leasachadh sònraichte a thathas an dùil a bhios an dleastanas a' toirt gu buil.

107. **Tha sinn ag iarraidh air Riaghaltas na h-Alba dèiligeadh ris na cùisean a thog sinn gu h-àrd.**

Sanasachadh airson FTMG agus FLIG

108. Tha am Bile cuideachd a' cur dleastanas air a h-uile ùghdarras ionadail FTMG agus FLIG a shanasachadh, ge bith a bheil iad a' solarachadh an fhoghlaim sin no nach eil. Deasaichidh Riaghaltas na h-Alba stiùireadh air ciamar a bu chòir an dleastanas sin a choileanadh, ged a tha fios againn gun tig feum air ùghdarrasan foghlaim nach eil a' solarachadh FTMG an-dràsta fios a sgaoileadh mun phròiseas sam bi pàrantan ag iarraidh measadh air feum air FTMG sa bhun-sgoil (sin, am pròiseas a chaidh a luaidh ann am paragrafan 80 gu h-àrd).

109. Tha Riaghaltas na h-Alba air dearbhadh gur mathaid gun rachadh a chodhùnadh gum biodh cuid de dh'ùghdarrasan ionadail air FTMG a chur air adhart dìreach le bhith a' sgaoileadh fios mun chòir seo, agus nach fheumadh iad FTMG a sholarachadh ann.

110. **Deasaichidh Riaghaltas na h-Alba stiùireadh do ùghdarrasan ionadail air FTMG agus FLIG a chur air adhart. Tha sinn den bheachd gum bu chòir do seo ùghdarrasan ionadail a bhrosnachadh a bhith ag obair nas dlùithe le chèile a' togail aire mun Ghàidhlig.**

Bòrd na Gàidhlig

111. Tha am Bile a' cur dleastanas air Bòrd na Gàidhlig a bhith a' deasachadh stiùireadh air ciomar a bu chòir FTMG agus FLIG a bhith ag obair ann an Alba¹²¹.
112. Tha am Meòrachan Poileasaidh ag ràdh, a thaobh FTMG, “bhiodh e feumail cuid de chleachdaidhean san t-seòmar-sgoile agus cuid de libhrigeadh ùghdarras foghlaim a shoilleireachadh”. Tha e a' toirt grunn eisimpleirean seachad, a' gabhail a-steach cothromachadh eadar FTMG agus foghlam meadhain-Bheurla ann an clasaichean FTMG. Bidh an stiùireadh cuideachd ag innse ciomar a bu chòir “cuid de na cumhaichean air FTMG sa Bhile obrachadh”. Cha deach dad a ràdh mu solarachadh FLIG.
113. Leis na gearanan a th' aig Bòrd na Gàidhlig mun Bhile seo tha iongnadh oirnn nach do chleachd iad an cumhachd a th' aca mar-thà gus stiùireadh a libhrigeadh “a thaobh solarachadh foghlam Gàidhlig agus leasachadh an t-solarachaidh sin”. **Tha sinn toilichte gu bheil seo a-nis na dhleastanas agus dòchasach gun toir e piseach air solarachadh Gàidhlig.**

