

**Consultation Analysis Report**

**Statutory Guidance:  
Standards in Scotland's  
Schools etc. Act 2000**

**March 2017**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

## **CONTENTS**

1. INTRODUCTION AND BACKGROUND TO THE CONSULTATION
2. KEY FINDINGS OF THE CONSULTATION
3. CONSULTATION RESPONSES AND APPROACH TO ANALYSIS
4. ANALYSIS OF RESPONSES TO THE CONSULTATION QUESTIONS
5. NEXT STEPS

ANNEX A: LIST OF RESPONDENTS

## 1. INTRODUCTION AND BACKGROUND OF THE CONSULTATION

1.1 The Education (Scotland) Act 2016 (“the 2016 Act”) was passed by the Scottish Parliament on 2 February 2016 and received Royal Assent on 8 March 2016.

1.2 This legislation is a key part of the Scottish Government’s strategy to ensure that the life chances of our children and young people are improved and that our education system delivers excellence and equity. Building on a range of key policies and reform, the legislation aims to help deliver an education system which continually improves and which effectively closes the attainment gap in order to deliver both excellence and equity.

1.3 The consultation sought views on draft statutory guidance for Part 1 of the 2016 Act. The draft statutory guidance covers those provisions which make amendments to various sections of the Standards in Scotland’s Schools etc. Act 2000 (“the 2000 Act”). The statutory guidance has been developed to support those who will have responsibility for various duties in relation to:

- reducing inequalities of outcomes for pupils experiencing them as a result of socio-economic disadvantage;
- the National Improvement Framework (NIF), and;
- planning and reporting duties at school and education authority levels.

1.4 Chapter 1 of the draft statutory guidance provides more information on the context of the legislation and the guidance itself. Chapter 2 deals with the duties and steps that might be taken by education authorities to reduce inequalities of outcome for pupils experiencing them as a result of socio-economic disadvantage. Chapter 3 then sets out the duties and steps that might be taken by education authorities in pursuance of the NIF priorities. Finally, chapter 4 deals with the duties and steps that might be taken by education authorities in relation to their respective planning and reporting duties as to proposed steps/steps taken to reduce these inequalities.

1.5 The Scottish Government has worked closely with Education Scotland and external stakeholders to develop the draft statutory guidance. Representative bodies contributed to that process through a working group whose membership includes: the Association of Directors of Education in Scotland (ADES); the Association of Headteachers and Deputies in Scotland (AHDS); the Convention of Scottish Local Authorities (Cosla); the Education Institute of Scotland (EIS); the Improvement Service; the National Parent Forum of Scotland (NPFOS); the Society of Local Authority Chief Executives Scotland (SOLACE), and; School Leaders Scotland (SLS).

1.6. In order to progress drafting of the statutory guidance, the Scottish Government sought comments on certain matters as contained in the [consultation document](#). The consultation was launched on 22 August 2016 and closed on 11 November 2016. 43 responses were received with a number of comments made on each of the 9 questions as detailed under Analysis of Responses to the Consultation Questions.

## **2. KEY FINDINGS OF THE CONSULTATION**

2.1 A summary of responses to the consultation on draft statutory guidance follows:

- A large majority of respondents were content with the definition of “decision of a strategic nature” as set out in the draft statutory guidance;
- A large majority of respondents were content with the definition of “due regard” as set out in the draft statutory guidance;
- A large majority of respondents broadly agreed with the definition of “inequalities of outcome” as set out in the draft statutory guidance;
- A large majority of respondents broadly agreed with the definition of “socio-economic disadvantage” as set out in the draft statutory guidance;
- A large majority of respondents considered that a form of template for local authority reporting should be developed while maintaining flexibility of reporting;
- A large majority of respondents considered that the planning period for local authorities, as set out in the consultation, was reasonable;
- A large majority of respondents felt that the guidance was clear in its purpose and target audience. A small minority commented that areas might be simplified or plainer language used;
- A large majority of respondents felt that the guidance would be helpful to those with responsibility for undertaking their various relevant duties.

### 3. CONSULTATION RESPONSES AND APPROACH TO ANALYSIS

#### Written responses

3.1 The consultation was issued directly to local authority Chief Executives, Directors of Education and Heads of Service as well as Headteachers. The consultation was made available for online completion as well as being published on the Scottish Government website for electronic download.

3.2 **Annex A** sets out a list of organisational respondents to the consultation document. The names of seven individual respondents have not been included as they wished for their responses to remain anonymous. Five responses were received where the respondents requested that theirs were not to be published. The consultation responses of those who gave permission for their response to be made public are available at the following link:

[https://consult.scotland.gov.uk/strategy-and-performance-unit/statutory-guidance/consultation/published\\_select\\_respondent](https://consult.scotland.gov.uk/strategy-and-performance-unit/statutory-guidance/consultation/published_select_respondent)

#### Response rate

3.3 A total of 43 responses were received in response to the consultation document. As outlined in Table 1 below, local authorities represented the largest respondent group at 15.

