



CONSULTATION

Scottish Government
Education Bill provisions: consultation
18 December 2023

Introduction

NASUWT welcomes the opportunity to comment on a new national qualifications body and a new approach to inspection of education in Scotland, including elements of the proposed Education Bill.

NASUWT is the Teachers' Union, representing teachers and school leaders in all sectors of education.

Question 1: What changes should we consider in terms of how qualifications are developed and delivered that you think would improve outcomes for Scotland's pupils and students?

1. NASUWT would absolutely agree with the aspirations outlined in the Consultation document: 'to have diverse, high quality, robust and relevant qualifications provided in Scotland that are universally recognised and respected in Scotland and beyond.'
2. In terms of achieving these aspirations, the broader context of the working lives of teachers must be considered, given that they will have the prime responsibility for ensuring that any system of qualifications is successful. A steadfast focus on the purpose of public education must be maintained and the needs of teachers and learners should be placed at the centre of any reform recommendations.

In any reforms, the following principles must therefore be given prominence:

- the centrality of the workforce and teacher professionalism in raising standards and narrowing attainment gaps;
 - the need to ensure that teachers and school leaders have working conditions that enable them to focus on their core professional functions and are recognised and rewarded as highly skilled professionals; and
 - ensuring that reform does not increase pressure on teacher and school leader workload.
3. Any changes to qualifications must incorporate the broad principles set out in the Curriculum for Excellence (CfE) of breadth and balance. A range of learning experiences is central to ensuring wellbeing, and both breadth and balance in learning is necessary to close the attainment gap. We need to avoid what has happened heretofore where, in the secondary sector, the hierarchy of qualifications has driven what has happened in the Broad General Education (BGE), which militates against excellence and is not in tune with the principles of CfE. The NASUWT is concerned that those foundational principles of CfE have been lost in the secondary sector due to over-assessment, and that the COVID-19 crisis has exacerbated this existing systemic weakness.
4. The NASUWT believes that the following broad principles should also be considered in any review of qualifications and associated assessment:
- a. assessment should support pupil engagement and empower pupils to take responsibility for their own learning;
 - b. assessment should support a broad and balanced curriculum and should not drive or limit the curriculum offer;
 - c. assessment should be reliable, valid and comparable;
 - d. assessment should be fair and equitable and should recognise the impact of social and cultural assumptions;
 - e. assessment practice should respect and promote the notion of teachers' professional autonomy and judgement;

- f. collaboration and cooperation should be at the heart of assessment practice;
 - g. assessment practice should be efficient and effective, placing minimal workload burdens on teachers and avoiding unnecessary bureaucracy; and
 - h. assessment practice should be reviewed regularly for its impact and effectiveness on pupil outcomes.
5. As it stands, CfE has failed to provide a coherent progression in the journey of learners (3-18 and beyond) that gives them the best possible educational experience and enables them to realise their ambitions. There are a myriad of reasons underpinning this failure, and the following highlights some of the key changes that would need to be made in terms of the development and delivery of any new set of qualifications:
- a) Transitions within the system between the BGE and Senior Phase often do not work effectively;
 - b) Conservatism within Scottish education has ensured that flexibilities within the system (e.g. for talented candidates to bypass National 5) have not been utilised, other than in exceptional circumstances. To achieve the vision of CfE, in reality, schools would need the flexibility to move away from a cohort approach;
 - c) The Senior Phase has created a postcode lottery across Scotland (for example, with some schools offering pupils only 5 or 6 National 5 subjects while others offer 8) and there is a visible tension between local flexibility and national guidance. The lack of a clear framework – such as in the number of subjects to be studied at Senior Phase – clearly causes some difficulties;
 - d) An atmosphere of cognitive dissonance persists across the system with a lack of consistency between data-driven approaches alongside often nebulous guidance; for instance, the BGE, with no clear exemplification of standards, followed by the absolute rigidity of the current SQA qualifications.;
 - e) There is a lack of parity between academic and vocational routes. For example, 'My World of Work' sits in and around academic work, in

the spaces between timetabled classes, and there is insufficient time or support for class teachers to engage with it;

f) Additional Support Needs (ASN) and inclusion, as highlighted in the Morgan Review, remain an afterthought in policy development and curricular design;

g) Responsibility for achieving too many aims is piled onto teachers without sufficient resources;

h) There are very few best practice models available to adopt. Time is needed to develop alternative models, but there is often no time available;

