

**Education (Scotland) Bill****Report by Grace Vickers – Head of Education****1 Purpose of Report**

The purpose of this report is to provide an overview of the Scottish Government's rationale for including new legislative provisions in the Education (Scotland) Bill which will require local authorities and Scottish Ministers to design and deliver education services in a way which reduces inequalities of educational outcome experiences as a result of socio-economic disadvantage. It also provides a summary of other provisions in the Bill.

**2 Background**

**2.1** The Education (Scotland) Bill outlines that available evidence and data sets tell us that there is a significant gap in the educational attainment between the most and least deprived children and young people. Research shows that the attainment gap which opens up in primary school can widen as young people move through secondary school, leading to an inequitable participation in higher education and employment. It is clear from the available evidence that as educational attainment increases, a positive and sustained destination is more likely, physical and mental health is better and average earnings are likely to be higher resulting in lower poverty levels. As a result the Scottish Government recognise the need to support disadvantaged children more effectively, with many of the key policies and programmes providing targeted support to children and young people from disadvantaged communities ensuring that there are robust accountable measures in place for monitoring and reporting on the progress made. The Bill is presented in three main sections and specifically aims to:

- Take steps to narrow the attainment gap by imposing duties on education authorities and the Scottish Ministers in relation to reducing pupils' inequalities of educational outcome together with a duty to report on progress;
- Place a duty on education authorities both to assess the need for Gaelic medium primary education following a parental request and to actively promote and support Gaelic medium education (GME) and Gaelic learner education; the Bill will also place a duty on Bòrd na Gàidhlig to prepare guidance on how GME should operate in Scotland;
- Extend rights under the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) to children aged 12 and over with capacity;
- Amend section 53 of the Education (Scotland) Act 1980, which sets out the provision for school meals in Scotland. This section has been amended a number of times since enactment and it is considered that the section would benefit from restatement;
- Modify the types of complaints made to Ministers under section 70 of the Education (Scotland) Act 1980, and introduce a power to make regulations about the procedure to be followed in relation to investigations and determination of such complaints;
- Legislate for the role of Chief Education Officer in Education Authorities in Scotland;
- Modify the powers of the Scottish Ministers to make regulations in relation to independent schools and grant-aided schools in Scotland in such a way as to ensure all teaching staff are registered with the General Teaching Council for Scotland; and

- Amend section 47(3) of the Children and Young People (Scotland) Act 2014 as it currently unintentionally excludes a small group of children from the early learning and childcare provisions.

### **3 Report Implications**

#### **Part one: To reduce inequalities of outcome for all, specifically those experiencing socio-economic disadvantage:**

Midlothian Council is already fully committed to closing the educational attainment gap by reducing social and educational inequality. The core principles of preventative action and the targeted areas initiative is central to this work. Recent improvements in performance by the end of S4 and an increase in positive destinations are early signposts that the work already being undertaken is having a positive impact on improving outcomes. In addition, Midlothian Council is also involved in the national Raising Attainment for All (RAFA) programme which commenced in March 2015.

In April 2015 an update on the progress of the Child Poverty in Midlothian Action Plan 2012-17 was presented to Council. This action plan has five thematic priorities: supporting families; building resilience; supporting vulnerable young people; addressing inequalities; and widening access to services. Where appropriate, officers will link the work on Child Poverty and reducing inequalities in educational attainment.

The Bill also proposes a duty to publish and submit a report to Ministers. This report is expected to cover, over a two year period, the progress made towards the delivery of a more equitable education and the plans for further activity to close the attainment gap. An update on the impact of educational benefits to pupils is expected to be a central part of this report. Midlothian Council has well-established processes for reporting on attainment, achievement and progress over time and this will be available to support required reporting to the Scottish Government.

#### **Chief Education Officer**

The Bill specifies that all local authorities appoint a Chief Education Officer who must have qualifications “as may be prescribed” by the Scottish Government together with experience that the education authority considers appropriate. As yet, there is no further guidance from the Scottish Government on the qualifications and experience required.

#### **Part two: Gaelic medium Education (GME)**

The Bill requires all education authorities to assess the need for Gaelic medium primary education following a parental request and to actively promote and support Gaelic medium education (GME) and Gaelic learner education. At present the demand for GME in Midlothian is monitored by placing requests. At present, applications for 5 primary and 3 secondary pupils to attend schools in Edinburgh for GME have been granted.

