

Draft Education (Scotland) Bill Child Rights and Wellbeing Impact Assessment	
Executive Summary	<p>It is the aspiration of the Scottish Government for Scotland to be the best place in the world in which to grow up. The Scottish Government's defining mission is to improve the education and life chances of children and young people by closing the unacceptable gap in attainment between the least and most disadvantaged children, and to raise attainment for all. There is broad support for this aim across the Scottish education system, with a wide range of partners committed to working together to achieve this.</p> <p>The objective of the Education (Scotland) Bill is to play a transformative role in achieving excellence and equity, by further strengthening the Scottish education system to:</p> <ul style="list-style-type: none">• Empower headteachers to be leaders of learning and teaching in their schools and work collaboratively with the education authority and their staff, pupils, parents and other partners so that the decisions that most affect a pupil's experience are taken by those closest to them;• Enhance the educational improvement support and advice that is available to educational practitioners;• Encourage an increase in parental involvement in education and parental engagement in children's learning; and• Ensure that effective pupil participation is supported in all public schools. <p>Specifically, the Bill aims to support the following four key policy objectives:</p> <ul style="list-style-type: none">• Empowering headteachers by establishing a Headteachers' Charter which requires education authorities to empower headteachers to make key decisions at school level, working collaboratively with their school community;• Collaborating for improvement, by placing a duty on all education authorities to work together and with Education Scotland within Regional Improvement Collaboratives (RICs), in the production of regional improvement plans and in exercising a range of educational support and improvement functions, to be set out in statutory guidance, in accordance with the principles and scope agreed between the Scottish Government and Convention of Scottish Local Authorities;• Strengthening parental involvement and engagement by making the existing legal duties in relation to parental involvement clearer, and encouraging stronger collaboration between schools, school leaders and parents. These provisions will strengthen, modernise and extend the Scottish Schools (Parental Involvement) Act 2006 as recommended in the National Parent Forum of Scotland's review to reflect the importance of parental engagement in children's learning; and

- Promoting pupil participation by requiring education authorities to promote and support pupil participation in specific aspects of education and school life in every public school.

School education affects the vast majority of children in Scotland, and as such children's rights and wellbeing will be affected by the provisions in the Bill.

We consider that of the articles in the United Nations Convention on the Rights of the Child (UNCRC) the Education Bill relates to:

- Article 3: The best interests of the child
- Article 5: The right to parental guidance
- Article 6: The right to develop through life
- Article 12: Respect of the views of the child
- Article 13: Freedom of expression
- Article 18: Parents have the main responsibility to bring up their child, but the government is expected to help parents care for children properly
- Article 28: The right to an education
- Article 29: Schools should help children develop their skills and personality fully and prepare them for adult life

We consider that seven of the eight *Getting It Right for Every Child* (GIRFEC) wellbeing indicators¹ (safe, healthy, achieving, nurtured, respected, responsible, and included) are relevant to the Education (Scotland) Bill as detailed below:

- Safe: Protected from abuse, neglect or harm at home, at school and in the community.
- Healthy: Having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices.
- Achieving: Being supported and guided in their learning and in the development of their skills, confidence and self-esteem at home, at school and in the community.
- Nurtured: Having a nurtured place to live in a family setting, with additional help if needed, or, where possible, in a suitable care setting.
- Respected: Having the opportunity, along with carers, to be heard and involved in decisions which affect them.
- Responsible: Having opportunities and encouragement to play active and responsible roles in their schools and communities, and where necessary, having appropriate guidance and supervision and being involved in decisions that affect them.
- Included: Having help to overcome social, educational, physical and economic inequalities and being accepted as part of the community in which they live and learn.

