

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

## **Consultation Paper**

**July 2022**



**Scottish Government**  
Riaghaltas na h-Alba  
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## Ministerial Foreword

In June 2021 we announced Professor Ken Muir's appointment as an independent adviser on education reform. When we asked Professor Muir to undertake this work, we encouraged him to recommend the transformational changes that would be needed to deliver an improved education experience for all children and young people. The response to that exercise has been significant and we are heartened by our collective commitment to all stages of education. The significant reforms being taken forward are designed to improve outcomes and build trust in Scotland's education system, putting learners at the centre, supporting our teachers and practitioners and instilling integrity, fairness and accountability throughout our national education bodies.

Professor Muir published his report, [Putting Learners at the Centre: Towards a Future Vision for Scottish Education](#), in March 2022. At the [meeting of the Parliament on 9 March 2022](#) we welcomed the specific recognition of the importance of early learning and childcare (ELC) in his findings.

We know that provision of high quality ELC, which includes childminding, makes an important contribution to children's outcomes and life chances, particularly when they are growing up in disadvantaged circumstances. It is central to our national mission to tackle child poverty and help close the poverty-related attainment gap, increasing family resilience through improved health and wellbeing of children and parents, and supporting parents into work, study or training.

That is why we put quality at the heart of the delivery of the expansion of funded ELC entitlement from 600 to 1140 hours, with over 111,000 children benefitting as of January 2022. During this Parliament we have set out our commitment to go further, expanding funded ELC to one and two year olds, starting with children from low income households, and building a system of school age childcare, providing care before and after school and during the holidays, which is free for those on lowest incomes.

As part of Professor Muir's work, we asked him to consider the implementation of improvements to the inspection of all stages of education. During the development of his report, Professor Muir was ably supported by ELC representatives on his advisory group and carried out extensive engagement with the sector. He regularly heard of the challenges faced by ELC providers as a result of the current approach to inspection, whereby some settings providing funded ELC hours are inspected by both Her Majesty's Inspectorate of Education (HMIE) and the Care Inspectorate. In response to concerns raised that this approach results in duplication of effort, complexity and unnecessary burdens on ELC providers, Professor Muir recommended that a shared inspection framework for ELC be developed between the Care Inspectorate and the new education inspectorate, expected to be operational in 2024.

This recommendation has created an important opportunity for a wider debate about the role of inspection in supporting the delivery of high quality provision across all ELC and school age childcare services (recognising the value of the diversity in the sector across local authority, private, voluntary and childminding providers) and how

inspection of these services contributes to our national vision for the future of education and childcare in Scotland.

The primary focus of inspection must continue to be 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 must support improvement in the quality of services, including through self-evaluation, and provide assurance to families and to those responsible for commissioning services about the quality of experience that children receive. It must align with our commitment in Scotland to recognise, respect and promote children's rights.

We want to ensure that our national framework for 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.

This consultation sets out our vision for the inspection of ELC and school age childcare services and the guiding principles that underpin our approach. It seeks 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 inspection framework. The proposed framework recognises that different approaches are required for different parts of the system, for example, school age childcare services are childcare services provided out-with broad general education and so do not require HMIE inspection of education provision. This framework should provide clarity and consistency for service providers about what they will be inspected against and by whom, and help to simplify and streamline the existing approach to inspection.

Changes to the regulations that govern ELC and school age childcare may be required over time as we develop and deliver on commitments to expansion over the course of this Parliament (for example, as we build a new system of school age childcare). That is not the purpose of this consultation, which focuses on how we can make the current system work better based on the existing two inspection bodies. Whilst the inspection function is being removed from Education Scotland, we expect this consultation to help set direction and inform how the new independent education inspection body carries out its duties with regard to ELC.

Through this consultation we want to hear from everyone who has an interest in the ELC and school age childcare sectors. That includes practitioners, childminders, teachers, staff working in or managing settings, parents and carers, staff working in inspection bodies and local authorities. This will support us to fully understand the benefits and challenges of the current system, and to get the next steps right.