i) Strong school/college partnerships are necessary to see a step-change in the offers made to young people. These require a supportive local authority which buys in and is committed to genuine school/college partnership. For schools to buy in and build a broad timetable there needs to be support provided to management, as whole-school timetable building that includes college availability is challenging;

j) Where schools move away from an exam focus and look to wider CfE aims, it often feels tokenistic – for example, many of the Inter-Disciplinary Learning projects in the secondary sector. This does not bode well for the suggested focus on Inter-Disciplinary Learning that is recommended by the Hayward Review;

k) There persists a culture of using a safety net of focusing on the banking of evidence and registering large swathes of candidates at multiple National Qualification levels which bucks the intent of the system and causes additional workload and stress for both teachers and pupils;

l) The curriculum is supposed to have relevance to day-to-day lives, and more space needs to be provided for Personal and Social Education (PSE), which is often seen as an afterthought, especially in the Senior Phase;

m) Mental health is becoming an increasing issue for all members of the school community and greater priority needs to be given to

supporting the mental health of both teachers and pupils, including dedicated time being made available for this;

n) Cultural issues with hierarchy within the system and within schools persist where command and control rather than collegial cultures exist, thereby creating dissonance with the values of equity, equality and social justice;

o) There have been specific issues with the Scottish Qualifications Authority (SQA) and a lack of transparency around its decision-making and a reluctance to release data, which was particularly evident in the aftermath of the 2020 exam results, something highlighted by NASUWT and also agreed with by the Scottish Parliament's Education and Skills Committee (as it was known at the time): 'We also continue to hold particular concerns about the communication from the SQA and Education Scotland, including both the quality of information shared with the Committee (for example in oral evidence sessions) as well as the way in which decisions and discussions were held with key stakeholders, including pupils and teaching staff... We remain unconvinced that these bodies in their current form are fit for purpose. Confidence among practitioners in these organisations also appears low and it is clear that structural reform is now required.'

p) It is an unusual position to have one body undertaking both a regulatory and awarding function, which the NASUWT would not suggest is replicated in any revamped structures. The SQA is very unusual in that it is a regulator and an 'awarding body' at the same time. In Wales, the regulator/awarding body roles are split between two bodies. In Northern Ireland, CCEA has two very separate wings that have clear boundaries between them to avoid 'self-marked homework'. The NASUWT would suggest that the decision to ignore Professor Muir's recommendations in this area is reconsidered.

6. All of the points outlined in this section are the foundation stones upon which any new qualifications agency should be based.

Question 2: How best can we ensure that the views of our teaching professionals are taken into account appropriately within the new qualifications body, and do these proposals enable this?

7. Before proceeding to explore how the views of teachers are represented within the new qualifications body, it is necessary to consider how their views have been represented as part of this Consultation. Unfortunately, this Consultation (like others before it) is likely to exclude meaningful comment from many teachers because of its timing and approach. The time of the year it has been scheduled (with many schools in the midst of Preliminary Examination diets) and the relatively short timescale, mitigate against the contribution of many teachers. Furthermore, there should have been more sessions of greater diversity organised to seek teacher input (e.g. working with teacher trade unions to organise sessions with their members, as NASUWT has successfully done with both the National Discussion on Education and the 'Let's Be Heard' Scotland Covid-19 Inquiry listening project).

8. As for considering how the views of teachers are represented within the new qualifications body, the current proposals do not go nearly far enough. Despite NASUWT protestations about this in meetings with Scottish Government officials some months ago, the suggestion remains that there be 'at least one teacher... on the Board' of the new organisation. NASUWT would strongly recommend that classroom teachers, plural, must be represented on the Board and, given our democratic structures, would suggest that NASUWT supplies one of these. As our original submission to the Muir Review stated: *The NASUWT is clear that there needs to be a very strong focus on the practitioner voice in any new agency and that this must explicitly include the voice and perspectives of practising classroom teachers.* The plural here should be noted.

9. NASUWT notes the proposal in the Consultation document that there be formed: 'a dedicated committee as part of the organisation's decision-making structures that can provide these range of views on behalf of the teaching professions.' While welcoming this in principle, there is concern around the influence (or lack of) that such a body

would have as there is currently limited detail on the status of any 'advice' provided by it and if this would be binding on the Board or not?

