

# **Inspection of early learning and childcare and school age childcare services in Scotland**

## **Scottish Government Response to the Consultation**

**April 2023**

## Contents

<b>Ministerial Foreword</b> .....	3
<b>Introduction</b> .....	5
<b>Background</b> .....	5
<b>Information sources and consultation methods</b> .....	5
<b>Joint Inspectorate Statement</b> .....	7
<b>Scottish Government response to the consultation findings</b> .....	9
<b>Vision and Principles</b> .....	9
<b>Summary of key findings</b> .....	9
<b>Scottish Government response</b> .....	9
<b>The current inspection landscape</b> .....	10
<b>Summary of key findings</b> .....	11
<b>Scottish Government response and next steps</b> .....	12
<b>A shared inspection framework</b> .....	12
<b>Summary of key findings</b> .....	12
<b>Scottish Government response and next steps</b> .....	13
<b>Other matters raised</b> .....	13
<b>The role of the Local Authority</b> .....	13
<b>Summary of consultation messages</b> .....	13
<b>The role of local authorities</b> .....	14
<b>Scottish Government response, and next steps</b> .....	15
<b>Cooperation between the Inspectorates</b> .....	15
<b>Scottish Government response</b> .....	16
<b>Calls for a single ELC inspectorate body</b> .....	17
<b>Summary of consultation messages</b> .....	17
<b>Scottish Government response</b> .....	18
<b>School age childcare and childminding</b> .....	18
<b>Summary of consultation messages</b> .....	18
<b>Scottish Government response and next steps</b> .....	20
<b>Workforce and sector sustainability</b> .....	22
<b>Summary of consultation messages</b> .....	22
<b>Scottish Government response and next steps</b> .....	22
<b>Links to wider programmes of reform</b> .....	23
<b>Glossary</b> .....	25

## Ministerial Foreword

High quality early learning and school age childcare plays a critical role in our society. It helps to give children the best possible start in life, supports families to thrive, and enables parents and carers to work, train or study.

Our vision, outlined in the [Best Start - strategic early learning and school age childcare plan 2022 to 2026](#) is that, through access to rich and nurturing early learning and school age childcare experiences, children, families, and their communities are enabled to reach their full potential and the poverty-related outcomes gap narrows.

Inspection plays a crucial role in contributing to this vision. Effective and meaningful inspection helps to ensure that children are safe, secure and protected from harm; that they are well cared for and able to flourish; and that they are offered high quality learning and development opportunities and experiences to ensure positive outcomes. It also supports improvement in the quality of services, including through self-evaluation, and provides assurance to families and to those responsible for commissioning services about the quality of experience that children receive.

However, we recognise that the current system of inspection in place for Early Learning and Childcare (ELC) settings feels burdensome and bureaucratic for too many providers. Professor Muir was clear in his report [Putting Learners at the Centre: Towards a Future Vision for Scottish Education](#), published in March 2022, that many in the ELC sector feel disproportionately subject to external accountability in comparison to the other parts of the education system. Professor Muir recommended that “as a matter of urgency the new independent Inspectorate should re-engage with the Care Inspectorate to agree a shared inspection framework designed to reduce the burden on Early Learning and Childcare (ELC) practitioners and centres.”

The Scottish Government accepted Professor Muir’s recommendation in relation to ELC inspections and launched the consultation in July 2022 with the aim of gathering views on:

- the strengths of existing arrangements;
- where improvements can be made; and,
- specific proposals to streamline and improve the inspection of ELC and school age childcare services through the introduction of a shared quality framework.

The Scottish Government commissioned an independent analysis of the consultation responses from an external research agency, Wellside Research, following the closure of the consultation in October 2022. We are pleased to be able to publish the [full analytical report](#) which can be accessed on the Scottish Government’s webpages, alongside the Scottish Government’s response to the consultation findings.

We are encouraged that so many people took the time to respond to the consultation, whether through a formal written consultation response or by giving their views at one of our events. Combined, this evidence provides us with a rich source of information that reflects the reality of providers’ current experiences of inspection. Many of you have provided examples of good practice, as well as examples of real and profound challenges within the current system that need to be addressed.

We want to ensure that our national framework for the inspection of ELC and school age childcare services is fit for purpose; promotes collaboration between providers, practitioners, teachers, and staff working in settings, inspection bodies and local authorities; and supports providers to deliver consistently high-quality provision while eliminating unnecessary bureaucracy and duplication.

The consultation responses make clear that there is a strong desire – and need – for change if we want a system that fully embodies our vision and achieves our aspirations. This is a crucial time for us – the Scottish Government, the Care Inspectorate, His Majesty’s Inspectors of Education (HMIE)/Education Scotland, partners in local authorities and other key agencies - to look at the messages in the consultation and consider how we can support professionals in the sector more effectively. Our response to the consultation findings outlines some areas where work is already underway or developing in terms of improving the landscape. It also sets out where we will act with others to respond to the consultation findings in the coming months.

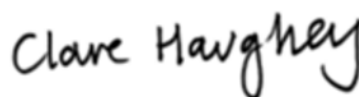
The responses indicate that rapid progress is required, in tandem with the wider reforms to Scotland’s education system that are currently in train. We are committed to ensuring that the findings of this consultation, alongside those of the National Discussion on Education, are reflected in the work to establish the new national education agency and education inspectorate.

We are also clear that our response to the consultation findings marks a stage in this process, rather than its conclusion. We will collectively continue to review what can be done to streamline and improve inspection in light of the findings, and will provide a further update on progress in summer 2023.

The Care Inspectorate and Education Scotland are in the early stages of developing a shared inspection framework, and are committed to doing so in partnership with each other and in consultation with the sector. We are pleased that the Care Inspectorate and the new education inspectorate will be ready to implement the new framework at the start of their 2024 inspection years. This means that the Care Inspectorate will implement the framework from April 2024 and education inspectorate from September 2024. They will provide regular updates as the work progresses and we welcome the commitment that they have given to taking forward this work as a matter of priority.