A' brosnachadh fàs

114. Tha sinn air cumhaichean a' Bhile a dheasbad agus, anns an earrainn seo, tha sinn dol a bheachdachadh air ciomar a dh'fhaodadh iad amas poileasaidh Riaghaltas na h-Alba a choileanadh, a tha am Meòrachan Poileasaidh a' luaidh mar fàs foghlam *bun-sgoile* tro mheadhan na Gàidhlig (FBMG). Bu chòir cuideachd a chomharradh gur e amas nas farsainge aig Riaghaltas na h-Alba gum bi an aon uiread luchd-labhairt Gàidhlig anns an ath chunntas sluaigh 's a bh' ann an 2001¹²².
115. Leis gum faod ùghdarrasan foghlaim measadh iarrtais airson FBMG a dhèanamh mar-thà, dh'fhaighnich sinn do Riaghaltas na h-Alba ciomar a bha iad ga dhèanamh agus carson a bha tuilleadh reachdais a dhìth. Thuir Riaghaltas na h-Alba gun robh iad air a bhith ag obair còmhla ri Bòrd na Gàidhlig gus “tuigse fhaighinn air càite am faodadh iarrtas airson FTMG a bhith a' nochdadh ann an Alba”, ged nach tuir iad càite dha-rìreabh a bhiodh an t-iarrtas seo¹²³.
116. Thuir Riaghaltas na h-Alba gun robh feum air reachdas a chionn nach eil aonta ann mu dè na ceuman no cùisean sònraichte a dh'fheumadh tachairt anns a' phròiseas measadh iarrtais airson FBMG. Air an adhbhar sin, shaoil am Ministear gun cuireadh daoine a bha ag iarraidh FTMG anns na coimhearsnachdan aca fàilte air a' Bhile—
- “Chan eil dòigh fhoirmeil ann airson dèanamh cinnteach gum bi ùghdarras ionadail mothachail air iarrtas san sgìre aca, a' toirt aire dha no ga chlàradh gu poblach. Bhiodh a' mhòr-chuid den daoine a tha a' dèanamh iomairt airson FTMG den bheachd gun robh riatanas den leithid a' neartachadh an cuid oidhirpean sa choimhearsnachd agus leis an ùghdarras ionadail.”
117. Chan eil am Bile a' stèidheachadh thargaidean a thaobh, mar eisimpleir, fàs a thoirt air àireamh luchd-labhairt na Gàidhlig an Alba no an uiread

ùghdarrasan foghlaim a tha a' solarachadh FBMG. Ach, thuirt am Meòrachan Poileasaidh a thaobh an reachdais a tha ga mholadh gu bheil “cothrom ann gum broснаich e fàs nas luaithe ann am FBMG”. Chaidh oifigich Riaghaltas na h-Alba na b' fhaide nuair a thug iad seachad fianais beòil, ag ràdh gun robh iad cinnteach gum “broснаicheadh am Bile fàs nas luaithe ann am foghlam tro mheadhan na Gàidhlig air feadh na h-Alba”.

118. Thuirt oifigich Riaghaltas na h-Alba cuideachd don Chomataidh Ionmhais nach robh am pròiseas measaidh ùr ionnan ri dleastanas ùr a chruthachadh do ùghdarrasan ionadail—

“... tha sinn a' stèidheachadh pròiseas soilleir, cunbhalach, le clàr-ama na chois, airson leigeil le pàrantan iarrtas foghlam tro mheadhan na Gàidhlig a chur do ùghdarrasan ionadail. Chan eil mi den bheachd gur e dleastanas ùr a tha sin. Cuiridh e cruth no structar ùr air an dleastanas a th' air ùghdarrasan ionadail mar-thà gus foghlam a libhrigeadh, agus foghlam tro mheadhan na Gàidhlig a libhrigeadh mas e sin a tha pàrantan ag iarraidh.”¹²⁴

Reat Leasachaidh

119. Tha am Bile a' stèidheachadh còir pàrant measadh iarraidh air foghlam bun-sgoile tro mheadhan e na Gàidhlig. Tha am Meòrachan Ionmhasail a' bruidhinn air cothrom meudachaidh an fhoghlaim seo gu h-àraidh a thaobh aonadan FTMG ùra¹²⁵.

120. Tha am Meòrachan Ionmhasail a' tomhas gum broснаich am Bile fosgladh aonad FTMG ùr a h-uile dà bhliadhna “a thuilleadh air an fheadhainn a bhiodh air fosgladh co-dhiù”. Tha e ag ràdh cuideachd—

“Chan eilear den bheachd gum broснаich am Bile reat fosglaidh nas àirde air sgàth bhacaidhean san t-siostam leithid gainnead luchd-teagaisg... tha sinn den bheachd gur e cosgais chuibheasach a' Bhile dàrna leth cosgais aonad ùr gach bliadhna.”

121. Bha measgachadh bheachdan aig luchd-leasa mun bhuidhne a dh'fhaodadh am Bile a thoirt air a' Ghàidhlig, ged a bha an deasbad uaireannan mu àireamhan luchd-labhairt, uaireannan mun uiread aonad FTMG agus uaireannan mun uiread ùghdarras ionadail a tha a' libhrigeadh foghlam Gàidhlig. Cha robh buidhnean a' cur àireamh air a' bhuidhne a dh'fhaodadh a bhith aig a' Bhile air na cùisean sin.