Table 1: Number of responses by respondent group

Organisations	Numbers
Local Authority	15
Schools	2
Voluntary Organisation	7
Representative bodies	5
Individuals	9
Responses not for publication	5
Total	43

## **Approach to Analysis**

3.4 The Scottish Government has undertaken a quantitative analysis of response rates to each of the nine questions asked, the results of which are set out below. Responses to questions by respondents were assigned to one of three categories: agree, disagree or no firm view expressed. A qualitative analysis was also undertaken by the Scottish Government, with key themes and specific points outlined in the analysis and key findings section.

## **4. ANALYSIS OF RESPONSES TO THE CONSULTATION QUESTIONS**

4.1 This section presents a summary of the findings on the questions asked within the [consultation document](#).

### **Q1. Do you have any comments on the definition of “decisions of a strategic nature”?**

4.2 Of the total number of 43 respondents, six did not respond to this question.

4.3 35 respondents agreed with the definition of “decisions of a strategic nature.” Of this number, seven respondents made additional suggestions to expand the definition agree with comment. Suggestions included: making more explicit some of the local authority’s other planning mechanisms, such as community planning, local outcomes improvement planning, integrated children’s services planning and GIRFEC; making reference to the implementation of the local authority’s accessibility strategy; the inclusion of decisions around staff (and support staff) planning and management arrangements, and; policies relating to accessibility of education, such as the cost of the school day, excursions or other activities.

4.4 One respondent disagreed with the definition of “decisions of a strategic nature” based on their view of the definition of “school education” and the implications they perceive there to be around the use of the word “pupils.”

4.5 One respondent expressed a view which made it difficult to determine whether they were in agreement or not with the definition and the response has been categorised under no firm view.

### **Q2. Do you have any comments on the definition of “due regard”?**

4.6 Of the total number of 43 respondents, nine did not respond to this question.

4.7 29 respondents agreed with the definition of “due regard.” Four respondents disagreed with this definition.

4.8 One respondent expressed a view which made it difficult to determine whether they were in agreement or not with the definition and the response has been categorised under no firm view.

4.9 Of the 34 responses to this question, the main themes emerging, each raised by a small minority of respondents were: a suggestion to provide more context around the local authority’s existing duties to balance the provision of school education, to secure improvement in the quality of school education and to deliver best value, and; a few references to how local authorities can evidence decision making in exercising the “due regard” duty; an issue around the wording of how local authorities “might” reduce inequalities, with those respondents expressing the view that the language used should be stronger, such as “must” instead of “might”, and; that the wording around pupil and parental consultation is strengthened.

### **Q3. Do you have any comments on the definition of “inequalities of outcome”?**

4.10 Of the total number of 43 respondents, seven did not respond to this question.

4.11 Twenty four respondents broadly agreed with the definition of “inequalities of outcome.” Ten respondents expressed no firm view either way.

4.12 Two respondents disagreed with the definition on the basis that it did not contain enough detail, mainly around identifying groups that might experience inequalities of outcome.

4.13 The key theme arising among respondents, including many who agreed with the definition but who suggested ways that could strengthen the definition further, was that achievement should be considered in more detail and that it would be crucial not to focus solely on attainment. Additionally, a number of respondents sought more clarity around the phrase “certain characteristics.”

### **Q4. Do you have any comments on the definition of “socio-economic disadvantage”?**

4.14 Twenty seven respondents broadly agreed with the definition of “socio-economic disadvantage.” Four respondents expressed no firm view either way.

4.15 Four respondents disagreed with the definition, commenting that it is not detailed enough, for example, around the correlation between poverty and educational attainment.

4.16 The key themes arising among respondents were that: clarity was sought on how children in disadvantaged circumstances can be identified with a particular view expressed that information such as SIMD cannot solely identify these children particularly in rural areas, and; those with disabilities or additional support needs could be included in the list of factors considered to lead to disadvantage.

### **Q5. The legislation is intentionally silent on how education authorities should report on the fulfilment of their duties. The draft statutory guidance reflects the legislative position and leaves it open to education authorities to determine how best to report against their duties. Do you agree that education authorities should determine how they report? Would you find some form of template helpful?**

4.17 Of the total number of 43 respondents, three did not respond to this question.

4.18 28 respondents considered that a template would be helpful in order to try to ensure consistency of reporting and to support national analysis of local reports. A template was also considered to be useful to ensure that local authorities report in line with their legislative responsibilities and do not miss any elements.

4.19 Six respondents did not consider a template necessary on the basis that local authorities reporting should be flexible and that content would vary across authorities due to the applicability of various factors.



4.20 The remaining six respondents did not express a firm view either way, having made the case for and against the use of templates for reporting in their responses.