**Shirley-Anne Somerville**  
Cabinet Secretary for  
Education and Skills



**Clare Haughey**  
Minister for Children  
and Young People

## Introduction

### Background

High-quality early learning and childcare<sup>1</sup> (ELC) makes an important contribution to children's outcomes and life chances, particularly when they are growing up in disadvantaged circumstances. High-quality school age childcare can promote positive social interactions and relationships for children, building their social skills and confidence, as well as providing the opportunity for play and learning in a safe environment<sup>2</sup>.

By supporting professionals to identify and implement improvements in their settings, the inspection of ELC and school age childcare is an important driver for quality across these services. Some funded ELC services are subject to inspection by two bodies, the Care Inspectorate and His Majesty's Inspectors of Education (currently within Education Scotland, though this function will move to the new Education Inspectorate expected to be operational in 2024).

In his report on education reform, Professor Ken Muir highlighted that some of the sector feels disproportionately subject to external accountability compared to other parts of the education system and emphasised the need to avoid confusion, overlap and bureaucracy. He recommended that both inspectorate bodies should work together to agree a shared inspection framework designed to reduce the burden on providers.

The Scottish Government welcomed Professor Muir's recommendation and launched a consultation on this issue on Monday 11 July 2022, which ran for 16 weeks until 28 October 2022. The consultation set out our vision for how inspection of ELC and school age childcare services will contribute to improving outcomes for children and families and the guiding principles that underpin that approach. It sought to gather views on the strengths of existing arrangements, where improvements can be made and on specific proposals to streamline and improve the inspection of ELC and school age childcare services through the introduction of a shared quality framework.

### Information sources and consultation methods

A range of options were made available to enable participation in the consultation. These included:

- completing an online questionnaire on the Scottish Government's digital consultation platform, Citizen Space;
- participating in engagement events where views and feedback could be provided anonymously;
- submitting a completed questionnaire or a submission digitally by email; or
- providing a written questionnaire or submission by post.

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<sup>1</sup> Throughout this document, reference to 'ELC' can be assumed to refer to all pre-school education and care for children aged 0 to not yet attending primary school that is registered with the Care Inspectorate, whether providing funded or unfunded hours, such as nursery provision and childminders.

<sup>2</sup> [Best Start - strategic early learning and school age childcare plan 2022 to 2026 - evidence annex](#)

In total, 254 written responses were provided to the consultation, while 11 events recorded comments provided by 380+ attendees. Feedback was received from a wide range of respondents, including local authorities, trade unions, ELC and school aged childcare representative and membership bodies, academic organisations, the Inspectorates (the Care Inspectorate and HMIE/Education Scotland), and parents/carers. The largest proportion of responses came from practitioners and childcare providers themselves.

## **Scottish Government response to the consultation**

The Scottish Government commissioned an independent analysis of the consultation responses from an external research agency, Wellside Research. The [full report of the analysis](#) is published and can be accessed on the Scottish Government's webpages. A summary of the key findings is included below.

### **Summary of findings**

- A strong desire for change was expressed across all elements of the consultation, with both the vision and principles fully or partially supported by over 90% of respondents;
- There was strong support for a shared framework, with 78% of respondents in favour of one being introduced;
- Strong support for a single inspectorate also emerged through the responses;
- Views were expressed that any new framework needs to provide clarity, including in respect of roles and responsibilities, consistency, a common language, streamline bureaucracy, be supportive and reduce burdens and stress on practitioners;
- There is a need to recognise and reflect the differences between types of providers and settings; and
- There needs to be more communication, collaboration and joint working between both Inspectorates, with the roles and input of both organisations being equally valued. 80% of respondents consider that more could be done to improve coordination and cooperation between the Inspectorates, with only 13% agreeing that they currently work well together.

This document is designed to provide you with the Scottish Government's initial response to the consultation findings on the areas for which the Scottish Government is responsible, and outline what next steps we will take in response to the evidence provided.

The Care Inspectorate and HMIE/Education Scotland are responsible for taking forward the development of the shared framework. They have made a joint statement, which follows, confirming their commitment to work in partnership to take forward the findings of the consultation.

## Joint Inspectorate Statement

**Joint statement from Jackie Irvine, Chief Executive of the Care Inspectorate, and Gayle Gorman, His Majesty's Chief Inspector, Education Scotland in response to the findings from the Scottish Government consultation, on inspection of Early Learning and Childcare and School Age Childcare Services in Scotland.**



Firstly, we would like to thank those in the early learning and school age childcare sector who took the time to give us their valued feedback as part of the public consultation.

Following recommendations in the Muir Report (2022), the Care Inspectorate and His Majesty's Inspectors of Education (HMIE/Education Scotland) have been reviewing the way we work together to ensure there is clarity and consistency for services under the current inspection regime and to reduce any duplication. We have already reviewed our approach to our shared inspection process to extend the minimum time between inspections by both bodies and, wherever possible, to reduce the burden of inspection activity on services.

The Scottish Government's consultation sought views on the creation of one shared quality framework for the inspection of Early Learning and Childcare (ELC), childminders and school age childcare services, in Scotland. We will pay careful consideration to the views of those who responded to the consultation as we recognise the importance of listening to and working with the sector.

In partnership, the Care Inspectorate and Education Scotland will work collaboratively to take forward the findings of the consultation. We welcome the responses provided and see them as an opportunity to continue to enhance the approaches to inspection and support improvements in experiences and outcomes for children in ELC and school age childcare. Children are at the heart of everything we do. Through inspection we will actively provide assurance on the quality of provision and support services to continue to deliver high quality care and learning. In addition, through collaboration and the sharing of expertise, we will seek to provide a more streamlined and consistent process for services and to reduce duplication. The consultation demonstrates the need to provide clarity to the sector and use a common language that avoids unnecessary jargon. Importantly, as we take forward this work we will continue to listen to and work with the sector.

The Care Inspectorate and Education Scotland welcome the opportunity to collaboratively develop a shared inspection framework which can be used to support self-evaluation. We believe it is important to acknowledge that the new framework is intended to be used for inspection of all ELC and school age childcare services. It will reflect the needs of the sector and the commitment of both organisations to strengthen the working arrangements.