10. An issue the NASUWT has consistently raised in the past was the lack of collaboration and engagement from the SQA, evidenced, in particular, by the exclusion of the NASUWT and others from the National Qualifications Group during the pandemic. More recently, not only has this been addressed, with NASUWT accepting an invitation to join the National Qualifications 24 Group, but there have also been notable efforts by the SQA to review its engagement with classroom teachers and it met with a group of senior NASUWT activists (all Secondary teachers) in November 2023 to try and address this. This is exactly the kind of engagement required by any new qualifications body if it is to gain the trust of the profession.

Question 3: How best can we ensure that the views of pupils, students and other learners are appropriately represented within the new qualifications body, and do these proposals enable this?

11. Putting teachers at the heart of new developments, within a setting-level and national policy context that supports the appropriate use of professional autonomy, will ensure that children and young people will continue to benefit from the high-quality learning experiences to which they are entitled, including an effective national qualifications body.

12. It is not for NASUWT to suggest how and which young people should be represented in any new qualifications body but we should certainly avoid the typical approach of the SQA in the past, which was largely to ignore them.

Question 4: How can we ensure qualifications being offered in Scotland are reliable, of a high standard and fit for purpose?

13. Before looking ahead, it is worth considering the immediate past: NASUWT is clear that some lessons could have been learned to better support the profession during the pandemic. The evidence gathered as part of the Priestley Review clearly pointed to teachers having been subjected to high levels of stress and anxiety, as well as feeling undermined and denigrated by some approaches taken as part of the Alternative Certification Module (ACM) adopted during the pandemic (by a National Qualifications Group which did not even include NASUWT, as referenced above). A significant part of this stemmed from the lack of clarity by the SQA over the balance between estimation and moderation. Teachers were left confused and uncertain over the guidance on estimates and local moderation. The Priestley Review noted that a more comprehensive set of guidance around this would have been helpful and potentially would have removed some of the complexity from the system, which led to teachers feeling under excessive pressure and suffering from stress. It is inescapably true that some of the decisions made by the SQA during this period led to an erosion of trust and confidence in the organisation amongst teachers.
14. It will be essential to ensure that the workload burdens associated with the Alternative Certification Model (ACM) are not replicated in any future qualifications system, irrespective of whether such burdens arose from deficiencies of national advice and guidance or from local implementation.
15. A further essential lesson to learn from the Priestley Review revolves around equalities issues. The Review concluded that equalities issues were considered at various stages, including discussions relating to bias, in the estimation process, as well as unconscious bias training being delivered to centres. However, it seems that this initial focus on equalities work was on the area of bias in assessment, with less consideration given to how the moderation process itself might produce inequality. There was also little evidence found to suggest that equalities issues were systematically considered or built into the development of the ACM from the onset. Compounding this, the

Equalities Impact Assessment (EIA) and Child Rights Impact Assessment (CRIA) were produced very late in the process. This was disappointing to the NASUWT, given that the Union pressed the SQA from the very start of the process to publish the details of any EIA. This was particularly in respect of the extent to which equalities issues were taken into effective consideration throughout the design and implementation of the moderation process for 2019/20. The Priestley Review recognised and supported the NASUWT's concern that it is difficult to understand how decisions were taken in the absence of any completed EIA.

16. Moving forward and learning from those experiences, it is important that equalities and routine impact assessments form part of any revised assessment and modification process and approach under a new qualifications body. The SQA did not (and still does not) routinely collect equality data, which meant it could not truly examine the 2020 approach to National Qualifications to identify the possible impact on protected characteristics. This approach to data-gathering around equalities must change under any new qualifications body, which must pay more than lip service to its Public Sector Equalities Duty, and make monitoring and data collection a core part of supporting curriculum and assessment issues.
17. The future of qualifications in Scotland needs to take account of technological advancement but this requires a broader infrastructure including laptops/tablets and reliable broadband services. There is likely to be an increasing role for new technology in future assessments and this has the potential to reduce teacher workload and improve pupil access, but many of the barriers which we already know about need to be addressed before this is progressed on a national scale.
18. In many schools, there are not enough laptops/tablets and, where schools are asking pupils to use their own devices, this creates a two-tier system and undermines work to tackle socio-economic disadvantage. In authorities where schools have issued each pupil with an iPad, there have been unintended consequences and structural challenges often resulting in pupils and staff feeling it may cause more

trouble than it is worth. Teachers and pupils have reported difficulties in accessing the internet both at school and at home, particularly in rural areas where there are often issues of hidden poverty and unreliable mobile data and broadband. Equally, there are knowledge barriers to pupils engaging with technology: often an assumption is made that children and young people will inherently know how to use a device, but this is not always true. Technology, while capable of being a good support in some circumstances, is not a universal quick fix. Austerity has also removed many of the IT support technician roles from schools, creating further workload burdens for teaching staff.

