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Education Bill: school inspection

Summary

The Education Bill significantly enhances the functions and powers of inspectors (Clauses 44-48). The key findings on the new provisions in comparison to other jurisdictions include the following (Annex 1 contains further detail):

- **Powers to inspect documents:** powers are similar to those in England; RoI legislation provides for such powers as 'necessary or expedient' and Scottish legislation does not specify powers, but it is an offence to obstruct inspection;
- **Areas of inspection:** RoI legislation is less prescriptive; Scottish legislation does not detail particular areas; and the English legislation additionally specifies pupil achievement and behaviour and safety (the 2011 Act removed the requirement to report on whether financial resources are managed effectively);
- **Requirement for an action plan:** Similar to English legislation; there is no statutory requirement in RoI or Scotland.

Approach to school inspection in Scotland

The Scottish approach to inspection places significant emphasis on collaboration between inspectors and staff, with inspectors being viewed more as 'professional

coaches' than 'external examiners'. There is also a key focus on school self-evaluation. Examples of this collaborative approach within the inspection process include:

- **Joint scoping meeting** at the beginning of the inspection whereby inspectors explore the school's self-evaluation and staff members' ideas for areas to be focused on during inspection;
- Member of the senior management team invited to **accompany inspectors** on lesson observations and to share their thoughts;
- **Opportunities for staff to engage with team** throughout the week and opportunity for parents to engage with lay inspector; and
- At the end of the inspection, inspectors discuss findings with the principal and senior management team and **both parties agree areas for improvement.**

1 Introduction

The Education Bill introduced to the Assembly on 2nd October 2012 enhances the powers of inspectors. This paper considers the proposed powers and provides a comparison with other jurisdictions. It also looks specifically at the approach to school inspection in Scotland.

2 New powers within the Education Bill

Clauses 44-48 within the Bill significantly enhance the functions and powers of inspectors. The key aspects include the following:

- **Widening of the role to advise the Department on 'any aspect' of establishments** as appropriate (the current legislation, the Education (Northern Ireland) Order 1996, requires inspectors to advise the Department on '*any aspect of the curriculum*' of establishments);
 - The areas that inspectors may inspect and report on are also detailed in Clause 44, namely **teaching and learning; management; staffing, equipment, accommodation and other resources** of the establishment;
- **New powers to inspect, copy or take documents away** from the establishment under inspection; to require production of any document and obtain access to any computer and associated material - "*at reasonable times only*" (Clause 45);
- A new duty on the 'responsible authority' (typically the Board of Governors) to **prepare and publish a statement on the actions it will take** in light of the inspection report (Clause 46);
- **A new statutory requirement to monitor, inspect and report on CCEA** (the Department already inspects CCEA however this is not in statute).

3 England

The Education Act 2005 brought about a number of significant changes to the powers of inspectors. The key changes included:¹

- A new system of more regular, lighter touch inspections;
- Revised categorisation for schools causing concern (introducing a new designation of ‘requiring significant improvement’);
- Removal of the duty for schools to provide an action plan.

This legislation has since been significantly amended by the Education Act 2011, which provided for more focused Ofsted inspections and wider powers to intervene in underperforming schools.² It also provided a new power to end routine inspections of outstanding schools and colleges.³

Areas for inspection

The Education Act 2011 redefined the areas inspectors were required to report on. For example, it removed the requirement from the 2005 Act to report (within leadership and management) on whether the financial resources made available to the school are managed effectively. It required inspections to be focused on four key areas:

- Pupil achievement;
- Quality of teaching;
- Leadership and management; and
- Behaviour and safety.

