

DRAFT EDUCATION (SCOTLAND) BILL: EQUALITY IMPACT ASSESSMENT

[Draft 26 June 2018]

Executive Summary

1. 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 improve the life chances of children and young people.

2. 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:

- 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.

3. Specifically, the Bill aims to support the following four key policy objectives:

- 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 COSLA;
- Strengthening parental involvement and engagement by making the existing legal duties in relation to parental involvement clearer, 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.

4. This Equality Impact Assessment (EQIA) examines the impact of the Education (Scotland) Bill on each of the protected characteristics, which are the groups protected under the Equality Act 2010: age; disability; gender including pregnancy; gender reassignment; sexual orientation; race and religion or belief.

5. The EQIA process has not identified any situation where the Bill will have a detrimental impact on any protected characteristics. The Scottish Government will continue to engage closely with stakeholders to ensure that equalities issues continue to be considered throughout the policy development process.

Background

6. 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.

7. 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.

8. 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.

The Headteachers' Charter

9. 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.

10. 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.

11. 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.

12. 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.

13. Headteachers will continue to lead their schools within a framework of professional standards which include commitments to policies and practices which support equality and diversity and to critically examining personal and professional attitudes and beliefs and challenging assumptions and professional practice.

14. 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 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.

15. 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

16. 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.

17. The purpose of these RIC areas 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.

18. 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.

19. 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

20. The Bill contains a series of amendments to Parental Involvement legislation aimed at strengthening, modernizing and extending the legislation. This is in response to the Scottish Government's previous education governance review as well as an independent review of the Scottish Schools (Parental Involvement) Act 2006 (the 2006 Act) conducted by the National Parent Forum of Scotland.

21. The Bill requires headteachers to collaborate with parents in formulating school improvement plans and/or major changes to school policies. This is intended to support a partnership approach across all school settings in line with the objectives of the National Improvement Framework and broader education policy aims.

22. The Bill retains and strengthens the duties on education authorities in relation to parental involvement strategies. In addition to reformulating the strategies as "parental involvement and engagement" strategies, the Bill will impose a duty on education authorities to review their strategies at least every three years.

23. The Bill extends the parental involvement and engagement legislation to cover all early years establishments that deliver state-funded Early Learning and Childcare (ELC). Duties will be applied in different ways to different early years contexts. The duties have been framed to be as general and flexible as possible, so as to provide the opportunity for providers to tailor their approach to their own context, capacity and ethos.

24. The Bill's provisions on parental involvement and engagement will be accompanied by a broader three-year joint Scottish Government / Convention of Scottish Local Authorities Action Plan on parental involvement and engagement. The action plan will contain a section

on equalities and equity and a number of specific commitments across a range of groups including armed services families, fathers, ethnic minority parents, gypsy/travellers, parents with learning disabilities, separated parents and British Sign Language users.

Pupil Participation

25. The Bill provides a duty on education authorities 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 *all* pupils can participate.

EQIA Development Process

26. At the beginning of the EQIA development process, an initial framing meeting was held to discuss in detail the policy intentions of the Bill. This meeting included analytical colleagues, who provided evidence for the EQIA, and a range of Scottish Government policy officials who provided their perspectives and understanding of the impact of the policy intentions.

The Scope of the EQIA

Assessment

27. The internal framing workshop considered the potential positive and negative impacts of the policy intentions of the Bill on each of the protected characteristics. The outputs of this workshop were taken forward by policy and analytical colleagues who conducted further research, identified gaps in knowledge and provided evidence to support the preparation of the EQIA.

Key data

28. A variety of information sources were used in developing the assessment including research and statistical data obtained by analytical colleagues. Evidence included the annual pupil, teacher and independent school censuses and the Scottish population census undertaken every ten years. Themes arising from consideration of this evidence are reflected in the summary of key findings.