Finally, we would like to express our particular thanks to all of the hardworking ELC and school age childcare practitioners, teachers and staff, as well as inspectors, who go above and beyond every day to secure these vitally important experiences for children, particularly in the exceptionally challenging circumstances of the COVID-19

pandemic. We are committed to improving the system to support the vital work that you do with children and families, and help meet our aspiration that children in Scotland grow up loved, safe and respected, so that they realise their full potential.

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

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

## **Introduction**

This consultation aims to gather views on a vision for the future of inspection and what this will deliver for children, families and practitioners, teachers and staff working in the sector from the full range of ELC and school age childcare services, whether or not they currently provide funded ELC. It is seeking views on the strengths of existing inspection arrangements, where improvements can be made and the proposal to bring forward a shared quality framework to be used in inspection of these services, developed collaboratively by the Care Inspectorate, HMIE, sector representatives, practitioners, teachers, staff and children.

### **Why your views matter**

The Scottish Government recognises the enormous value that comes from the diverse sector that includes local authority, private, childminding, voluntary and school age childcare providers.

We would like to gather views from everyone impacted by the current inspection approach, including inspection and improvement organisations, local authorities, representative bodies, providers, managers, staff and teachers working in every type of provider and parents and carers. The responses to this consultation will be used to inform next steps on the improvement and streamlining of inspection of ELC and school age childcare services in Scotland.

### **Impact Assessments**

Separate impact assessments will be carried out as appropriate and published on the Scottish Government website in due course.

### **Respond to this Consultation**

We are inviting responses to this consultation by midnight on 28 October 2022.

Please respond to this consultation using the Scottish Government's consultation hub, [Citizen Space](#). Access and respond to this consultation online <https://consult.gov.scot/early-learning-and-childcare-directorate/inspection-scrutiny-and-regulation-of-the-elc> . You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 28 October 2022.

If you are unable to respond using our consultation hub, please complete the 'About You' form and send it to:

Early Learning and Childcare, Inspection and Scrutiny Team  
Scottish Government  
Area 2D South  
Victoria Quay  
Edinburgh EH6 6QQ

Or by email to: [elcinspectionconsultation2022@gov.scot](mailto:elcinspectionconsultation2022@gov.scot)

## **Handling your response**

If you respond using the consultation hub, you will be directed to the 'About You' page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the 'About You' form included in this document.

To find out how we handle your personal data, please see our [privacy policy](#).

## **Next steps in the process**

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public on the Scottish Government's [consultation hub](#). If you use the consultation hub to respond, you will receive a copy of your response via email.

As part of the consultation process, we will be meeting with representatives from a range of stakeholders, including the inspectorate bodies, representative bodies from the sector and trade unions over the summer and autumn period.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available. We will then set out intended next steps, including a proposed timeframe to implement the recommended improvements.

## **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [elcinspectionconsultation2022@gov.scot](mailto:elcinspectionconsultation2022@gov.scot)

## **Scottish Government consultation process**

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our [consultations online](#). Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- Indicate the need for policy development or review
- Inform the development of a particular policy
- Help decisions to be made between alternative policy proposals
- Be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



## Background

In Scotland we have set out to ensure that all children receive the highest quality early learning and childcare (ELC) in order to give them the best possible start in life. International research, [as referenced in recent impact assessments](#), and evidence from our own [Growing Up in Scotland Study](#) shows that based on Care Inspectorate grades, all children, but especially those from more disadvantaged backgrounds, can benefit from attending ELC and that high quality ELC contributes to children's care, learning, wellbeing, progress and achievement, and to closing the poverty-related attainment gap.

We also know that 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. That is why we also have ambitious plans to build a system of school age childcare, providing care before and after school and during the holidays, which is free for those on lowest incomes.

### Funded ELC policy framework

In August 2021, the Scottish Government and local authorities, working with partners across the private, third and childminding sectors, almost doubled the funded entitlement for ELC to 1140 hours per year for all 3 and 4 year olds and 2 year olds who would benefit most. The latest [Improvement Service data](#) shows that over 111,000 children are now benefitting from funded ELC. We have committed to going further, expanding funded ELC to one and two year olds, starting in this Parliament with those children who will benefit most.