**Q6. The draft statutory guidance sets out proposed planning period dates for the Scottish Ministers and education authorities: 1 January to 31 December; 1 September to 31 August for education authorities. The planning period for Ministers has been identified to align Ministers' reporting with education authorities' planning processes. This is designed to maximise the information available to education authorities, in particular the national priorities they will be expected to take account of and contribute to throughout their own planning period. The information that the Scottish Ministers will assess and that will be included in national reports will evolve over time as more sources of evidence become available. It is anticipated that future reports will include data and evidence which tells us how we are making progress against the four NIF priorities covering all of the six NIF driver areas.**

**Do you have any comments on the proposed planning period for the Scottish Ministers of 1 January to 31 December? Do you have any comments on how this proposed planning period timeframe will work with that proposed for education authorities (1 September to 31 August)?**

4.21 Of the total number of 43 respondents, 12 did not respond to this question.

4.22 26 respondents either agreed that the proposed planning period seemed appropriate or did not express a particular view. Three of these respondents, who did not express a particular view, made reference to alternative timeframes which other local authority planning processes currently undertake.

4.23 Five respondents did not agree with the proposed planning period. Three of these respondents suggested alternative planning periods for consideration.

4.24 Of the six respondents who suggested alternative planning periods, two suggested April to March to align with the financial year and three suggested August to July to align with the academic year. One suggested October to September to align with availability of Insight data. No one common alternative planning period timeframe was agreed upon by these six respondents.

**Q7. Bearing in mind that the purpose of statutory guidance is to reflect legal provisions, do you find Chapter 4 clear in relation to who it is aimed at and what its purpose is?**

4.25 Of the total number of 43 respondents, nine did not respond to this question.

4.26 25 respondents agreed that the audience for the guidance and its purpose were clear.

4.27 Two respondents said they did not find the audience or purpose clear but did not give any views as to why they answered this way.

4.28 Seven respondents did not express a firm view as to whether they found the audience or purpose of the guidance clear. However, most of these respondents did provide suggestions for improving the drafting of the guidance. One suggested a range of amendments for consideration to more accurately reflect the legislation. Others made a range of points seeking clarification of: the timescales and duties associated with school improvement planning and the Headteacher's role in that process; the wording around the timing of local authority reporting, and; the strength of language used concerning schools involving pupils in consultation.

**Q8. Did you find the draft statutory guidance to be of assistance when read in the context of the relevant legal duties that will apply? Do you find it strikes a balance between offering flexibility and meaningful support? If not, how could it be improved?**

4.29 Of the total number of 43 respondents, 11 did not respond to this question.

4.30 25 respondents agreed that the guidance would be of use in relation to fulfilling legal duties. Seven respondents did not express a firm view. No respondents considered that the guidance would be unhelpful.

4.31 The main themes emerging from the responses to this question were: comments around the length of the document, and; that useful information being produced in the near future be published to share with local authorities and schools to support planning and reporting processes.

**Q9. Do you have any other comments about the draft statutory guidance?**

4.32 It was not appropriate to apply 'agree' or 'disagree' categories to responses to this question, given the nature of the question.

4.33 A large number of respondents took the opportunity to comment on the strengths of the guidance, such as making links to wider local authority planning processes, the engagement of children and parents and the usefulness of the guidance as a tool to support the fulfilment of the new duties.

4.34 Some points made arising from this question included: the length of the document; the use of Ministerial regulation making powers under section 1 of the 2016 Act; the availability and use of assessment and health and wellbeing data; strengthening wording around working time agreement in the school improvement planning process, and; that the guidance should apply to learning out-with the school.

## **5. NEXT STEPS**

5.1 The Scottish Government has considered fully the views expressed by stakeholders in the written consultation responses and informal meetings held. The responses to the consultation have contributed to final drafting of the statutory guidance.

5.2 This report has been approved by Scottish Ministers and is to be published on the Scottish Government website.

## **ANNEX A – LIST OF RESPONDENTS**

43 responses in total were received for this consultation. Of that number, the following 29 organisations and 9 individuals responded to the consultation and were willing for their responses to be made public. 5 other responses were received though those respondents requested that theirs should not be published.

### **Individuals**

Anonymous x 7  
Jane Carson  
Lynne McNiven

### **Organisations**

Aberdeen City Council  
Aberdeenshire Council  
Angus Council  
Campsie View School  
CELCIS  
Child Poverty Action Group Scotland  
Children and Young People's Commissioner Scotland  
Children in Scotland  
City of Edinburgh Council  
East Dunbartonshire Council  
East Renfrewshire Council  
The Educational Institute of Scotland  
Falkirk Council  
Heathhall Primary School  
Inverclyde Council  
Mindroom  
Moray Council  
National Deaf Children's Society  
National Parent Forum of Scotland  
North Ayrshire Council  
Perth & Kinross Council  
Renfrewshire Council  
Save the Children  
Scottish Parent Teacher Council  
Shetland Islands Council  
South Lanarkshire Council  
West Lothian Council  
Who Cares? Scotland  
YouthLink Scotland



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

© Crown copyright 2017

**OGL**

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](http://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.scot](http://www.gov.scot)

Any enquiries regarding this publication should be sent to us at  
The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-78652-874-2 (web only)

Published by The Scottish Government, March 2017

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS262317 (03/17)

W W W . G O V . S C O T