Consultation

29. The likely effects of the proposed provisions of the Bill were assessed using a range of evidence, including an extensive public consultation, *Empowering teachers, parents and communities to achieve Excellence and Equity in Education - A Governance Review*¹, 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 *Education Governance – Next Steps: Empowering our Teachers, Parents and Communities to deliver Excellence and Equity for our Children*² in June 2017 which set out the reform agenda including identification of the areas being taken forward through both this Education Bill and through non-legislative measures.

30. In relation to the parental involvement and engagement provisions contained within the Bill, the Scottish Government's proposals also draw on recommendations from an

¹ Empowering Teachers, Parents and Communities to Achieve Excellence and Equity in education – A Governance Review - <http://www.gov.scot/Publications/2016/09/1251>

² 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>

independent review of the Scottish Schools (Parental Involvement) Act 2006 conducted by the National Parent Forum of Scotland and published in May 2017.

31. Views on the proposed content of the Education Bill were also sought through *Empowering Schools: A Consultation on the Provisions of the Education (Scotland) Bill*³ which took place between 7th November 2017 and 30th January 2018. This attracted a number of responses from organisations with an interest in equalities issues.

32. Non-confidential consultation responses were published⁴ on the Scottish Government website on 27th February 2018. The independent analysis of the consultation responses was published⁵ on 30th April 2018.

33. No specific equality related questions were asked in the formal consultations noted above.

Potential Impacts

Key Findings

34. The results of analysis of the evidence and impacts of the Bill provisions on each of the protected characteristics are set out in the following sections of this document.

CHARACTERISTIC: AGE⁶

35. The public sector equality duty, insofar as it concerns age, does not apply to the exercise of a function relating to the provision of education to pupils in schools under the Equality Act (2010).⁷

The Headteachers' Charter

36. The Headteachers' Charter provisions within the Bill are intended to improve the educational outcomes of all children and young people who attend education authority schools.

37. We have considered the impact of the Charter on age in relation to the education workforce that will be affected by the proposals – in particular, headteachers. Data from the 2017 teacher census⁸ shows that over the last decade the average age of the teaching workforce across all promoted and un-promoted posts has lowered from 43 years in 2008 to 41 years in 2017. However the average age of headteachers remains significantly older than that of teachers in un-promoted posts. This is to be expected since the latter category will

³ Empowering Schools: A Consultation on the Provisions of the Education (Scotland) Bill - <https://consult.gov.scot/learning-directorate/education-scotland-bill/>

⁴ Empowering Schools: A Consultation on the Provisions of the Education (Scotland) Bill – Published Responses - https://consult.gov.scot/learning-directorate/education-scotland-bill/consultation/published_select_respondent

⁵ Analysis of responses to Empowering Schools A consultation on the Provisions of the Education (Scotland) Bill - <http://www.gov.scot/Publications/2018/04/6098/downloads>

⁶ 'Definitions of Protected Characteristics' are set out at: <http://www.equalityhumanrights.com/private-and-public-sector-guidance/guidance-all/protected-characteristics>

⁷ Guidance on protected characteristics in relation to schools is set out here: <https://www.equalityhumanrights.com/en/commission-scotland/public-sector-equality-duty-scotland>

⁸ Teacher Census 2017 - <http://www.gov.scot/Topics/Statistics/Browse/School-Education/teachcenssuppdata/TeaSup2017>

include newly qualified teachers and those in the early stages of their careers, and members of most professions will generally be expected to have gained experience before achieving promotion. In 2017 the average age of a head teacher in primary schools was 48 compared to 38 for a classroom teacher, and in secondary schools it was 50 for head teachers compared to 40 for classroom teachers. It is therefore possible that legislation that affects the headteacher role could have an indirect impact on the characteristic of age. However, significant work has already been undertaken by employers to promote equal opportunity to individuals of all ages in the teaching workforce, and we do not believe this issue will be negatively affected by the Headteachers' Charter provisions.

Regional Improvement Collaboratives

38. We expect the Regional Improvement Collaboratives to have a positive effect on the educational improvement support that is provided to children and young people in schools and in the education authority early years environment. It will however be important to ensure that RIC activity enhances, and does not simply displace or replicate, current improvement support.