Furthermore, we wholeheartedly support parents and carers' expectations that their children have a right to experience high quality care and learning provision wherever they live in Scotland. We are committed to working together to actively support services as they continue to deliver high quality experiences for children in ELC and school age childcare settings. We will also support the sector to engage in self-evaluation and ongoing continuous quality improvement across their provision.

The development of a shared framework will strengthen an integrated approach to inspection, enabling the Care Inspectorate and the new education inspectorate to work in partnership. We will also seek to build on our approach to shared inspection activity - within the legislative framework and our organisations' roles and responsibilities - to minimise any unnecessary bureaucracy or burden on settings, managers, and practitioners.

As we develop the shared quality framework, we are committed to ensuring collaboration and co-design with the sector, families, children, and representative bodies to ensure the development and content is meaningful.

### **Next stages**

Work will be progressed in line with the following phases over the course of this year:

- Phase 2: Consultation/Engagement on content of shared framework, involving stakeholder engagement events.
- Phase 3: Draft framework developed and further consultation with stakeholders, followed by testing during inspection.
- Phase 4: Launch inspection framework for sector to become familiar with contents.
- Phase 5: By April 2024 implementation in Care Inspectorate inspections and by September 2024 implementation by HM Inspectors (in line with both Inspectorates' inspection years).

### **Approach to consultation**

We are committed to engaging with users and stakeholders as we develop the framework, building on the work of the consultation. We will use the principles of the Scottish Approach to Service Design ensuring that the people of Scotland are supported and empowered to actively participate in the definition, design, and delivery of their public services.

We appreciate the interest and importance of a shared framework for the sector, and we will provide regular updates as to our progress. We will provide an update on our progress before the end of July 2023.



## Scottish Government response to the consultation findings

### Vision and Principles

Please see the section on vision and principles in the [full analysis report](#).

#### Summary of key findings

Over half of the respondents (59%) fully supported the proposed vision for the purpose and aim of inspection of ELC and school age childcare services, with around a third indicating partial support (37%). Only a few respondents (4%) stated that they did not support the proposed vision. Just under half of respondents (44%) felt that one or more aspect was missing from the draft guiding principles. Similarly, over half of the respondents fully supported the draft guiding principles (58%). Just over a third indicated partial support (37%), while a few did not support the draft principles (5%). Meanwhile, just over a third (37%) of all respondents suggested that they felt one or more aspect was missing from the draft guiding principles.

Broadly, those people who were supportive of the draft vision and principles felt that they were would potentially contributing towards greater consistency, clarity, collaboration, a more supportive approach, a more streamlined and less bureaucratic system, highlighting the importance of collaboration, and the needs and rights of children.

However, some respondents raised questions about how the vision and principles would work in practice and their overall achievability. Some respondents raised concerns about the lack of reference to playwork. Others suggested more thought needed to be given to how to reflect equality, inclusion and diversity issues, including additional support needs (ASN), physical, sensory and/or learning disabilities, Gaelic medium education, race, ethnicity and gender issues.

#### Scottish Government response

A range of suggested improvements to the vision and principles were proposed by respondents and have been considered carefully to inform appropriate revisions as follows (with amendments noted in **dark orange**):

##### Vision

High quality early learning and childcare and school age childcare experiences are critical to giving children the best possible start in life. Inspection of **the range of registered childcare services, including early learning and childcare, school-aged childcare, and childminding services**, encourages and empowers settings, practitioners, and teachers to continually improve their service for the benefit of the children in their care, including through self-evaluation.

It provides independent assurance to families and stakeholders, and supports settings to provide high quality services and experiences for all children. It takes a **consistent and** collaborative approach between the Inspectorates, settings, practitioners and teachers, and respects children's rights. Quality expectations **set high standards that**

promote inclusion and diversity. They are clear, evidenced based and proportionate, taking account of different service types whilst ensuring high quality outcomes for all children.

## Principles

1. Support our [National Outcomes](#) and promote the values and principles of [Getting it Right for Every Child \(GIRFEC\)](#) to improve all children's life chances through the provision of high quality services, to ensure that our children's rights are respected and upheld, they grow up loved and safe, and can realise their full potential;
2. Listen to and take account of the views, experiences, and needs of children and families, as well as settings and practitioners, to influence and drive change;
3. Provide clarity to settings, practitioners and parents and carers on what standards they can expect, and the roles and responsibilities of key agencies in delivering them;
4. Support consistency in outcomes whilst recognising the differences in ELC, childminding and school age childcare services so that all children and families experience high quality provision, regardless of where it is accessed;
5. Support continuous improvement across the sector, within individual settings, as well as adding value to the delivery of services, including through building on settings' use of self-evaluation and the sharing of good practice;
6. Support collaboration and professional dialogue between inspection bodies, local authorities, providers, practitioners, teachers, and staff working in settings;
7. Be adaptable to respond to evidence and new policy developments;
8. Be efficient, impartial, proportionate, and responsive to the assessment of risk, avoiding duplication and eliminating unnecessary bureaucracy for providers;
9. Promote diversity and inclusion, including in relation to ethnicity, gender, those with additional support needs, and between Gaelic Medium Education and English Medium Education.

## The current inspection landscape

Please see the section on experiences of the current inspection landscape in the [full analysis report](#).

This section of the consultation document set out the current inspection and scrutiny landscape for the ELC and school age childcare sectors. It highlighted the roles, responsibilities, powers and legislative landscape that both the Care Inspectorate and HMIE/Education Scotland operate within. The role of local authorities as the primary guarantors of quality within the funded ELC sector was also outlined.

Feedback was sought across both the main consultation document and through the events about any inspection approaches and activity which have been helpful and supportive in driving improvement across these sectors, and what has been less helpful. Respondents were also asked to consider where further improvements could be made to the current system.

As part of this section, views were sought on local authority visits to settings providing funded ELC, and how well the Inspectorates coordinate activity. We will consider these questions, along with consideration of the calls for a single Inspectorate, separately under Other Matters Raised further on in this publication.