To assure parents and carers that any provider offering funded ELC hours can offer their child a high quality ELC experience we have introduced the [National Standard](#), which includes a set of criteria requiring settings to obtain grades of 'good' or better on Care Inspectorate quality evaluations to be a funded ELC provider. In recognition of the impact of the COVID-19 pandemic providers are currently subject to [Interim Guidance](#), which allows local authorities to apply flexibilities to a small number of criteria in the National Standard, including those relating to Care Inspectorate evaluation grades. Quality improvement support is in place at a national level through the Care Inspectorate ELC Improvement Programme to support those services who do not currently meet, or are at risk of not meeting, the Care Inspectorate evaluations required in the National Standard. There will be a further review point on these flexibilities in late 2022 and, following this, updated guidance documents will be made available in Spring 2023 to support full implementation of [Funding Follows the Child](#) and the National Standard from August 2023.

In January 2020, Education Scotland published the refreshed national practice guidance '[Realising the Ambition: Being Me](#)', supporting settings to implement play-based and child centred learning and outdoor educational experiences. We know that ELC plays a key role in implementing the early level of Scotland's Curriculum for Excellence across all settings, supporting continuity of learning and a coherent educational journey for children. All of this vital work contributes towards our ultimate

goal – to ensure that children in Scotland grow up loved, safe and respected so that they realise their full potential.

## **Education reform**

On 21 June 2021, the Organisation for Economic Co-operation and Development (OECD) published recommendations for education reform in Scotland in their publication [Scotland's Curriculum for Excellence, into the future](#) following a review of Scotland's Curriculum for Excellence. This included a recommendation that the Scottish Government should simplify education policies and institutions. Specific to inspection of education, the OECD recommended that we consider refreshing the remit of the inspectorate of education.

The Scottish Government accepted the OECD recommendations in full and [published its response online](#). On 22 June 2021, we announced a range of transformational measures, including a commitment to move the role of inspection out of Education Scotland. Professor Ken Muir OBE was appointed to lead work to design the implementation of this recommendation and he, together with his expert panel and advisory group, carried out an extensive [programme of engagement](#), published online, with stakeholders across all stages of education between September and November 2021 to inform his report.

A programme of educational reform aiming to deliver that vision is now being taken forward. The information gathered as part of this consultation will inform and support the implementation of these wider education reforms.

## **Professor Muir's recommendations**

Professor Muir's report, '[Putting Children at the Centre: A Vision for Scottish Education](#)' was published alongside the Scottish Government [response](#) in March 2022. As part of that report, Professor Muir recommended that a new education inspectorate body be established, which should re-engage with the Care Inspectorate to agree a shared inspection framework for early years provision in Scotland. This new education inspectorate, which will take over the work currently undertaken by Education Scotland, including in respect of ELC, is expected to be operational in 2024.

During Professor Muir's consultation events the current inspection approach, whereby some ELC establishments are inspected by both Her Majesty's Inspectorate of Education ('HMIE', currently within Education Scotland) and the Care Inspectorate, came in for regular criticism. It was felt that this part of the sector was disproportionately subject to external accountability, to a greater extent than other parts of the education system. It was also felt that greater clarity around the roles and responsibilities of scrutiny bodies was required. Professor Muir found that there was strong support for a shared inspection framework being developed as a means of reducing confusion, bureaucracy and workload.

## The current inspection and regulatory landscape

High quality ELC not only provides nurturing care for children but also supports their learning and development from an early age. Because of this, both the Care Inspectorate and HMIE have statutory functions which provide them with a role in relation to inspection of some services. All nurseries, childminders and school age childcare services must be inspected by the Care Inspectorate, regardless of whether they provide funded ELC hours, while local authority and private and voluntary nursery and childminding settings that provide funded ELC hours can be inspected by both the Care Inspectorate and HMIE.