A range of evidence has informed this Children's Rights and Wellbeing Impact Assessment (CRWIA), including a full public consultation, *Empowering Schools: A Consultation on the Provisions of the Education (Scotland) Bill*²; evidence gathered through the *Empowering Teachers, Parents and Communities to Achieve Excellence*

¹ Getting it right for every child: Wellbeing Indicators - <http://www.gov.scot/Topics/People/Young-People/gettingitright/wellbeing>

² Empowering Schools: A Consultation on the Provisions of the Education (Scotland) Bill - <https://consult.gov.scot/learning-directorate/education-scotland-bill/>

	<p><i>and Equity in education – A Governance Review</i>³; and engagement with organisations representing children and young people.</p> <p>The evidence as put forward below suggests the Education Bill will have a positive impact on children’s rights and wellbeing.</p> <p>The proposed legislative changes will have a positive effect on the life and work of schools and their staff which will in turn improve the quality and effectiveness of learning by children and young people.</p>
Background	<p>The Education (Scotland) Bill will create a school and teacher-led education system, centred on the child. It will enable trusted professionals, working with young people, their parents and communities, to take decisions that shape the education of young people in classrooms. Such learner-focused, professional decision making is already a presumption of the Curriculum for Excellence framework and is vital if all individual learners are to be able to achieve their full potential, regardless of their background.</p> <p>Improving the education and life chances of Scotland’s children and young people is the defining mission of the Scottish Government. There is a strong and shared commitment to the vision of excellence and equity for all children and young people across Scottish education as set out in the National Improvement Framework.</p> <p>The Bill will include a number of provisions to enable headteachers to make decisions that most affect learning and teaching in their school, working in collaboration with parents, pupils and the wider school community.</p> <p>The Headteachers’ Charter</p> <ul style="list-style-type: none"> • The aim of the Headteachers’ Charter is to empower headteachers so that decisions that most affect children and young people’s outcomes are made at school level. • As leaders of learning and teaching in their schools, headteachers play a critical role in achieving excellence and equity for all pupils. Currently headteachers in Scotland experience different degrees of decision-making power, depending on local circumstances. • The Bill will set out the rights and responsibilities of headteachers to be the leaders of learning and teaching in their schools, and clarify the responsibilities that education authorities have to support their headteachers and schools. Education authorities will be required to delegate to headteachers responsibility for the Charter curriculum, improvement, staffing and budgetary functions. • The Bill will clarify that education authorities continue to hold statutory responsibility for the provision of education, and that headteachers – as officers of the education authority – are responsible for discharging delegated functions within the existing legislative framework. • Headteachers will continue to lead their schools within a framework of professional standards which include commitments to policies and practices which highlight the rights of children and young people. • The Bill recognises that education authorities continue to hold a wide range of statutory duties and contractual obligations that are relevant to the Charter functions – such as their duties as employer to ensure recruitment processes are

³ Empowering Teachers, Parents and Communities to Achieve Excellence and Equity in education – A Governance Review - <http://www.gov.scot/Publications/2016/09/1251>

fair and employees' rights honoured. The Bill supports this by including provision that enables education authorities to discharge Headteachers' Charter functions on behalf of the headteacher to remedy or avoid the breach of a statutory or contractual obligation of the authority.

- The Bill will also set out the support headteachers can expect to receive to meet the needs of their school communities by clarifying the responsibilities that education authorities will need to fulfil in order to enable headteachers to lead.

Regional Improvement Collaboratives

- The Bill will establish Regional Improvement Collaborative areas to bring together and, through focussed collaboration, enhance the educational improvement support and advice that education authorities, Education Scotland and others provide to practitioners and pupils.
- The purpose of these RICs is to provide a framework for collaborative working in order to ensure that schools across each region receive consistent, responsive and high quality improvement support which has a positive impact on children's learning.
- RICs will have a collective focus centred on a duty to collaborate in the development and delivery of a regional improvement plan. This plan will build on the support provided by individual authorities and will be informed by the priorities identified by schools across the region. The scope of this collaborative working is informed by the report of the Joint Scottish Government / Local Government Steering Group on Regional Improvement Collaboratives, which has been accepted by both the Scottish Government and by local government.
- RICs will not be new bodies and are not intended to replace or displace the educational support currently provided by education authorities to educational staff and establishments in their area. Rather, they provide the space for education authorities, Education Scotland and other partners to work together in sharing knowledge and best practice, in identifying and developing joint approaches to address regional educational improvement priorities, and in promoting and supporting collaborative working.