The Act also requires inspectors to consider the spiritual, moral, social and cultural development of pupils at the school and the extent to which the education provided meets the needs of the range of pupils⁴

In England Ofqual has responsibility for inspecting and regulating qualifications. In particular, it monitors awarding organisations and qualifications to ensure that standards are maintained.⁵

Powers in relation to documents

The Education Act 2005 details a range of powers for the Chief Inspector. These include:⁶

¹ Legislation.gov.uk *Education Act 2005: Summary and Overview* [online] Available at: <http://www.legislation.gov.uk/ukpga/2005/18/notes/division/3>

² Legislation.gov.uk *Education Act 2011: Summary and Background* [online] Available at: <http://www.legislation.gov.uk/ukpga/2011/21/notes/division/2>

³ Department for Education (2011) *Education Bill receives Royal Assent* [online] Available at: <http://www.education.gov.uk/inthenews/inthenews/a00200186/education-bill-receives-royal-assent>

⁴ Legislation.gov.uk *Education Act 2011* [online] Available at: <http://www.legislation.gov.uk/ukpga/2011/21/part/5>

⁵ Ofqual *How we regulate* [online] Available at: <http://www.ofqual.gov.uk/how-we-regulate/>

10(1) *“When inspecting a school under section 5 or 8, the Chief Inspector has at all reasonable times-:*

(d) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he considers relevant to the discharge of his functions; and

(e) a right to inspect and take copies of –

(i) any records kept by the provider relating to the provision of education for pupils registered at the school, and

(ii) any other documents containing information relating to the provision of such education by the provider, which the Chief Inspector considers relevant to the discharge of his functions.

(Excerpt from The Education Act 2005)

The Education Act 2005 also sets out powers for inspectors to have access to computers and associated material used in connection with documents.

The legislation additionally states that *‘it is an offence to intentionally obstruct the Chief Inspector in relation to the inspection of a school’* and that a person guilty of this is *‘liable on summary conviction to a fine not exceeding level 4 on the standard scale’*.

Requirements for an action plan

Under the Education and Inspections Act 2006 an education provider who has been inspected and their inspection report published is required to prepare a written statement of the action it proposes to take in light of the report and the timescale.⁷

4 Scotland

Areas for inspection

The legislation, including the Education (Scotland) Act 1980, does not detail the areas inspectors should examine (however the guidance includes information on this).

Powers in relation to documents

The legislation does not include specific powers relating to taking or copying documents. However, it does state:⁸

⁶ Legislation.gov.uk *Education Act 2005* [online] Available at: <http://www.legislation.gov.uk/ukpga/2005/18/contents>

⁷ Legislation.gov.uk *Education and Inspections Act 2006* [online] Available at <http://www.legislation.gov.uk/ukpga/2006/40/part/8>

⁸ Legislation.gov.uk *Education (Scotland) Act 1980* [online] Available at: <http://www.legislation.gov.uk/ukpga/1980/44/section/66>

66(3) *“If any person wilfully obstructs any person authorised to make an inspection in pursuance of this section in the execution of his duty, he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.”*

(Excerpt from The Education (Scotland) Act 1980)

Requirement for action plan

The legislation does not require schools to develop an action plan.

5 Republic of Ireland

Areas for inspection

The Education Act 1998 sets out the functions, duties and powers of the Inspectorate. These include supporting and advising schools on the provision of education and assisting teachers to employ improved methods of teaching. With regard to the areas of inspection, the legislation is less prescriptive than that set out in the Education Bill.⁹

13(3) *“An Inspector -*

*(i) Shall visit recognised schools and centres for education on the initiative of the Inspectorate, and, **following consultation with the board, patron, parents of students and teachers, as appropriate, do any or all of the following:***

- (I) evaluate the organisation and operation of those schools and centres and the quality and effectiveness of the education provided in those schools or centres, including the quality of teaching and effectiveness of individual teachers;*
- (II) evaluate the education standards in such schools or centres;*
- (III) assess the implementation and effectiveness of any programmes of education which have been devised in respect of individual students who have a disability or other special educational needs;*
- (IV) assess the implementation of regulations made by the Minister.*

(Excerpt from The Education Act 1998)

With regard to the requirement to inspect examinations, the Education Act 1998 requires inspectors *“to perform such functions relating to the preparation and marking*

⁹ Irish Statute Book *Education Act 1998* [online] Available at: <http://www.irishstatutebook.ie/1998/en/act/pub/0051/sec0013.html>

of the school examinations which are conducted in the State as the Chief Inspector shall determine, the monitoring and evaluation of the content and standards of those examinations and to report thereon to the Minister.”¹⁰

Powers in relation to documents

The Education Act 1998 does not set out specific powers in relation to taking or copying documents. However, it states:¹¹

“An Inspector shall have all such powers as are necessary or expedient for the purpose of performing his or her functions and shall be accorded every reasonable facility and cooperation by the board and the staff of a school or centre for education.”