39. The policy is aimed at enhancing the educational improvement support provided in an education authority settings to children and young people. It is therefore expected to benefit all children covered by Curriculum for Excellence, from ages 3 to 18. We have data on the school population across Scotland and further information on the particular support needs of individuals within the RIC will be gathered to help inform the local development of those Collaboratives.

Parental Involvement and Engagement

40. We expect that the improved focus on parental engagement will have neither a positive or negative effect on age. It is anticipated that statutory and best practice guidance will include good practice in involving and engaging different age groups.

Pupil Participation

41. We expect that the improved focus on pupil participation will have neither a positive or negative effect on age. The legislative provisions will relate to children aged 3-18 provided they are educated in an education authority school. Early years settings as well as senior phase settings, and every stage in-between, have developed a range of effective approaches to support pupil voice and influence over their education.

CHARACTERISTIC: DISABILITY

The Headteachers' Charter

42. We have considered the potential impact of the Headteachers' Charter provisions on disabled⁹ pupils and those with additional support needs. In Scotland the framework for the provision of support to learners is framed inclusively around the concept of additional support needs. The associated legislative framework places a number of specific requirements on education authorities to identify, provide for and to review the individual needs of pupils.

⁹ Disability means a physical or a mental condition which has a substantial and long-term impact on your ability to do normal day to day activities. This also includes progressive conditions such as HIV, cancer or multiple sclerosis.

43. The legislation will make clear that empowered headteachers will be working within the existing legislative framework governing education, and that education authorities will continue to discharge their legislative duties within the Equality Act, the Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002 and the Education (Additional Support for Learning) (Scotland) Act 2004 to protect the interests of pupils with additional support needs. Headteachers will therefore have to have regard to the education authority's statutory obligations in this area when they are making decisions about curriculum design, improvement planning, staffing and funding as a result of the Headteachers' Charter.

44. Our view is that the provisions of the Headteachers' Charter should not adversely affect children and young people with additional support needs. Indeed, as the intention of the Bill is to enable decisions to be taken which better respond to the needs of individual children and young people, this should result in a more positive impact on outcomes for children and young people with additional support needs.

45. It is also not anticipated that empowering headteachers will impact adversely on headteachers or other staff with disabilities as the education authority will continue to be their employer and as such will continue to meet its obligations under employment and disability discrimination law. The Bill makes clear that headteachers must act in accordance with their employer's statutory and contractual obligations when discharging Charter functions; and that the staffing function must in particular be carried out in a collaborative way between the headteacher and education authority.

Regional Improvement Collaboratives

46. There is likely to be a positive impact given the pooling of resources and expertise being shared within the Regional Improvement Collaboratives. While in larger RICs it may be more difficult for staff with a disability who need to cover a larger, more remote area to provide support, the use of digital networks and other tools within RICs should support greater flexibility of engagement.

47. The RICs may have a positive impact on this characteristic through the analysis of priorities and the enhancement of support where an inequity of provision has been identified. Expertise can be pooled to support the additional support needs of pupils across the country and to share good examples. Deployment of that expertise will be driven by analysis of the support needs across each region, which has the potential to enhance provision in areas where there may currently be an inequity.

48. The responsibility for the provision of services to meet additional support needs rests with education authorities and is not affected by these provisions. RICs will, however, have a role in identifying how through collaboration they can enhance current sector and subject support, in order to ensure that schools, practitioners and children across Scotland have access to consistently high-quality support and advice.

Parental Involvement and Engagement

49. The intention is that the strengthened legal duties on schools/education authorities will be accompanied by refreshed statutory and best practice guidance linked to broader equalities duties and practical advice and support to schools. The Scottish Government and Education Scotland will work with RIC Leads and national parent organisations on an on-going basis to ensure that schools are provided with an opportunity to share their improvement support requirements in relation to parental involvement and engagement, and; to ensure there are effective arrangements for meaningful parent stakeholder involvement in relation to the priorities for the RICs. The Guidance and Support Package accompanying the Bill will address all protected characteristics, including disability.