## Summary of key findings

The consultation demonstrates that people's experiences of the current inspection process are varied, with 39% of respondents reporting mainly positive overall experiences of inspection, 28% indicating their experiences had been neither positive or negative, and 21% stating they had mainly negative experiences of inspection<sup>3</sup>.

Respondents reporting positive experiences referred to inspections which:

- Highlighted the service providers' strengths and validated good practice;
- Had taken a supportive and collaborative approach throughout the inspection process, including getting to know and building a rapport with staff and the children, and understanding their needs;
- Encouraged collegiate discussion and two-way dialogue;
- Supported the sharing of good practice;
- Considered the local context;
- Framed necessary changes in a positive way; and
- Had been more 'hands-on' during visits (e.g. getting to know the staff, getting involved with the session/children, etc. compared to those who simply observed or focused on paperwork).

The analysis report demonstrates a high level of engagement and contribution to this question, and a wide range of positive experiences were identified.

Respondents reporting challenges in the system talked of:

- Inconsistencies in approach and interpretation of requirements, both within and between Inspectorates;
- The stress and anxiety felt by staff when facing inspection;
- Inspections failing to take account of or recognise the local challenges;
- Inspections not seeming to take account of the differences between settings;
- The difficulties created by having two separate inspection frameworks; and
- Inspections, gradings and reports being based on a small 'snap-shot' rather than providing a fair reflection of service provision. It was felt that inspectors needed to spend longer in settings, and consider progress already made by services.

As found in the question relating to benefits within the current system, there was a high level of engagement from respondents in answering this question and providing examples, and a large number of areas identified in relation to challenges in the system. The evidence given provides a rich repository which will be considered by the Inspectorates in the development of a shared framework.

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<sup>3</sup> The remaining 12% (who answered the question) had not directly experienced the inspection process.

## Scottish Government response and next steps

The responses received in relation to the current inspection landscape demonstrate the level of interest in this topic, and the variability in experience across different settings. We are grateful that so many examples of both positive and challenging experiences were shared.

We are aware of challenges in the current system, and we consider that the introduction of a shared framework for the sector will go a long way towards alleviating those difficulties, particularly in relation to the need for consistency and clarity, and reducing the duplication currently felt by settings. We also outline in this response other current work that the Scottish Government is involved in that is of relevance.

We are keen to ensure that the numerous examples of good practice, where settings have been positively impacted by inspection, should not be lost, or overlooked. The consultation responses will therefore be used to inform the development of the shared framework by the Inspectorates.

## A shared inspection framework

Please see the section on proposals for a shared inspection framework in the [full analysis report](#).

The final section of the consultation document set out proposals for a shared quality framework. Feedback was sought on whether respondents supported the development of a shared quality framework, the possible benefits and challenges to implementing such a system, whether this would meet the needs of the sector, and which settings and children's age groups the framework should apply to.

## Summary of key findings

The majority of respondents who answered this question supported the development of a shared framework (78%). 7% of respondents were opposed to the shared framework, while the remaining respondents were unsure.

Many respondents who said they would be in favour of a shared framework offered views on what would be core aspects for inclusion. Some key common themes emerged, such as:

- A shared framework should ensure a more consistent approach to inspection;
  - It will help to provide clarity around expectations for inspection, as well as providing clear criteria and focus for improvement actions;
  - It will contribute towards a streamlined and less bureaucratic system;
  - It should reduce the administrative burden currently felt by many providers; and
  - Any new model must be based on the ethos of 'support' rather than 'scrutiny.'
- Among the minority of respondents who did not support a shared quality framework, the main themes provided were:
- Concerns that different settings required more tailored approaches to reflect the wide diversity of work and services that are provided in such settings;

- Effective inspection of a broad range of services within one framework was seen by some as too ambitious and potentially too convoluted:
- Views were offered that the two current Inspectorates have very different functions, cultures and operating models and that it would be difficult to reconcile or merge these into one inspection framework; and
- Some suggested that the proposed approach did not go far enough to remove existing challenges, and that a single inspectorate would be preferable.

## **Scottish Government response and next steps**

The Scottish Government is pleased that the introduction of a shared framework has broad support across the sector, but we acknowledge that many views were expressed about what elements and factors would need to be considered as it is developed. Many respondents were keen to stress that any shared framework must be well thought out, involve consultation with the sector, and have the full support of the Scottish Government, local government, and the Inspectorates themselves.

The shared framework will be developed by the Care Inspectorate and HMIE/Education Scotland. Both agencies are committed to working in partnership with each other as well as with the sector, families, children, and representative bodies to ensure the development and content of the shared framework is meaningful, and representative of the views and experiences shared with us through the consultation. Their joint statement, noted earlier in this publication, outlines their commitment to do so and the next steps they are taking to progress this work.

The Scottish Government welcomes the commitment of the Inspectorates to taking forward the development of the shared inspection framework this year. The Scottish Government will support the Inspectorates, as appropriate, and is committed to ensuring an inclusive and participatory process.

## **Other matters raised**

### **The role of the Local Authority**

#### **Summary of consultation messages**

Please see the section on the role of the Local Authority in the [full analysis report](#).

The consultation analysis found that some respondents to question 2.9<sup>4</sup> focused on how local authorities support settings in relation to inspections, and others discussed their views on the arrangements or experiences of the local authorities quality assurance role in maintaining the National Standard for funded ELC.

Those who discussed the local authorities' role in assessing and monitoring delivery against the National Standard provided mixed views and experiences, suggesting a variable picture across Scotland.

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<sup>4</sup> Question 2.9 asked: *What are your views on how local authorities carry out their role in monitoring and supporting quality improvement in ELC and school age childcare provision (where appropriate), and how this aligns with the inspection functions carried out by the Care Inspectorate and HMIE?*

In summary, those with positive experiences identified the following strengths in individual cases:

- The process was supportive;
- Aligned well with the Care Inspectorate and HMIE/Education Scotland requirements;
- Providers had a named contact within the local authority for support;
- Input from local authority officers at inspection feedback meetings was helpful; and
- Quality Improvement Officers or Support Officers were valued.