Parental Involvement and Engagement

- The Bill amends the Scottish Schools (Parental involvement) Act 2006 (the 2006 Act) in order to strengthen legal duties on parental involvement and parental engagement and to complement a wider national policy action plan.
- The Bill seeks to underpin more of a collaborative approach to parental involvement, strengthening current duties relating to headteachers in order to require them to collaborate with Parent Councils and the wider Parent Forum as appropriate in the development of school improvement plans and significant policies or decisions.
- The Bill makes a number of amendments in order to fully reflect the role of schools in promoting and supporting parental engagement in children's learning. For instance, Scottish Ministers and education authorities are required to promote and support parental engagement in learning and headteachers are required to provide appropriate information and advice to parents in order that they can support their children's learning.
- There are also amendments to clarify the application of the 2006 Act to early learning and childcare (ELC) and to extend its application to ELC provision in education authority nursery schools, as well as ELC provision which is funded but not provided by the public sector. In line with consultation responses, the duties in

	<p>relation to ELC providers will enable a high degree of flexibility for providers to tailor their approach to involving and engaging parents to their own circumstances.</p> <p>Pupil Participation</p> <ul style="list-style-type: none"> The Bill provides a duty on headteachers to promote and support pupil participation. The ‘promotion’ element of the duty is intended to support pupil participation across a range of matters related to the life and work of the school. The ‘support’ element is intended to underpin effective interventions to ensure that <i>all</i> pupils can participate. <p>The Scottish Government is committed to ensuring that all children and young people are given the best possible opportunities. The provisions within the Bill will enhance and strengthen Scottish school education and as a consequence children’s rights and wellbeing will be enhanced. The provisions will ensure children, young people and parents have a stronger voice in schools and empower school leaders to shape their school’s curriculum to meet the needs of the children and young people in the school.</p>
<p>Scope of the CRWIA</p>	<p>The likely effects of the proposed provisions in the Bill were assessed using a range of evidence, including an extensive public consultation - <i>Empowering teachers, parents and communities to achieve Excellence and Equity in Education - A Governance Review</i> which was carried out between September 2016 and January 2017 to gather views on how education governance in Scotland should be reformed. Further to that consultation the Government published <i>Education Governance – Next Steps: Empowering our Teachers, Parents and Communities to deliver Excellence and Equity for our Children</i>⁴ in June 2017 which set out the reform agenda including identification of the areas being taken forward both through this Education Bill and also through non-legislative measures. Views on the proposed content of the Education Bill were also sought through the <i>Empowering Schools: A Consultation on the Provisions of the Education (Scotland) Bill</i> consultation which took place between November 2017 and January 2018.</p> <p>In relation to the parental involvement and engagement amendments contained within the Bill, the Scottish Government’s proposals also draw on recommendations from an independent review of the Scottish Schools (Parental Involvement) Act 2006 conducted by the National Parent Forum of Scotland and published in May 2017⁵.</p> <p>Whilst developing the policies which form the Education Bill, Scottish Government policy officials and analytical services colleagues have examined a range of evidence, including research reports and studies.</p>
<p>Children and young people’s</p>	<p>The “Excite.ed” Consultation and survey project⁶ was conducted by Young Scot, Children in Scotland and Scottish Youth Parliament in collaboration with the Scottish Government for the government’s <i>Empowering teachers, parents and communities to achieve Excellence and Equity in Education - A Governance Review</i> in 2016. The</p>

⁴ Education Governance – Next Steps: Empowering our Teachers, Parents and Communities to deliver Excellence and Equity for our Children - <http://www.gov.scot/Resource/0052/00521038.pdf>

⁵ National Parent Forum for Scotland: Review of the Impact of the 2006 Parental Involvement Act - <https://www.npfs.org.uk/downloads/review-of-the-impact-of-the-2009-parental-involvement-act/>