50. Scottish Government policy discussions with parents who are British Sign Language (BSL) users, conducted in 2017 as part of the development of Scotland’s BSL Action Plan, indicated additional challenges and barriers for BSL users being involved in their child’s schooling and in being fully engaged in the child’s learning. It is likely that awareness levels and skills amongst schools and Parent Councils in relation to communicating with and fully involving BSL users will vary. If wider evidence on societal awareness and professional skills more broadly are an accurate gauge as to schools then it is possible that similar inconsistencies will be present in relation to physical disability and learning disability.

Pupil Participation

51. The legislative provisions will apply to all children.

52. There is potential for this to have a positive effect if the requirement to support pupil participation is accompanied by effective additional guidance and support in relation to the participation of disabled children, and a further shift in practice or approach at school level.

53. There is a need to ensure that all children’s voices are heard and a duty to engage with children and encourage participation will include pupils with disabilities and/or Additional Support Needs.

54. This will require additional steps to be taken by schools to consider disability in designing their approaches to pupil participation. There are already examples of young people with additional support needs engaging to influence policy nationally and at education authority area level, for example through the Young Ambassadors for Inclusion approach taken forward by Education Scotland.

55. The strengthening of pupil rights in relation to the Additional Support for Learning (Scotland) Act 2004 should complement and support the broad duty on pupil participation included within this Bill. The services which have been established to empower children to use these rights, including advice and information, advocacy support, legal representation and independent children’s views, may be extended to support these provisions. To increase the potential for a positive effect, any development of pupil participation policy and statutory guidance will require to be checked against the framework for disabled children.

CHARACTERISTIC: GENDER INCLUDING PREGNANCY

The Headteachers’ Charter

56. There is currently a gender imbalance in the teaching profession, and marked differences in the characteristics of the primary and secondary headteacher cohorts (*Teachers in Scotland 2017* publication¹⁰):

		% Female	% Male
Headteachers primary	–	86%	14%
Headteachers secondary	–	41%	59%
Teachers - primary		90%	10%
Teachers - secondary		65%	35%

¹⁰ Teachers in Scotland 2017 - <http://www.gov.scot/Publications/2017/12/3099/348575>

57. The Headteachers' Charter provisions will apply equally to any individual in the post of headteacher, regardless of gender. Our view is that the legislation will therefore have neither a positive or negative impact on the protected characteristics of gender. Employers will continue to promote equal opportunities in the teaching profession and the Scottish Government will be working with Education Scotland to bring forward an enhanced leadership support package for all headteachers. Work is underway to identify new career pathways that will provide a more diverse range of opportunities for teachers to progress into leadership and specialist roles.

58. We are not aware of any evidence that indicates the Headteachers' Charter provisions could impact positively or negatively on pregnancy. We have considered whether greater headteacher empowerment in relation to staffing decisions could have an adverse impact on this characteristic if headteachers were to make staffing decisions without due regard to the rights of those with the protected characteristic of pregnancy and maternity.

59. However, the Bill includes provisions to prevent such an outcome: headteachers are required to act in accordance with their employer's statutory and contractual obligations to work collaboratively with their education authority when making staffing decisions; and education authorities are able to intervene to remedy or avoid the breach of such an obligation. The Headteachers' Charter staffing function will therefore be carried out within the existing legislative and contractual frameworks, and therefore with due regard to the Public Sector Equality Duty.

Regional Improvement Collaboratives

60. We expect Regional Improvement Collaboratives to have neither a positive or negative effect on this characteristic.

61. There is a potential for opportunities for part-time staff to engage directly with RICs to be limited and such staff are predominately female. However education authority and Education Scotland members of the RICs will be expected to ensure that decisions are made and actions taken within the existing legislative frameworks and that due regard is given to the Public Sector Equality Duty. Deepening collaborative working between schools and across the providers of specialist support may also benefit staff on less than full-time working patterns.