122. Dh'fhaighnich sinn de Chomhairle na Gàidhealtachd agus Bòrd na Gàidhlig carson a shaoil iad gun tigeadh meudachadh air iarrtas airson foghlam bun-sgoile tro mheadhan na Gàidhlig, nuair a thuirt Meòrachan Ionmhasail a' Bhile nach robh dùil ri àireamh àrd de dh'iarrtasan bho pàrantan ag èirigh bhon Bhile.

123. Thuirt Comhairle na Gàidhealtachd gun robh sin a' buntainn ri iarrtas airson aonadan Gàidhlig ùra agus mhìnich iad gun robh àiteachan bàna ann an cuid de sgoiltean agus cothrom ann na h-àireamhan a chur an àirde.

Dh'aontaich Comhairle na Gàidhealtachd agus Bòrd na Gàidhlig gun tigeadh meudachadh air FTMG air sgàth a' Bhile.

124. Thuirt tagradh sgrìobhte Buidheann Cheannardan Foghlaim na h-Alba (ADES) “nach toireadh am Bile ann fhèin atharrachadh air FTMG”. Ann am fianais beòil, thuirt COSLA “nach robh e coltach” gum broснаicheadh am Bile barrachd ùghdarrasan a bhith a' solarachadh foghlam tro mheadhan na Gàidhlig. Bha iad draghail san tagradh sgrìobhte aca gum broснаicheadh am Bile “iarrtas airson fàs nas luaithe ann an solarachadh FTMG nas urrainnear a lìbhrigeadh leis na stòrasan a th' ann an-dràsta”.

125. **Tha diofar bheachdan ann a thaobh comas a' Bhile a bhith a' toirt buaidh dhìreach air fàs solarachadh Gàidhlig, agus ma bheireadh, dè an t-uiread. A thuilleadh air sin, bha an deasbad aig amannan mu foghlam bun-sgoile agus amannan eile mu foghlam san fharsaingeachd. Tha e cuideachd coltach gu bheil diofar dhòighean ann air fàs FBMG a thomhas.**

126. Chan urrainnear a ràdh gu cinnteach dè an reat fàs a dh'adhbharaicheas am Bile. Ach, tha sinn den bheachd gum bi fàs sam bith ann am FBMG, ge bith dè cho beag, luachmhor, agus Riaghaltas na h-Alba ag amas air àireamh luchd-labhairt na Gàidhlig a thogail chun uiread a bh' ann ann an 2001. Airson cuideachadh le bhith a' tomhas na buaidh a dh'fhaodadh a bhith aig a' Bhile san àm ri teachd bu chòir do Riaghaltas na h-Alba innse dè an t-àrdachadh air àireamhan luchd-labhairt ùra na Gàidhlig a tha iad an dùil a thig bho na cumhaichean seo.

An suidheachadh san fharsaingeachd

127. Tha am Bile na phàirt de dh'oidhirp nas farsaing airson solarachadh Gàidhlig agus àireamh luchd-labhairt na Gàidhlig an Alba a chur an àirde. Ged nach eil sinn air na h-oidhirpean farsaing sin a sgrùdadh gu mionaideach, rinneadh grunn mholaidhean aig Ìre 1 mu ciamar a ghabhadh solarachadh a neartachadh. Tha geàrr-chunntas goirid air na molaidhean sin gu h-ìosal.

128. Is e àireamhan luchd-teagaisg aon de na cùisean as cudromaiche. Chan eil ceuman sam bith anns a' bhile airson barrachd fastadh, trèanadh no suidheachadh luchd-teagaisg meadhain-Ghàidhlig. Ach, thuirt am Ministear gun robh Riaghaltas na h-Alba agus Bòrd na Gàidhlig air àrdachadh “susbainteach” a thoirt air an àireamh luchd-teagaisg a' tighinn troimhe am-bliadhna.

129. Seo cuid de na molaidhean a rinneadh airson àireamh an luchd-teagaisg a chur an àirde—

- meudachadh nan cùrsaichean a tha gan deasachadh airson luchd-teagaisg àrd-sgoile (Bòrd na Gàidhlig)
- feuchainn ri luchd-teagaisg a thàladh gu sgìrean iomallach, agus meudachadh sgìlean bogaidh airson teagasg sa Ghàidhlig (Comhairle na Gàidhealtachd).