19. Linked to technological advancement, any new qualifications body will need to take account of the recent developments in Artificial Intelligence (AI). The recent conclusion of the SQA that there is no reliable software to aid identification of inappropriate use of AI is disputed by some, who suggest that there is such software available but it can be expensive. Certainly, the SQA's current approach, which seems to put the burden on identifying malpractice entirely on teachers, many of whom do not have the training or the tools to identify this, is not acceptable.

20. Furthermore, the potential for AI to be used inappropriately in coursework assignments may require a radical rethink by the authors of the Hayward Review (and any new qualifications body), given the Review's suggestion of an expansion of assessed coursework in many areas.

21. The possibility of an expansion in assessed coursework would also require important work by any new qualifications body in giving clear guidance to schools and managers to ensure that the verification of assessment evidence does not become bureaucratic and produce an overly burdensome workload for teachers. Indeed, such guidance should support teacher professional judgement, wherever possible,

and make the whole process around assessment of coursework manageable.

Question 5: How do you think the qualifications body can best work with others across the education and skills system to deliver better outcomes for all?

22. As stated above, the most crucial relationship for any new qualifications body will be that between it and teachers (or their representatives). Nevertheless, beyond that, as a Non-Departmental Public Body, the new qualifications agency should robustly defend itself from any political interference. There have been numerous examples of the SQA apparently bowing to Scottish Government pressure, most egregiously, when John Swinney, as Deputy First Minister, insisted on the ending of all Unit Assessments, despite work being underway at that point between the SQA and teacher trade unions to modify and reduce the number of Unit Assessments. The ramifications of that rushed and ill-founded decision continue in our qualifications system today.

23. Any new qualifications agency should also be willing to robustly challenge local authorities or individual schools which do not follow agreed national guidance on qualifications and assessment. There are numerous examples (many outlined in paragraph 5 above) of some local authorities and schools indulging in variations in practice which ignore national guidance and are difficult to explain or justify. It will be important that more effective steps are taken by any new qualifications body to intervene in such circumstances.

Question 6: Do you agree or disagree with the purposes set out? Is there anything in addition you would like to see included?

24. It is right that, as a publicly funded universal service, the education system should be subject to an appropriate, constructive and

proportionate system of accountability. The Union is clear, however, that accountability systems should not place unnecessary or excessive workload and bureaucratic burdens on teachers and school leaders.

25. The NASUWT believes there are ten principles that should underpin national and school-level systems of school accountability. Applying these principles would engender public confidence and help teachers and school leaders to focus appropriately on providing high-quality teaching and learning for every pupil.

26. Systems of school accountability should:

i. *Trust teachers as professionals*

Systems of accountability must not be designed to, or operate in ways that could, undermine teachers' professional status, integrity or commitment.

Accountability systems should also recognise that, as professionals, teachers have particular expertise which means that they may be best placed to make judgements about the quality and effectiveness of particular aspects of education.

ii. *Support schools to provide a curriculum that is broad, balanced and meets the needs of all learners*

Accountability systems should value the range of ways in which schools help learners to engage in learning, progress and achievement. Teachers should be actively engaged in decisions about the design and implementation of curricula and assessment and the related accountability arrangements.

iii. *Support schools to maintain high educational standards*

Accountability judgements should be holistic. Teachers and school leaders should contribute to decisions about improving the quality of provision for pupils.

iv. *Support teachers and school leaders to improve the quality of teaching and learning*

Accountability arrangements should complement efforts to improve the progress and outcomes of pupils. Teachers and school leaders should have an entitlement to high-quality CPD, and time within the working day to access such CPD.