62. The framework and networks supported by RICs may facilitate access to a wider range of advice and support for practitioners and pupils.

63. We are not aware of any evidence that indicates the RIC provisions could impact positively or negatively on pregnancy. However, as above, deepening collaboration in the provision of advice and support to schools could facilitate access to a wider range of advice and support for those in the school setting who are pregnant or caring for babies.

Parental Involvement and Engagement

64. The intention is that the strengthened legal duties on schools and education authorities will be accompanied by refreshed statutory and best practice guidance linked to broader equalities duties and practical advice and support to schools. The introduction of a new suite of guidance is expected to have a positive impact on approach and practice in relation to all equalities categories including gender.

65. The Scottish Government and Education Scotland will work with RIC Leads and national parent organisations on an on-going basis to ensure that schools are provided with an opportunity to share their improvement support requirements in relation to parental involvement and engagement, and; to ensure there are effective arrangements for meaningful

parent stakeholder involvement in relation to the priorities for the RICs. The Training and Support Package accompanying the Bill will protect all protected characteristics, including gender.

66. The Scottish Government is aware that separated parents in particular can face additional barriers in receiving communications from schools. Strengthened legal duties on parental involvement and engagement overall, provided they are accompanied by refreshed statutory and best practice guidance, may have a positive effect on cultural assumptions and awareness. It should be noted that other factors may be causing these barriers including technical or administrative issues (for instance, education authority pupil enrolment forms which do not always seek the contact details for non-resident parents). Activity to address technical or administrative barriers can be taken forward with education authority partners as appropriate.

67. Fatherhood Institute (2012) *Dads and Learning research on fathers' impact on their children*¹¹ stated that:

“While at first sight gender is the primary driver in fathers’ lesser involvement with children’s education, more subtle research suggests that the picture is more complicated. The major determining factor may be working hours. A number of studies have found little or no difference between mothers’ and fathers’ reading with children, helping with homework, helping out in classrooms or feeling involved in schooling, once the parents’ working hours are taken into account.”

Notwithstanding the specific root cause of any difference, it would appear that there are disparities in the level of involvement between fathers and mothers.

68. Differences in involvement in Parent Councils between men and women were also noted in the review of the 2006 Act. The intention is that guidance accompanying the amended duties and powers on parental involvement and engagement will therefore stress the importance of aiming for a broad gender balance in Parent Council membership and will encourage schools to further develop their approaches to engage and involve both parents.

69. These provisions will not impact either positively or negatively on pregnancy. We have no specific evidence at present in relation to schools’ success in involving parents in this category.

Pupil Participation

70. The legislative provisions will apply to all children. It is clear from the available evidence that there can be differences in how young people respond to and engage with efforts to aid their participation in schooling and learning. For instance, a 2017 study by the University of Edinburgh found that

“in terms of decision-making boys were found to express a greater sense of impact and influence on decision-making at school, compared to girls. While these differences were not significant, gender disparities were consistent across a range of items in questionnaire responses.”¹²

¹¹ Fatherhood Institute (2012) *Dads and Learning: The research on fathers' impact on their children* - <https://www.foundationyears.org.uk/wp-content/uploads/2012/03/Dads-and-learning.pdf>

¹² Brown, J., Croxford, L., & Minty, S. (2017) *Pupils as Citizens: participation, responsibility and voice in the transition from primary to secondary school* - http://www.docs.hss.ed.ac.uk/education/creid/Projects/37_i_PupilAsCitizens_FinalRpt.pdf

71. The statutory guidance accompanying the pupil participation duty will therefore provide a steer to schools about the importance of responding to gender issues and potential biases in determining the methods of participation made available to pupils across the school.

72. The provision of this targeted guidance should help to encourage and support approaches which take greater account of gender in both the design and implementation of pupil participation.