⁶ Excite.ed - How to deliver excellence and equity in Scottish Education - <http://www.gov.scot/Topics/Education/education-reform-agenda/Excite-Ed>

<p>views and experiences</p>	<p>survey for the project found that “across Scotland young people feel that ‘not having the confidence to speak out’ was the most common barrier [to having their voices heard in the life/work of schools,] with 61.7% of participants checking this option. Following this, 50.8% thought ‘speaking up is a waste of time as I don’t feel like my thoughts would be taken seriously.’” Additional qualitative discussion sessions reported a general impression amongst the young people involved in the sessions that young people need permission to speak out and are put off and intimidated by being disagreed with. The principal discussion points and subsequent ideas from engagement sessions related to young people having more of a say in what happens in schools in Scotland.</p> <p>A public consultation on the provisions of the Education (Scotland) Bill launched on 7th November 2017 seeking views on detailed policy proposals which will inform the final drafting of the Bill. It closed on 30th January 2018 with 870 responses from a wide range of interested parties including individual teachers and parents, parent councils, teacher groups, education authorities, teaching unions and other professional organisations.</p> <p>Several groups who represent or work with young people responded to this consultation including –</p> <ul style="list-style-type: none"> • Save the Children • Children in Scotland • Barnardo’s • Action for Children • Child Poverty Action Group • Scottish Youth Parliament • Youthlink Scotland • Youth Scotland • Together (Scottish Alliance for Children's Rights) • Place2Be • IncludEM • Catch the Light • National Deaf Children’s Society <p>In addition to the Bill consultation the Scottish Government convened a meeting of key third sector organisations who work with young people (Young Scot, Children in Scotland and Scottish Youth Parliament) in order to discuss the detailed plans for the pupil participation provision. Their advice was sought on potential key principles which could be reflected in any accompanying statutory guidance. The Scottish Government continues to engage with the above organisations in relation to the Bill proposals.</p> <p>The Scottish Government involves children and young people directly in the work of the Scottish Education Council and Curriculum and Assessment Board - the two key national boards that have considered matters associated with the education reform proposals.</p>
<p>Key Findings</p>	<p>Pupil Participation</p> <p>Effective pupil participation can have a positive influence on both the quality of learning for children and the quality of decision-making by the school leadership. Research by the University of Stirling has shown that participation in four key arenas</p>

of school life (“formal curriculum”, “extended curriculum”, “decision-making groups” and “informal contact among peers and adults”) was seen by pupils as important for doing well⁷. The study concluded that a “respectful culture of participation, supported by positive pupil / teacher relations, was the valued vehicle for making achievement and attainment possible within a good education.”

Strong commitment to and practical arrangements for pupil participation can help to focus decision-making on the child, in line with the GIRFEC approach.

Research conducted for the Scottish Government’s *consultation Empowering teachers, parents and communities to achieve Excellence and Equity in Education - A Governance Review* by Young Scot, Children in Scotland and Scottish Youth Parliament (the “Excite.ed report”) found a strong desire amongst young people for more effective arrangements for pupil participation in decision-making in schools. This evidence helped to inform the legislative proposals contained within the Bill as well as the wider package of national activities and reforms (e.g. Scottish Learner Panel, national Pupil Participation award).

The provisions which relate to pupil participation will directly impact on children and young people as they set out an entitlement to opportunities for children and young people to take part in meaningful activities, to take responsibility, to make contributions to school life, and to have their views considered. A clear, though flexible, legal underpinning for pupil participation will help to improve the consistency and quality of participation.

Whilst schools can and do support pupil participation in a variety of ways, the increased focus on pupil participation via clear legal duties will have a positive effect by supporting more consistent practice in line with best practice principles and rights-based approaches.

The Headteachers’ Charter

The Headteachers’ Charter will have a positive effect on children and young people.