130. Thuirt grunn bhuidhnean cuideachd gum bu chòir do ùghdarrasan ionadail obair nas dlùithe còmhla ri chèile air solarachadh Gàidhlig. Mar eisimpleir, thuirt Buidheann Cheannardan Foghlaim na h-Alba (ADES) —

“Tha e cudromach gun gabh ùghdarrasan ionadail beachd farsaing air solarachadh agus gun dèan iad planadh le chèile uiread ’s as urrainn dhaibh. Is dòcha nach b’ urrainn do aon ùghdarras ionadail solarachadh meadhain-Ghàidhlig a libhrigeadh ann an sgìre bheag, ach dh’fhaodadh dhà no trì ùghdarrasan ionadail obair còmhla, a’ roinn stòrasan agus a’ faighinn ghoireasan a bharrachd tro thabhartas sònraichte na Gàidhlig.¹²⁶”

131. Bha Buidheann Cheannardan Foghlaim na h-Alba (ADES), Comhairle na Gàidhealtachd agus Bòrd na Gàidhlig uile a’ nochdadh cho cudromach ’s a bha e cleachdadh na b’ fheàrr a dhèanamh air teicneòlas gus ionnsachadh is teagasg na Gàidhlig a leasachadh. Mar eisimpleir, mhol Bòrd na Gàidhlig “acadamaidh dhigiteach gus Gàidhlig a theagasg air feadh na h-Alba”. Thuirt Buidheann Cheannardan Foghlaim na h-Alba —

“Tha làn thìde fuasgladh digiteach fhaighinn do churaicealam Gàidhlig na h-àird-sgoile.¹²⁷”

132. Tha e mothachail gun robh na buidhnean uile a thug fianais beòil dhuinn air na cumhaichean Gàidhlig a’ bruidhinn air smuaintean is fuasglaidhean innleachdail gus solarachadh na Gàidhlig a chur am meud. Chan eil sinn cinnteach, ge-tà, dè tha a’ cur bacadh air an innleachdas sin a chur an sàs gu h-èifeachdach. **Bu chòir do Riaghaltas na h-Alba mineachadh ciamar, tron Bhile no dòigh eile, a b’ urrainn dhaibh piseach a thoirt air àireamhan luchd-teagaisg agus cleachdadh teicneolas didsiteach anns na sgoiltean.**

¹¹² Is e foghlam tro mheadhan na Gàidhlig (FTMG) teagasg is ionnsachadh chuspairean anns a’ Ghàidhlig. Is e Foghlam Luchd-ionnsachaidh na Gàidhlig (FLIG) ionnsachadh is teagasg na Gàidhlig, coltach ri bhith ag ionnsachadh chànanan eile leithid Frangais.

¹¹³ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10023>

¹¹⁴ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039>

¹¹⁵ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039>

¹¹⁶ [Tagradh sgrìobhte, Bile Foghlam \(Alba\).](#)

¹¹⁷ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10023>

¹¹⁸ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039&mode=pdf>

¹¹⁹ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039&mode=pdf>

¹²⁰ [http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/ELLL_Cab_Sec_to_SM_IN_20150423.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/ELLL_Cab_Sec_to_SM_IN_20150423.pdf)

¹²¹ Fon reachdas a th’ ann an-dràsta, tha an cumhachd aig a’ Bhòrd stiùireadh a libhrigeadh air am feum ùghdarrasan foghlaim sùim a ghabhail nuair a tha iad a’ dèanamh na h-aithisg bliadhnaile aca air amasan adhartachaidh.

¹²² Meòrachan Poileasaidh (paragrafan 35 + 30) ag ràdh gur e prìomh amas poileasaidh a’ Bhile a tha seo

¹²³[http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20\(Scotland\)%20Bill/ELL_Cab_Sec_to_SM_IN_20150423.pdf](http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Education%20(Scotland)%20Bill/ELL_Cab_Sec_to_SM_IN_20150423.pdf)

¹²⁴ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=9981>

¹²⁵ Mhìnich Riaghaltas na h-Alba gur e th' ann an aonad Gàidhlig àite far a bheil foghlam tro mheadhan na Gàidhlig ri fhaighinn taobh a-staigh sgoil a tha a' libhrigeadh foghlam tro mheadhan na Beurla cuideachd. Is e aonad Gàidhlig an t-ainm a th' air na clasaichean meadhain-Ghàidhlig.

¹²⁶ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10039&mode=pdf>

¹²⁷ Bile an Fhoghlaim (Alba), Fianais Beòil, 23^{mh} Ògmhios 2015