CHARACTERISTIC: GENDER REASSIGNMENT

Headteachers' Charter

73. We are not aware of any evidence that indicates the Headteachers' Charter provisions could impact positively or negatively on this protected characteristic either in respect of children and young people or the staff within schools.

74. The Bill requires that headteachers must act in accordance with the education authority's statutory and contractual obligations, including the Equality Act 2010. This will include supporting any pupil or member of staff changing gender. Although the term 'gender reassignment' is used in the legislation, a young person does not need to have undergone any changes or have any medical treatment or assessment for the Act to apply. The Equality Act does not allow teachers to make discriminatory statements about others, or allow young people to make discriminatory statements about their peers.

Regional Improvement Collaboratives

75. These provisions will not impact either positively or negatively on this protected characteristic, however the child-centred framework and networks supported by Regional Improvement Collaboratives should facilitate access to a wider range of advice and support for practitioners and pupils.

Parental Involvement and Engagement

76. These provisions will not impact either positively or negatively on this protected characteristic.

77. The legislative provisions will apply to all parents, including parents with gender reassignment and parents of children with gender reassignment. The intention is that the strengthened legal duties will be accompanied by refreshed statutory and best practice guidance. This guidance will seek to link to schools' broader equalities duties and will seek to provide practical advice on how to ensure that all parents can be supported to take part in their child's learning.

78. If the legislative changes are not accompanied by wider efforts to influence culture and approach, the effect will be neutral.

Pupil Participation

79. The legislative provisions will apply to all children including those with gender reassignment provided they are educated in a state school. The intention is that the legal duty on pupil participation will be accompanied by statutory and best practice guidance. This guidance will seek to address any additional barriers faced by specific groups, and will seek to provide advice to schools on how to ensure that all young people, including those with gender reassignment, are supported to participate.

80. If the legislative changes are not accompanied by wider efforts to influence culture and approach, the effect will be neutral

CHARACTERISTIC: SEXUAL ORIENTATION

The Headteachers' Charter

81. We are not aware of any evidence that indicates the Headteachers' Charter provisions could impact positively or negatively on this protected characteristic. Empowered headteachers will be required to act in accordance with the Public Sector Equality Duty and will continue to ensure pupils from LGBTI backgrounds are included and supported in decisions that affect their education.

Regional Improvement Collaboratives

82. Regional Improvement Collaboratives could have a positive effect as they will provide strong, positive support across each RIC, through the sharing of best practice, which will be of particular benefit to schools and staff with limited experience of supporting LGBTI pupils. The collaborative framework and networks supported by RICs may facilitate access to a wider range of advice and support for practitioners and pupils.

Parental Involvement and Engagement

83. International research has shown that gay or lesbian parents may face additional barriers arising from broader parental or cultural attitudes¹³. Further research has shown that parents who feel more accepted by other parents reported more involvement and better parent-teacher relationships.¹⁴ The strengthened legal duties on parental engagement will apply to all parents regardless of sexual orientation. The impact of the introduction of the duties is expected to be positive, provided that, as planned, the strengthened legal duties on schools and education authorities are accompanied by clear guidance, training and improvement activity on inclusive approaches to involving and engaging parents. The expectation is that this guidance will be accompanied by a further package of training and support materials for schools which will address all equalities categories including sexual orientation.

84. If the legislative changes are not accompanied by wider efforts to influence culture and approach, the effect will be neutral.