There is a range of evidence and research that supports the move towards a school and teacher-led system with more decisions being made at school level based on the needs of the children and young people⁸. Curriculum for Excellence places the child at the centre of education, and empowers teachers to develop and deliver a curriculum which suits the needs of each individual child or young person. The Headteachers’ Charter provisions will further empower school leaders to design and develop the learning and teaching that they believe will best meet the needs of children and young people in their school, supporting the national policy commitment to GIRFEC.

The Headteachers’ Charter provisions will empower headteachers to make key decisions about school life. Education authorities will be required to delegate to headteachers responsibility for the curriculum, improvement, staffing and budgetary Charter functions. Headteachers will be required to carry out these functions in accordance with their education authority’s statutory and contractual obligations, and education authorities will be able to step in if necessary to avoid a breach of such an

⁸ William, D (2009). *Assessment for learning: why, what and how?* London: Institute of Education, University of London.

obligation. The Charter is however intended to underpin effective collaborative partnerships between and within schools and education authorities, in order to deliver excellence and equity for all children and young people.

While the Charter empowers headteachers to make key decisions, it also requires them to do so in partnership with their school community. This means headteachers seeking and listening to the views of parents, pupils, staff, the education authority and other partners. The pupil participation provisions in the Bill further strengthen this by making clear that meaningful participation and engagement of pupils should be the norm in all Scotland's schools. Taken together, the provisions are intended to empower school leaders and school communities, and deliver the Scottish Government's vision of a school- and teacher-led system focused on the child.

Parental Involvement and Engagement

Increased parental engagement will have a positive effect on the rights and wellbeing of children and young people. Parental and family engagement has a significant influence on children and young people's attainment alongside a range of other factors such as socio-economic background, parents' educational attainment, family structure or ethnicity.

In recent years, practice and approach to parental involvement in schools has continued to evolve and improve, with an increasing emphasis on supporting parents' engagement in their children's learning. The legislative changes both reflect and build on this.

All children have the potential to be positively affected by the amendments to parental involvement legislation which will apply to all Education authorities and all headteachers of public schools. These legislative changes will encourage and support involvement by parents in how the school is run, its ethos and its engagement with its community, underpinning a more collaborative approach.

Currently, Scotland's parental involvement legislation focuses on supporting parents to be involved in the work of the school. The legislative changes will retain this element but it will also place schools under a duty to provide appropriate support and information to support children's learning at home. The amendments will therefore provide a clearer legislative basis for schools' role in supporting parents' engagement in their children's learning.

Regional Improvement Collaboratives

Regional Improvement Collaboratives will have an indirect positive effect on children and young people. The Bill will provide the legislative underpinning for the establishment of RICs which will support education authorities across the region in collaborating together, and with Education Scotland, to ensure and enhance educational improvement support to schools and practitioners. This will improve outcomes for children and young people by ensuring that schools across the region have access to high-quality, educational improvement support, and by facilitating the sharing of best practice between schools and practitioners.

	<p>Strengthening collaborative working to improve educational outcomes is based on a range of evidence, including that of the OECD⁹, the Governance Review¹⁰ and the School Improvement Partnership Programme¹¹.</p> <p>These sources suggest that strengthening and focussing collaboration leads to improved outcomes. The evidence suggests that consistency in collaborative professionalism and the adoption of higher quality collaborative practices have the most positive effects on children and young people's learning. The RICs will therefore support and advise schools in considering the kinds of collaboration and best practice that are proven to enhance learning, and will support and promote a culture of collaboration across the education system.</p>		
Conclusions and Recommendations	<p>The available evidence suggests, either directly or indirectly, that the Education (Scotland) Bill will have a positive impact on children's rights and wellbeing.</p> <p>Overall, the proposed legislative changes will have a positive effect on the life and work of schools and their staff which will in turn improve the quality and effectiveness of learning by children and young people. The Education (Scotland) Bill will improve the rights, wellbeing and participation of children and young people.</p> <p>After assessing the impact of these policies on the rights of children and young people it is the Government's intention to proceed with the Education (Scotland) Bill. We would consider that any impact that the Bill does have on children would be positive. The provisions not only comply with the UNCRC requirements, but also have the potential to advance the realisation of children's rights and wellbeing.</p>		
Monitoring and review	<p>Responsible official: Chris Graham, Bill Team Leader</p> <p>Timetable: Throughout the parliamentary process of the Education (Scotland) Bill and during the implementation of the provisions within the Bill.</p> <p>Methodology: Through engagement with children and young people, and with stakeholders and policy officials who represent children and young people.</p>		
Bill - Section	Aims of measure	Likely to impact on . . .	Compliance with UNCRC requirements
Parental Involvement and Engagement	<p>To encourage and support involvement by parents in how the school is run and its ethos.</p> <p>To encourage and support parents' engagement in their children's learning and development.</p>	<p>All school age children in Scotland who attend education authority schools and children in early learning and childcare settings provided by education authorities.</p>	<p>The policy does not impinge on any of the UNCRC articles.</p> <p>We would consider that it advances a range of UNCRC articles, in particular Article 5 (parental guidance and a child's evolving</p>