#### **Part three: Miscellaneous Modifications of Enactments**

Part three of the Bill will extend rights under the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) to children aged 12 and over with capacity. These rights include requesting an assessment, to receive information, to have their views taken into account. GIRFEC (Getting it Right for Every Child) is well established in Midlothian and the principle of extending rights to children aged 12 or over is an important addition to the GIRFEC agenda. While the definition of capacity is fairly clear, there will be challenges

and resourcing implications for education authorities as we have the responsibility to assess and determine capacity, particularly in terms of looking at levels of capacity for children with the most complex needs.

The Bill also proposes that not all rights are extended to children with additional support needs. However it should also be noted that this may be discriminatory in terms of equalities legislation.

The Bill also proposes a statutory children's support service. In Midlothian there is a well established Educational Psychology service which is embedded within the Education Service. This, in addition to the roll out of GIRFEC, should ensure that Midlothian Council continues to strive to meet the needs of all children and young people and is able to meet its statutory obligations.

### **Provision for school meals in Scotland.**

The proposed amendments in the Bill simply restate and make clear the law to avoid the potential for any confusion or misinterpretation for those using legislation. Since no policy changes were being made to section 53 it was considered that no formal consultation was necessary.

### **Amend section 47(3) of the Children and Young People (Scotland) Act 2014**

This section does not reflect a change in policy and addresses the unintentional exclusion of a small group of children from the early learning and childcare provisions.

#### **3.1 Resource**

##### **Financial impact**

Written evidence to the Scottish Parliament Finance Committee has already been requested from Council Finance Officers on the Financial Memorandum for the Education (Scotland) Bill. It is important that, as the Bill passes through the parliamentary process, consultation on the cost of new burdens on Local Government, including those arising from any amendments, are fully assessed and that there is a commitment from Government to fully fund these. This includes the duty to promote Gaelic Medium Education (GME) and the cost of assessing parental requests for GME where implications are that there will be an additional cost to local government.

#### **3.2 Risk**

There are no identified adverse impacts which arise from this Bill.

#### **3.3 Single Midlothian Plan and Business Transformation**

Themes addressed in this report:

- ☐ Community safety
- ☐ Adult health, care and housing
- ☒ Getting it right for every Midlothian child
- ☒ Improving opportunities in Midlothian
- ☐ Sustainable growth
- ☐ Business transformation and Best Value
- ☐ None of the above

#### **3.4 Key Priorities within the Single Midlothian Plan**

Girfec 5: Our people will be successful learners, confident individuals, effective contributors and responsible citizens.

### **3.5 Impact on Performance and Outcomes**

To close the gap by improving 'attainment versus deprivation' and 'attainment for all' outcomes for children and young people.

### **3.6 Adopting a Preventative Approach**

The Education (Scotland) Bill aims to take preventative action in order to close the attainment versus deprivation gap by implementing key policies and programmes which are designed to target support to children and young people from disadvantaged communities.

### **3.7 Involving Communities and Other Stakeholders**

The Scottish Government is carrying out a programme of consultation with stakeholders on the Bill.

### **3.8 Ensuring Equalities**

The proposals in the Bill should continue to promote equity of attainment for disadvantaged children and support the steps being taken towards narrowing the attainment gap by imposing duties on education authorities and the Scottish Ministers, together with a duty to report on progress.

The extension of rights to children with Additional Support Needs will reduce inequalities for this protected group.

The Scottish Government has carried out an Equality Impact Assessment on the Bill and it is available online: [www.gov.scot/Publications/2015/03/1855](http://www.gov.scot/Publications/2015/03/1855)

### **3.9 Supporting Sustainable Development**

There are no impacts arising directly from this report

### **3.10 IT Issues**

There are no IT issues identified arising directly from this report.

## **4 Recommendations**

- To note that a new Education (Scotland) Bill was introduced to the Scottish Parliament on 23 March 2015.
- To note the Council's initial response to this Bill as outlined in this report.
- To note that the Council will continue to engage with the consultation process through direct response to the Scottish Government, ADES and COSLA.

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#### **Background Papers:**

The Bill and its accompanying documents are available on the Parliament's website at: <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/87330.aspx> -