Pupil Participation

85. The impact is expected to be positive, provided that, as planned, the strengthened legal duties on schools and education authorities are accompanied by clear guidance and improvement activity on inclusive approaches to ensuring that all pupils' voices are supported to be heard. There are a range of participatory methods that schools can adopt in order to ensure that pupils from LGBTI backgrounds are supported to participate and to address any barriers to their involvement. Rights-based approaches in particular have been shown to play a very positive role in supporting and enhancing the quality of participation. The duty on pupil participation will be accompanied by statutory guidance which will address all equalities

¹³ Centre for Family Research, University of Cambridge (2009) Different Families: The experiences of children with lesbian and gay parents -

https://www.stonewall.org.uk/sites/default/files/Different_Families_2010_.pdf

¹⁴ A. E. Goldberg and J. Z. Smith (2014) Predicting Parents' School Engagement Among Lesbian, Gay, and Heterosexual Adoptive Parents of Kindergarteners -
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4182874/>

categories including sexual orientation. Publication and roll-out of this guidance, accompanied by Education Scotland's best practice guidance on learner engagement, will help to encourage and support the adoption of a wider range of approaches by schools.

86. If the legislative changes are not accompanied by wider efforts to influence culture and approach, the effect will be neutral.

CHARACTERISTIC: RACE

The Headteachers' Charter

87. We are not aware of any evidence that indicates the Headteachers' Charter provisions could impact positively or negatively on this protected characteristic. The Charter is intended to empower headteachers to make the decisions that will most affect outcomes for children and young people, with a view to raising attainment and closing the poverty related attainment gap.

88. We have also considered the impact of the provisions on the teaching workforce. People from ethnic minority groups are under-represented amongst the teaching workforce in Scotland, especially in senior roles. Data from the 2017 teacher census shows that of the 95% of all teachers who disclosed their ethnicity, 3% were white-other (not Scottish or other British) and 1% were from other ethnic groups. This data can be compared to the Scottish population as a whole, looking at 25-64 year olds in Scotland's Census 2011¹⁵. This showed that 5% of this population was white-other and 4% was from other ethnic groups. For teachers in senior roles, the 2017 census showed that there were 18 head teachers and deputy head teachers from other ethnic groups out of a total of 4,702.

89. The Headteachers' Charter will apply equally to all individuals in the post of headteacher, regardless of ethnicity. While the Charter will empower headteachers to make key staffing decisions about their school, they will be required to do so in accordance with the statutory and contractual obligations of their employer, and to work in partnership with the education authority as employer. The Charter functions will therefore be discharged within the existing legislative and contractual frameworks, including the Public Sector Equality Duty.

Regional Improvement Collaboratives

90. We have considered whether the Regional Improvement Collaborative provisions could impact positively or negatively on the protected characteristic of race. A central purpose of the RICs is, through collaboration, to enhance the provision of educational support in order to ensure and support equity for all children and young people, as well as for education practitioners. RIC work plans and priorities will be delivered by education authority and Education Scotland staff, who are expected to give due regard to the Public Sector Equality Duty. We therefore expect there to be a neutral effect on this characteristic, with the potential for a positive effect should any inequity of support be identified.

Parental Involvement and Engagement

91. As part of the National Parent Forum's review of the 2006 Act, two focus groups were held with parents from minority ethnic backgrounds. Various examples of additional obstacles were cited in the evidence gathering work for the review. For example, school handbooks only being provided in English, resulting in parents being unsure about the processes of their child's school and feeling that the school could make more effort to ensure they fully understood the messages being conveyed. Examples of good practice in schools were also identified. These

¹⁵ Scotland's Census 2011 - <http://www.scotlandscensus.gov.uk/census-results>

included extra support and outreach around language, successful home visits where extra language support was offered and after-school clubs that offered language support to small groups of parents. Having interpreters present at parents' nights was also greatly valued.

92. Respondents to an additional questionnaire for the review reflected on the perceived 'cliquey' nature of parent councils, a feature which would have the potential to impact on the quality of involvement (in formal parental representation activities) for minority ethnic parents.

93. An earlier study (the "Gathered Together" project by BEMIS and Scottish Parent Teacher Council (now called Connect) identified a range of barriers to the successful involvement of parents from black and ethnic minority backgrounds.¹⁶

94. Barriers can also be faced by gypsy/traveller families due to practical issues as well as experiences of racist treatment which can have a further negative influence on a family's engagement in education.