Other contributions identified the following as challenges in the current system:

- The local authority role added a third layer of regulation, scrutiny and inspection;
- A perception that the requirements are overwhelming, with a significant volume and duplication of documents and paperwork;
- A perception of unrealistic timescales associated with local authority role in assessing and monitoring delivery against the National Standard;
- Requirements were felt to be aligned more with one inspectorate than the other;
- Monitoring and support was variable across the country; and
- There was no local authority support for school age childcare or unfunded ELC settings.

### **The role of local authorities**

[Funding Follows the Child](#) (FFtC), which was agreed by the Scottish Government and the Convention of Scottish Local Authorities (COSLA), aims to ensure that the funded early learning and childcare entitlement is delivered in high quality settings. This approach is underpinned by a National Standard that all ELC settings – regardless of whether they are in the public, private, third or childminding sectors – that wish to deliver the funded entitlement have to meet.

At the heart of the National Standard is a clear and consistent set of quality criteria, to ensure that all settings which are offering the funded entitlement are delivering the highest quality ELC experience. The criteria in the National Standard focus on what children and their families should expect from their ELC experience, regardless of where they access their child's funded hours.

The Funding Follows the Child policy framework outlines the role of local authorities as the primary guarantors of quality, responsible for ensuring that funded ELC providers meet the requirements set out in their contracts with local authorities, including meeting the criteria within the National Standard. Local authorities are responsible for assessing and monitoring compliance with the National Standard for all funded providers, including those provided by local authorities. Local authorities adopt various practices to fulfil this role including, in some cases, initiating their own quality assurance visits.

The role of the Local Authority as guarantors of quality is essential to the effective operation of FFtC. It allows them to assess and monitor delivery against the National



Standard, and is in line with broader legislative requirements placed on local authorities in relation to the provision and quality of ELC<sup>5</sup>.

### **Scottish Government response, and next steps**

The intention of question 2.9 was to elicit views specifically on local authorities' role in evaluating settings delivering funded childcare against the National Standard, rather than the support on offer to settings by the local authority more broadly. However, we recognise that the respondents who provided their views on the more general support on offer from local authorities provided valuable and useful insight. We will therefore work with COSLA and the Association of Directors of Education in Scotland (ADES) to consider the messages emerging from the consultation to identify what improvements can be made to the current monitoring and assurance activities by local authorities, in light of the reported experiences outlined in the consultation document. We will provide an update on this work in the summer.

We will also work with COSLA and ADES to look carefully at the examples of existing good practice provided by a number of respondents, and consider how these can be shared with all local authorities.

### **Cooperation between the Inspectorates**

Please see the section on cooperation between the Inspectorates in the [full analysis report](#).

Question 2.7 (Q2.7) explored views about the effectiveness of cooperation between the Care Inspectorate and Education Scotland. Question 2.8 (Q2.8) asked for views on whether the current duty placed on the Inspectorates to 'cooperate and coordinate' inspection activity needed to be changed.

#### **A summary of findings in relation to Q2.7<sup>6</sup> regarding the cooperation between the Care Inspectorate and Education Scotland.**

In summary, the consultation responses to Q2.7 demonstrate that a significant proportion of respondents (44%) disagree that HMIE/Education Scotland and the Care Inspectorate cooperate with one another and coordinate inspection activity effectively, compared to those who agreed (13%).

Those who provided negative comments, and those who provided a neutral rating, discussed a range of issues which they felt showed a lack of cooperation and

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<sup>5</sup> [Section 47 of the Children and Young People \(Scotland\) Act 2014](#) places a duty on local authorities to secure ELC for all eligible children. The ELC being secured has to be in-line with the definition in [section 46](#) of the 2014 Act. Scottish Ministers and local authorities also have a duty under [section 3 of the Standards in Scotland's Schools etc. Act 2000](#) to endeavour to secure improvement in the quality of school education which is provided in Scotland, and this includes ELC.

<sup>6</sup> Question 2.7 in the consultation paper asked: *Under the Public Services Reform (Scotland) Act 2010, HMIE and the Care Inspectorate are under a duty to 'cooperate and coordinate' their inspection activity. To what extent do you agree or disagree that the two inspectorate bodies cooperate with one another and coordinate inspection activity effectively?*

coordination in the work of the Care Inspectorate and HMIE/Education Scotland. The main issues identified by respondents were:

- The Inspectorates were felt to have competing priorities;
- A perception of a lack of consistency in quality indicators and expectations;
- Different approaches and timescales of the two Inspectorates;
- A perception that the roles of the two Inspectorates blur or overlap;
- A lack of communication between agencies over inspection findings;
- Perceptions that the Inspectorates have little respect for each other; and
- A previous attempt to develop a shared framework failed.

Two areas where some considered there to be evidence of existing cooperation and coordination were:

- In the planning and conduct of joint inspections; and,
- In liaising with each other in relation to the planning of inspections to ensure settings are not inspected by both bodies within a certain time period.

**A summary of findings in relation to Q2.8<sup>7</sup> regarding whether any change is required to the current duty of cooperation and collaboration.**

Most respondents who answered Q2.8 felt that more could be done to improve cooperation and coordination between the Inspectorate bodies in the short and medium term (80%).

Respondents who indicated that more could be done referred to the resolution of the current difficulties in cooperation and coordination as the solution, rather than providing suggestions of specific actions that could be undertaken.

The analytical report is clear that the key priorities for respondents in relation to the improvement of cooperation and coordination between the inspectorate bodies is for them to work together to co-produce a shared framework that would remove competing priorities between the Inspectorates, eliminate differing approaches and methodologies for inspection, provide clarity across the sector of their roles and responsibilities, and remove any inconsistencies between Inspectorates.

### **Scottish Government response**

Section 114 of the Public Services Reform (Scotland) Act 2010 (The 2010 Act)<sup>8</sup> places a duty on both the Care Inspectorate and Education Scotland to “co-operate and co-ordinate activity with each other”. The consultation responses demonstrate that a significant proportion of people across the sector consider that the Inspectorates could do more to improve their co-ordination and co-operation.