Accountability should recognise teachers' professional knowledge and expertise, rather than focus on penalising teachers.

v. *Encourage and support teachers and school leaders to work co-operatively and collaboratively*

Teachers should be encouraged to work together to develop and share effective practice. Collaborative working, within and beyond the school, should be recognised as an important form of CPD.

vi. *Be fair and equitable*

Teachers should not be penalised because, for example, they are inclusive or work with learners who have challenging or complex needs. Furthermore, teachers should not be penalised because they do not teach a 'core' subject.

vii. *Ensure that teachers and school leaders are supported to engage in dialogue and collaborative decision-making*

The collective voice of teachers should be recognised as being of critical importance when forming judgements about the quality and effectiveness of education provision.

viii. *Ensure that the needs and priorities of learners and parents are considered and taken into account appropriately in decision-making*

'Pupil voice' should not be used in ways which undermine the professional status, integrity or judgements of teachers and school leaders.

ix. *Be streamlined*

Accountability systems should not place unnecessary or excessive workload and bureaucratic burdens on teachers and school leaders.

x. *Be rigorous, reasonable and valid*

The public and the teaching profession should have confidence in the judgements made. Inspection and accountability systems should respect the professionalism of teachers, not impose excessive and unnecessary workload burdens, and provide genuine support to the work of schools in raising standards and promoting educational achievement.

Question 7: Do you agree or disagree with the range of establishments to be inspected by HM Inspectors of Education? Is there anything you would add or change?

27. Agree.

Question 8: Do you have any specific comments on the role of the inspectorate of education in the inspection of publicly funded colleges, initial teacher education, early learning and childcare and / or modern apprenticeships?

28. Only that the common principles of inspection, ideally informed by the NASUWT principles quoted above, be applied consistently across all sectors.

Question 9: Do you agree or disagree with the priorities set out? Is there anything in addition that you would like to see inspection cover?

29. NASUWT would agree with much of the priorities as they are set out, especially the aim to ensure that teachers have confidence in the work of the inspectorate and that they are involved in inspections. As the

NASUWT principles highlight, the trust of teachers in the inspection process is vital and encouraging open and collaborative working in a collegiate atmosphere is essential to achieving this.

30. NASUWT would also agree with most of the third and final priority about providing assurance and public accountability while informing practice and policy. There is also agreement that the inspection process can seek improvement (as long as appropriate support and encouragement for this is provided) but we are less sure about the statement on inspection evidence being used to 'build capacity' and would welcome further explanation of this. Many schools and teachers are currently operating at their maximum capacity and it is difficult to see any room for expansion of this, hence the desire for further clarity on this statement.

31. Alongside these priorities (or perhaps as part of them in terms of building teacher trust and confidence in the inspection process), it would be useful if inspections were based on criteria agreed with teachers and their representatives (i.e. not the flawed HGIOS 4 system) and that these included areas such as pupil behaviour, teacher workload and teachers' mental health.

Question 10: Do you have a view on these options for establishing the new approach to inspection?

32. NASUWT has mixed views on this: while, on the one hand, taking forward legislation to establish the role of 'HM Chief Inspector of Education for Scotland' in law as an independent office-holder would establish more separation between the Inspectorate and Scottish Ministers, which is potentially welcome, we are cognisant of the fact that sometimes legislation carries with it the potential for unintended consequences and some of the work around the National Improvement Framework bears this out. It is not entirely clear to whom the

inspectorate would be accountable if the HM Chief Inspector was established in law as an independent office-holder and this would need more clarity, as would the way in which the Inspectorate is expected to discharge its responsibilities and its statutory functions.

Question 11: Do you have a view on how governance arrangements for the inspectorate could be developed to better involve providers, including teachers and other practitioners, pupils and students and parents / carers in inspection?

33. Similar to the desire for a strong classroom teacher voice in the work of any new qualifications body, NASUWT also wishes to see this for the new Inspectorate. While the suggestion of setting up of a user-focused advisory council to include teachers would be welcomed, the alternative recommendation of requiring the Chief Inspector, as an independent office-holder set up by legislation, to establish an Advisory Council, with membership drawn from those likely to be affected by the Chief Inspector's work seems preferable; especially with the idea that it could also place a legislative duty on the Chief Inspector to have regard to any advice provided by the Council and, where advice was not followed, to set out the reasons why.

34. It would be important, though, to establish how and how many classroom teachers would be involved in such a body as this cannot be tokenistic.

Question 12: Do you have a view on how we make sure evidence from inspections is being used as fully as possible to drive improvement and inform policy and on who the inspectorate should report to?

35. In terms of reporting on inspections, NASUWT does not believe that legislation would be required to enforce this; however, much more detail is needed on what that process would look like and how it would

seek to be genuinely supportive of improvement and avoid some of the more punitive language and unhelpful approaches which are sometimes experienced by our members in isolated examples of inspection in Scotland and are certainly more prevalent as part of the English model of inspection.

For further information, please contact:

nasuwt@mail.nasuwt.org.uk

www.nasuwt.org.uk

Dr Patrick Roach

General Secretary