95. The intention is that the strengthened legal duties on parental involvement and engagement will be accompanied by statutory and best practice guidance as well as a package of training and support to the sector. There will be a strong focus on minority ethnic parents as part of this guidance and training package. This will draw on the evidence from the NPFS-led review as well as wider sources of evidence and best practice from Scotland and further afield. In addition, the Scottish Government intends to develop specific complementary commitments in relation to parents from black and minority ethnic backgrounds within its planned Action Plan on Parental Engagement and Family Learning.

Pupil Participation

96. The legislative provisions will apply to all children including all races provided they are educated in an education authority school. The duty on pupil participation will be accompanied by statutory guidance. This guidance will have a strong focus on rights-based approaches and will address all equalities categories including race and ethnic background. Publication and roll-out of this guidance, accompanied by Education Scotland's best practice guidance on learner engagement, is expected to encourage and support the adoption of a broader range of approaches by schools.

CHARACTERISTIC: RELIGION OR BELIEF

The Headteachers' Charter

97. The Headteachers' Charter provisions will empower headteachers to design and develop the curriculum that best meets the needs of the children and young people in their school, in accordance with the national framework on the curriculum in Scottish schools. The Bill will ensure that headteachers continue to follow the existing legislative requirements in respect of Religious and Moral Education. The impact of the legislation will, therefore, be neither positive nor negative in this regard.

98. We have also considered whether the Headteachers' Charter staffing function could have any impact on this characteristic. However, the Bill requires that headteachers act in accordance with the existing statutory and contractual obligations of the education authority and work in partnership with the education authority when making staffing decisions. This will

¹⁶ BEMIS and SPTC, Ethnic Minority Parental Involvement within Parent Groups: (PTAs and Parent Councils) - <http://gatheredtogether.bemis.org.uk/publications/>

ensure that staffing decisions will continue to be made in line with the existing processes that govern and safeguard appointments to denominational schools.

99. Therefore, our view is that there is no evidence to suggest the Headteachers' Charter provisions will impact positively or negatively on this protected characteristic.

Regional Improvement Collaboratives

100. Faith schools will benefit from the opportunities represented by the Regional Improvement Collaboratives to the same extent as any other school with equivalent improvement support needs.

101. There is a potential positive impact as RICs should be able to provide advice and support on religious tolerance. The framework and networks supported by RICs may facilitate access to a wider range of advice and support for practitioners and pupils.

Parental Involvement and Engagement

102. The strengthened legal duties on parental involvement/engagement will apply to all parents regardless of religion or belief, and will apply to denominational as well as non-denominational education authority schools. The most effective approaches to parental involvement and engagement are those that entail maximum flexibility for parents, and are tailored according to the circumstances of the parents. The expectation is that the refreshed statutory guidance on this theme will be accompanied by a further package of training and support materials for schools. The training and guidance will emphasize flexible and parent-centered approaches. This will include the appropriate consideration of parents' beliefs and faith when developing opportunities for parents to be involved. The combined impact of this fresh suite of guidance, training and core duties should therefore be a positive one.

Pupil Participation

103. The legislative provisions will apply to children of all religions or beliefs provided they are educated in an education authority school. The duty on pupil participation will be accompanied by statutory guidance. This guidance, which will have a strong focus on rights-based approaches, will address all equalities categories including religion and belief.

Recommendations and conclusion

104. The EQIA process has highlighted the need for the Scottish Government to continue to engage closely with stakeholders to ensure that equalities issues continue to be at the forefront of education policy development and that any new issues can be dealt with as they arise.

105. The impacts of the Bill on the protected characteristics have been considered as a result of the EQIA. No changes have been proposed to any of the provisions as a result of this process and it is expected that the Bill will help to advance equality of opportunity and foster good relations within and between groups.

106. The EQIA has helped us to ensure that the Bill will develop better outcomes for people and communities through the creation of 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. The Education (Scotland) Bill will encourage better collaboration through the Regional Improvement Collaboratives and promote an increased focus on engagement and involvement in schools from parents and pupils.