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<sup>7</sup> Question 2.8 in the consultation paper asked: *Do you think any change is required to the current duty to ‘cooperate and coordinate’ inspection activity to provide opportunities to improve cooperation and coordination between the inspectorate bodies in the short and medium term?*

<sup>8</sup> [Public Services Reform \(Scotland\) Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk)



Some consultation responses also demonstrated a considerable level of scepticism about the ability of the Inspectorates to work together to develop a shared framework, largely as a consequence of the previous attempt by the Scottish Government and both Inspectorates to progress such a framework in 2017 – 2019.

The Scottish Government has considered if any changes to legislation would help support the Inspectorates in improving cooperation and coordination between them. Having reviewed the legislation we are of the view that the 2010 Act provides a sufficient legal underpinning to the work of the Inspectorates, and provides Ministers with the ability to strengthen the duty should they deem it necessary to do so. We do not propose to revise or propose any additional legislation in this regard at this stage.

We also consider that the perception of a lack of coordination and cooperation is likely to flow from the Inspectorates operating with different models for inspection, and that the shared framework should go a significant way to addressing these issues. Along with the Inspectorates, we will monitor and assess how the implementation of the shared framework has addressed this as work is taken forward.

We recognise the strength of feeling expressed on this through the consultation responses, and the critical importance of clarity and consistency between the Inspectorates. Both the Care Inspectorate and Education Scotland are committed to working collaboratively in the development of a shared framework, and they recognise that the development of a shared framework will strengthen an integrated approach to inspection with the ultimate goal of minimising any unnecessary bureaucracy or burden on settings, managers and practitioners.

The joint statement from the Inspectorates, noted earlier in this publication, refers to the work already undertaken, since August 2022, to “*extend the minimum time between inspections by both bodies and, wherever possible, reduce the burden of inspection activity on services.*” The Inspectorates confirmed [in a joint letter to the sector in August 2022](#) that they were working together in the planning and conduct of joint inspections, and that they would work together to ensure settings would not routinely be inspected by both bodies within an 18 month period.

The consultation responses show that this work by the Inspectorates has been welcomed by a number of respondents, and has been quoted as an example of the Inspectorates working well together.

## **Calls for a single ELC inspectorate body**

### **Summary of consultation messages**

A number of consultation respondents expressed support for the creation of a single inspectorate body, despite this not being a specific question asked in the consultation. Some respondents felt that a shared framework would still result in duplication, bureaucracy and confusion within the system, and expressed a view that wider structural changes than those proposed in the consultation were required to effect meaningful change. The analysis report reflects views expressed about the establishment of a single inspectorate where these were raised throughout the consultation.

## Scottish Government response

The Scottish Government recognises that a number of respondents feel that a single inspectorate for ELC is the right way forward. We have considered the views expressed on this matter carefully, and we recognise that there were some powerful reasons for supporting a single inspection body put forward. However, the Scottish Government remains of the view that the establishment of a single inspection body for all ELC services in Scotland is not desirable. It would require significant legislative and structural change, which would take a considerable period of time to develop and see through. We are aware that the pressures in the sector are acute and that change is needed at pace. Indeed, Professor Muir referred to the ‘urgency’<sup>9</sup> of the need for a shared framework and the Scottish Government’s view is that priority should be attached to agreeing and implementing this framework.

There are considerable programmes of reform underway, and we outline some of these further on in this publication. We recognise the pressures on the sector already, and we are confident that significant improvements to clarify and streamline the approach to inspection of funded ELC in particular can be delivered within the current organisational structures, with minimal additional disruption being caused to the sector. Essential to achieving this is the commitment of both Inspectorate organisations, and the support of the sector.

## School age childcare and childminding

Please see the section on school aged childcare and childminding in the [full analysis report](#).

### Summary of consultation messages

A number of respondents raised issues and concerns regarding a shared inspection framework and how it would apply to different settings, in particular, school age childcare and childminders. The [consultation analysis report](#) provides an overview of some sector specific concerns. These relate to ELC and school age childcare operating distinctly and differently, and a view that inspection processes and approaches need to take these differences into account. The consultation highlighted that there is a need to ensure care and learning elements are appropriately balanced for each age-group – particularly for school age children who undertake learning at school and for whom it would not be appropriate to evaluate school age childcare on standards developed for ELC.

The response from Scottish Out of School Care Network (SOSCN), which represents a significant proportion of the sector, demonstrated that their members were clear that they would prefer their own inspection standards with a strong focus on play and Playwork, and that in their view thought needs to be given to how to avoid an overtly

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<sup>9</sup> Recommendation 15 in the [Muir report](#) is: “As a matter of urgency the new independent Inspectorate should re-engage with the Care Inspectorate to agree a shared inspection framework designed to reduce the burden on Early Learning and Childcare (ELC) practitioners and centres.”

educational emphasis to the shared framework for those settings in which it would be inappropriate.

In terms of the wider consultation question on what settings a shared framework should apply to<sup>10</sup> just over two thirds (68%) of respondents agreed that the shared framework should apply to all ELC services, including funded and unfunded nursery and childminder provision for 0-5 year olds, and to childcare provision for children of school age (over 5 years old). Fewer than one in five respondents (18%) felt this should not be the case, and a further 14% were unsure.

Those who were supportive of applying a shared framework to all settings broadly felt that it would:

- Promote a collaborative and consistent approach to inspection and strengthen the wider ELC workforce; and
- Provide a consistent benchmark for all services to work towards.

A number of responses were supportive of a shared framework applying to all settings, but with some caveats applied. These additional considerations included:

- The framework should be applied proportionately rather than routinely to different settings (i.e. childminders should not be inspected to the same intensity as local authority funded nurseries);
- The framework should avoid stifling innovation and variety of settings, the sector should not become 'all the same'; and
- The need to align the shared framework with Realising the Ambition to ensure that inspection is proportionate to the age and stage of the child and the provision itself.