⁹ Improving Schools in Scotland: An OECD Perspective -

<http://www.oecd.org/education/school/improving-schools-in-scotland.htm>

¹⁰ Empowering Teachers, Parents and Communities to Achieve Excellence and Equity in education – A Governance Review - <http://www.gov.scot/Publications/2016/09/1251>

¹¹ Education Scotland, School Improvement Partnership Final Report (2016)

<https://education.gov.scot/improvement/documents/sippfinalreportsept16.pdf>

			<p>capacities) and Article 18 (parental responsibilities and state assistance). Good parental engagement in children's learning requires parents to be provided with the right support and advice, to be invited to provide their views and to contribute to their children's education. By requiring schools to collaborate more with parents we will help to further the responsibilities of parents to provide direction to their children as they grow up.</p>
<p>The Headteachers' Charter</p>	<p>To empower headteachers to make the decisions that most affect learning and teaching in their school, working in partnership with their school community.</p>	<p>All school age children in Scotland who attend education authority schools.</p>	<p>The policy does not impinge on any of the UNCRC articles.</p> <p>We would consider that it advances a range of UNCRC articles including Article 3 (The best interests of the child), Article 6 (The right to develop through life), Article 12 (Respect of the views of the child), Article 28 (The right to an education) and Article 29 (Schools should help children develop their skills and personality fully and prepare them for adult life). Ensuring that headteachers are able to fully lead learning and teaching in their own schools will mean that learning experiences and outcomes will reflect the individual needs and aspirations of children and young people, meeting their best interests and enabling their educational and broader development within the Curriculum for Excellence framework.</p>

<p>Regional Improvement Collaboratives</p>	<p>To reduce inconsistencies in support and ensure that schools, practitioners and children have access to high-quality, responsive education support and advice.</p>	<p>All school age children in Scotland who attend education authority schools, children in early learning and childcare settings provided by education authorities. (It may also affect children who attend grant-aided schools to a lesser extent.)</p>	<p>The policy does not impinge on any of the UNCRC articles.</p> <p>We would consider that it advances a range of UNCRC articles including Article 3 (The best interests of the child), Article 6 (The right to develop through life) and Article 28 (The right to an education). Ensuring that headteachers and their staff and pupils are able to receive high quality support will mean that their individual needs and aspirations are more likely to be met.</p>
<p>Pupil Participation</p>	<p>To encourage and support better participation of pupils in the life of their school and in their own learning.</p>	<p>All school age children in Scotland who attend education authority schools, children in early learning and childcare settings provided by education authorities.</p>	<p>The policy does not impinge on any of the UNCRC articles.</p> <p>We would consider that it advances a range of UNCRC articles, in particular Article 12 (respect for the views of the child) and Article 13 (freedom of expression). Effective arrangements for pupil participation across the formal and informal curriculum, decision-making and wider community engagement helps to ensure that children can express their views and wishes. It provides an environment where all children can help to influence and shape their experience in school, and to ensure that a child's background, confidence or previous experience does not become a barrier to making their views known.</p>