Requirement for action plan

The Education Act 1998 does not set out provision to require schools or educational providers to develop a report setting out actions to be taken. Indeed, the Inspectorate does not have the authority to tell a school what to do with an inspection report. Where issues are identified, the Department’s School Improvement Group may initiate an integrated support process.¹²

6 Approach to school inspection in Scotland

The Scottish approach to inspection emphasises cooperation and collaboration between the inspectors and the school or organisation undergoing inspection. Another key feature of the approach is the focus on self-evaluation. Guidance states:¹³

“We know from practice and feedback that positive engagement can lead to effective and productive professional dialogue which can make a significant difference to a school.”

The most recent changes to the approach in Scotland were introduced in 2011/12 following national consultation. A key principle is that inspectors are viewed more as ‘professional coaches’ than ‘external examiners’. The changes included:¹⁴

- A move from inspecting schools every six years to a sampling approach;
- Reduction in the notice period to two or three weeks;
- Enhanced use of self-evaluation; and
- Greater focus on users, including giving parents opportunities to meet a lay inspector.

¹⁰ Irish Statute Book *Education Act 1998* [online] Available at: <http://www.irishstatutebook.ie/1998/en/act/pub/0051/sec0013.html>

¹¹ As above

¹² National Economic and Social Council (2012) *Quality and Standards in Human Services in Ireland: the School System* NESDO

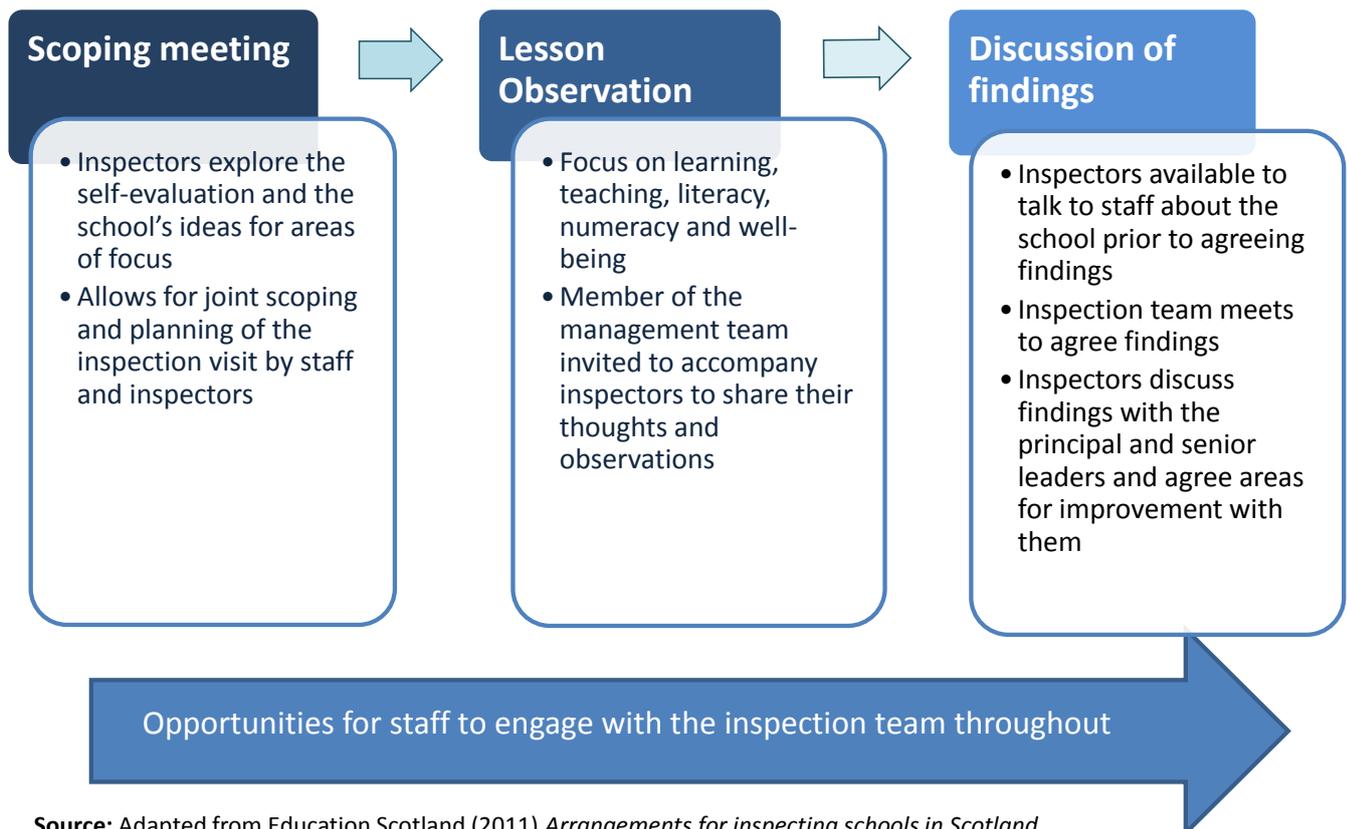
¹³ Education Scotland (2011) *Arrangements for inspecting schools in Scotland*