Those who were not supportive of the proposition broadly felt;

- A shared framework would be too generic and would not cater to all individual settings; and
- School age childcare is a separate sector which is neither responsible for children's progress and achievement nor the delivery of education, and its inclusion would risk further confusion about the roles and responsibilities of staff.

Overall, both those who supported and did not support the shared framework being applied in different settings indicated that it would need to have flexibility to accommodate service differences and nuances.

We were also grateful to receive a comprehensive report from the Scottish Childminding Association (SCMA): *#TellSCMA Childminding & You Survey 2022: Survey Report No. 1: Future of Inspection*. This was compiled following a large-scale membership survey by the SCMA in order to inform their response to the consultation. In total, 1263 responses were received, representing a significant proportion of the

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<sup>10</sup> Question 3.5 asked: Do you think that the shared framework should apply to all ELC services, including funded and unfunded nursery and childminder provision for 0–5-year-olds, and to childcare provision for children of school age (over 5 years old)?

workforce. In summary, the SCMA report demonstrates a view that the current system of inspection is not working well for childminders, with key findings that;

- Only 34% of all childminders who responded believe it has a strong/very strong understanding of childminding;
- Only 37% believe it has a strong/very strong focus on childminding; and
- Only 38% believe it has a strong/very strong relevancy to childminding.

The findings of the SCMA survey have been extremely informative, and tell us that:

- A shared inspection and quality framework for ELC and school-age childcare is supported but should be:
  - More childminding-specific, recognising the unique nature of childminding, which spans pre-school and school-age children;
  - Less focused on funded ELC and more balanced;
  - More focused on the child than documentation, with much-reduced paperwork; and
  - More understanding of childminders' professional responsibilities at the time of inspection (all inspections should be announced in advance with limited notice). More consistency is needed between inspectors and between childminders' inspections around Scotland.

An overwhelming majority of childminders who responded to this survey also supported the view that quality assurance must become more joined-up, lighter touch and more proportionate for childminders.

## **Scottish Government response and next steps**

### **School Age Childcare**

The Scottish Government is grateful for the views contributed about the need to ensure that the differing needs of the sector are reflected in the development of the shared framework. The intention is that the shared framework will be developed for use in inspection of all ELC and school age childcare services. Both Inspectorates will consider how the shared framework can be applied in the inspection of different service types.

The joint statement from the Inspectorates, noted earlier in this publication, confirms their commitment to ensure that the framework reflects the diverse needs of the sector, and the Scottish Government is clear that this consideration is essential to its development. The Inspectorates will also take account of this through their consultation with the sector on the shared framework.

The [Best Start - strategic early learning and school age childcare plan](#) outlines the Scottish Government's commitment to building a system of school age childcare, providing care before and after school, all year round, supporting parents and carers – particularly on low incomes – to have secure and stable employment. Those on the lowest incomes will pay nothing.

In addition, this year we will publish a School Age Childcare Delivery Framework which will set out the approach and principles that we will apply to designing and building this new system. The Delivery Framework will be supported through an initial investment of £15 million in 2023-24 and builds on the investment we made in 2022-23 to develop tests of change across communities to provide targeted school age childcare services and a summer programme of activities, childcare and food provision.

As we grow our school age childcare sector, we will work closely with our partners to consider what a robust regulatory landscape that supports quality, innovation and growth within the sector, should look like. We will work together to identify possible options and consider how we might deliver this so that there is an appropriate and effective regulatory and inspection system to support the expansion of school age childcare.

### **Childminding services**

The Scottish Government welcomes the unique and vital contribution that childminders make to providing high-quality, nurturing ELC and school age childcare experiences for children.

We recognise the particular and distinct challenges faced by the childminding sector, and are grateful for the information and examples provided both in response to our consultation, and to the *#TellSCMA Childminding & You Survey 2022*.

The childminding sector expressed strong support for a shared inspection framework, spanning ELC and school age childcare, which recognises the specific nature of childminding. Both Inspectorates will consider how the shared framework can be applied in inspection of childminding. In the immediate term, we will also bring together the Inspectorates and childminding representatives to discuss the inspection landscape for childminders and consider further actions, reflecting the findings of the SCMA survey.

We are aware of a common concern from within the childminding sector that the levels of paperwork and bureaucracy associated with practising is unsustainable. The Scottish Government has agreed to support pilot activity, in partnership with SCMA, across six local authorities to support childminders with streamlining, and therefore reducing, the administrative burdens associated with their practice.

The 'Reducing Burdens' pilot includes the following aspects:

- Developing guidance for local authorities in the form of effective practice principles underpinning the successful inclusion of childminders in the delivery of funded ELC;
- Offering all childminders in the targeted local authorities funded access to the three 'Quality in Practice' Continuous Professional Learning (CPL) courses, designed to support childminders in cross referencing policy, guidance, and framework documents to provide standardised responses and evidence to meet a range of reporting requirements; and,
- Offering all childminders in the targeted local authorities support and access to SCMA's self-evaluation toolkit and accompanying webinar.

We also provide financial support for the SCMA-led Scottish Rural Childminding Partnership. This partnership sees SCMA working with Highland and Islands Enterprise, South of Scotland Enterprise and Skills Development Scotland to deliver a project aiming to support the recruitment and training of 100 new professional childminders within 10 areas of Scotland.

The pilot has gathered valuable lessons about effective recruitment to these roles to date. We are therefore pleased to support the next phases of this pilot, which includes expanding the model to urban areas.

Both the 'Reducing Burdens' pilot and the Scottish Rural Childminding Partnership recruitment model will be evaluated to inform any future national activity to support the recruitment and retention of childminders.

## **Workforce and sector sustainability**

### **Summary of consultation messages**

A significant number of respondents raised concerns about the current pressures faced by staff working across the sector. Themes included:

Administrative burdens on staff, which have increased and are a contributing factor in issues with staff leaving the profession or considering doing so;  
Those in the Private, Voluntary or Independent sector (PVI) sector indicated that they were losing staff to local authority ELC settings where wages were higher, thus resulting in a high staff turnover and a higher proportion of less experienced staff in PVI settings; and,

A number of responses noted that school age childcare settings were also experiencing issues with recruitment and retention of staff, with many leaving to join the local authority ELC provision where more working hours and better pay and conditions were on offer.

### **Scottish Government response and next steps.**

The Scottish Government recognises the challenges faced by staff working across the sector. We understand that this is a particularly tough time for the sector and we are grateful for the dedication and professionalism staff continue to show through their essential work with children and their families.

[Priority 3 of the Best Start: strategic early learning and school age childcare plan 2022 to 2026](#) is *‘Ensuring that the delivery of our priorities is supported by a sustainable, diverse and thriving sector and profession’*. The Plan outlines a wide range of specific actions that the Scottish Government is committed to delivering in order to support the workforce and the overall sustainability of the sector.

A key part of this work is the publication of a Strategic Framework for Scotland’s Early Learning and School Age Childcare Profession. The Framework will outline a range of actions that will support a sustainable, diverse, highly skilled workforce to serve the whole childcare sector. It will set out the key priorities for the profession now and in the coming years, as well as actions we will take alongside partners to address those priorities.

Throughout the 1140 expansion we have sought to improve conditions across the private, voluntary, and childminding workforce delivering funded ELC, including through our investment to support the payment of sustainable rates. Rates should be set at a level to enable payment of the Real Living Wage to staff delivering the funded ELC entitlement.

We will also maintain a robust but proportionate means of monitoring the financial sustainability of the childcare sector, including issues relating to the workforce, to ensure that both national and local policy is informed by up to date evidence about the health of the sector through this uniquely challenging period. This includes an update of the Financial Sustainability Health Check, which will be published in Spring 2023.

## **Links to wider programmes of reform**

This work forms part of an ambitious programme of reform in education and in relation to the establishment of a National Care Service, which are designed to deliver significant improvements in public service delivery. We recognise the need for coordination across Government on these programmes so that we minimise any disruption to settings or confusion about what is happening. Below we outline how we are working to ensure that ELC and school age childcare are considered as important components of these reforms, and that the findings from this consultation are fully reflected within them.

### **Education Reform Programme**

Following the independent review of Education in Scotland and the recommendations by Professor Muir on aspects of education reform, work commenced to establish a new national agency for Scottish education (replacing Education Scotland), alongside an independent inspectorate body and a new qualifications body. These new bodies will be operational from 2024. The Scottish Government is committed to ensuring that the vital importance and value of ELC within Scotland’s education system is fully reflected in the design and delivery of the new agency and inspectorate, and follow up work to the [National Discussion on Education](#).

## **Independent Review of Inspection, Scrutiny and Regulation in Scotland (IRISR) of Social Care delivery**

The [IRISR](#) is currently underway and is looking at how social care services including ELC and school aged childcare services are regulated and inspected in Scotland. It will also consider the interactions with community health and other services which support people. ELC and school aged childcare organisations continue to provide advice and expertise through their membership of the IRISR Practitioner and Stakeholder Panel. Key messages from the ELC inspection consultation are also being shared with the IRISR's Chair and Vice Chair as part of an evidence review that will inform their recommendations.

The IRISR will report in June 2023 and more details about the Review can be found on the [Scottish Government's webpages](#).



## Glossary

### Glossary of terms for this consultation document

#### **Early learning and childcare (ELC)**

All pre-school education and care for children aged 0 to not yet attending primary school that is registered with the Care Inspectorate, whether providing funded or unfunded hours, such as nursery provision and childminders.

#### **School age childcare**

All childcare provision for children attending school that is registered with the Care Inspectorate.

#### **The Care Inspectorate**

The independent scrutiny body with a duty to further improvement for all care services in Scotland including ELC and school age childcare. Every provider of ELC and/or school age childcare must register with them. The Care Inspectorate has statutory obligations to carry out inspections on the quality of provision of all ELC, childminding and school age childcare settings. In addition to the registration and inspection functions the Care Inspectorate also has a complaints function and powers to undertake enforcement action where there is a serious concern about the health and wellbeing of people using a service.

#### **Education Scotland**

A Scottish Government Executive Agency charged with supporting quality and improvement in Scottish Education and thereby securing the delivery of better learning experiences and outcomes for Scottish learners of all ages. Currently, His Majesty's Inspectors of Education (HMIE) are located within Education Scotland. HMIE/Education Scotland carry out inspection of the quality of education from early learning and childcare to adult learning.

#### **'The Inspectorates'**

A term used throughout to refer to the Care Inspectorate and Education Scotland when exercising their inspection functions in relation to ELC and school age childcare.

#### **Inspection of ELC and school age childcare**

External evaluation of providers within the ELC and school age childcare sectors to assess the quality of provision against set criteria.

#### **Regulation of ELC and school age childcare**

The action or process of regulating or being regulated. Regulation of ELC and school age childcare services is separate to inspection and includes registering settings, investigating complaints and, where appropriate, issuing requirements for change.

#### **Education Reform**

Reform of our national education bodies, as announced by the Cabinet Secretary Education and Skills [in Parliament](#) on 9 March 2022. [Reform of Scotland's education system](#) includes a national discussion on education, an independent review of qualifications and assessments, reforming education bodies the Scottish Qualifications Authority (SQA) and Education Scotland, merging the curriculum and assessment

function and removing inspection from Education Scotland and, reform of post-school education and training.

### **National Care Service**

The [National Care Service \(Scotland\) Bill](#) is currently before the Scottish Parliament for the establishment of a [National Care Service](#). It will be responsible for social work and social care support, including support for carers. It will also be responsible for planning and commissioning primary care and community health services.

### **Independent Review of Inspection, Scrutiny and Regulation in Scotland (IRISR) of Social Care delivery**

The [Independent Review of Inspection, Scrutiny and Regulation \(IRISR\)](#) is looking at how social care services are regulated and inspected across social care support services in Scotland. It will also consider the interactions with community health and other services which support people. The IRISR will report in June 2023



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