¹⁴ Buie, E. (2011) “HMIE unveils new targeted approach to school inspection” *Times Educational Supplement* 25 February 2011

Inspection process

Inspection is a ‘two-way process’ and HM Inspectors aim to work with staff in a “*constructive, positive and professional manner*”. It has been suggested that teachers are more likely to view external inspection in a developmental manner rather than a judgemental one.¹⁵ The following figure provides a broad overview of the inspection process used.¹⁶

Figure 1: Overview of the Scottish inspection process



Source: Adapted from Education Scotland (2011) *Arrangements for inspecting schools in Scotland*

Follow-up

The inspection report is published within eight weeks of the inspection. There are four broad approaches to follow-up, from working with an establishment to disseminate innovative practice, to continuing to monitor a school’s progress.

The School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 provided Ministers with powers to direct schools to take specific actions to secure improvement following inspection. It applies where a school has been given sufficient opportunity to secure improvement but has failed to take satisfactory action to do so.¹⁷

¹⁵ Livingstone, K. and McCall (2005) ‘Evaluation: judgemental or developmental?’ *The European Journal of Teacher Education* Vol. 28, No 2. Pp.165-178

¹⁶ Education Scotland (2011) *Arrangements for inspecting schools in Scotland*

¹⁷ Legislation.gov.uk *School Education (Ministerial Powers and Independent Schools) Scotland Act 2004* [online] Available at: <http://www.legislation.gov.uk/asp/2004/12/notes/division/1/1/3/1>

7 Annex: Education Bill provisions and legislation in other jurisdictions

	Areas of inspection	Powers to inspect and take documents	Requirement for action plan
Education Bill (NI)	<p>‘Any aspect’ of establishments in particular:</p> <ul style="list-style-type: none"> • Teaching and learning; • Management; • Staffing, equipment, accommodation and other resources 	<p>The inspector may inspect, take copies of, or take away any documents ‘at reasonable times only’ including:</p> <ul style="list-style-type: none"> • Power to require production of documents and obtain access to any computer in connection with documents 	Responsible authority required to prepare a written statement of the actions it will take
England	<ul style="list-style-type: none"> • Pupil achievement; • Quality of teaching; • Leadership and management; and • Behaviour and safety 	<p>The inspector may inspect, take copies of, or take away any documents ‘at all reasonable times’</p> <ul style="list-style-type: none"> • Power to obtain access to any computer 	Providers required to prepare a report detailing the action they will take
Scotland	<ul style="list-style-type: none"> • Does not detail specific areas 	Does not specify particular powers, however anyone obstructing inspection subject to fine/ imprisonment	Not required
Republic of Ireland	<ul style="list-style-type: none"> • Less prescriptive – inspectors consult stakeholders and evaluate as appropriate • Duties include advising and supporting schools 	Inspector “ <i>shall have all such powers as are necessary or expedient... and shall be accorded every reasonable facility and cooperation by the board and staff</i> ”	Not required

Please note: The table refers only to the legislation - guidance may include different provisions.