Regulation of all ELC and school age childcare services is separate to inspection of services, and is carried out by the Care Inspectorate. All ELC and school age childcare settings must register with the Care Inspectorate, who can investigate complaints and, where services are not meeting the requisite standard, can make recommendations for improvement and/or issue requirements for change. Where a service does not make the required improvements and there is a serious risk to health and wellbeing of children, the Care Inspectorate has additional enforcement powers. HMIE do not have a regulatory role in relation to ELC or school age childcare services.

Changes to the regulations that govern the inspection of ELC and school age childcare may be required over time as we develop and deliver on commitments to expansion over the course of this Parliament, for example as we build a new system of school age childcare. That is not the purpose of this consultation, which focuses on how we can make the system work better based on the existing two inspection bodies.

The core roles and responsibilities for inspection of ELC and school age childcare settings are currently set out in legislation:

- The Care Inspectorate has powers to inspect all ELC and school age childcare settings, whether or not they provide funded ELC.
- Both the Care Inspectorate and HMIE (or the new education inspectorate, when this is operational) have a role in inspecting ELC settings that provide funded ELC.

Whilst work is underway to establish a new inspectorate body for education, we expect this consultation to help set direction and inform how that new body carries out its duties.

Where both HMIE and the Care Inspectorate are inspecting the same service, the organisations currently inspect under two separate frameworks:

- HMIE inspect services against their quality framework '[how good is our early learning and childcare?](#)'
- The Care Inspectorate inspect services against [their quality framework for day care of children, childminding and school-aged childcare services](#), implemented on 1 June 2022.

These frameworks are essential tools for supporting practitioners, childminders and settings to provide high quality ELC and school age childcare services. However, initial feedback we have had from the sector is that there is not clear enough alignment between them, even where they are covering similar topics.

In the interim period, while proposals to develop a single shared framework are consulted on, developed and agreed, the priority must be to ensure that the existing frameworks are implemented effectively and that inspection continues against each of these frameworks in an integrated, supportive and efficient way. For inspection bodies, this means working closely together over this period in line with their duty to 'cooperate and coordinate' inspection activity, as set out in [legislation which can be found on webpages relating to Acts of the Scottish Parliament](#), to ensure that arrangements for inspection are as joined up, clear and effective as possible while eliminating unnecessary burdens.

Local authorities also have a duty, set out in [Early learning and childcare: statutory guidance](#), to ensure that the funded ELC entitlement is made available for eligible children in their local area. In line with [Funding Follows the Child](#), local authorities have a role to act as the guarantors of quality and 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.

Alongside individual settings, practitioners, teachers and staff, HMIE, the Care Inspectorate and local authorities play a critical role in keeping children in ELC and school age childcare services safe and ensuring that they have rich and nurturing experiences. We recognise the strong commitment to professionalism both within settings and within these organisations, and the crucially important, and sometimes difficult, role that inspectors and quality assurance teams play.

The two inspectorate bodies have different roles and responsibilities and bring different expertise and experience to the inspection of ELC through their work. It is important to recognise that early learning, child development and the nurture and care of children are intrinsically linked and cannot be separated. For example, we know that practitioners caring for very young children have a vital and skilled role to play in supporting their physical, emotional, social and educational development, just as staff working with three and four year-olds do for the children in their care in the period before they transition to primary school. It is important to ensure that we do not place too great an emphasis on distinguishing between these or codifying them in organisational practice or cultures. It is essential that all the elements of the ELC experience – early learning, child development and the nurture and wellbeing of children – are appropriately brought together and reflected in the overall approach to inspection.

Linked to this, research by [Public Health Scotland on childcare quality and children's outcomes](#) shows that the best experiences for children are provided where there is a range of staff with complementary skills and higher level qualifications. Our ELC and school age childcare workforce is diverse and since 2017 we have seen a 52% increase (1,598 full time equivalent) in the full time equivalent number of degree qualified staff and those working towards a degree level qualification.

## **The case for change**

The case for education reform in Scotland is supported by the OECD's report and has been further strengthened by Professor Muir's recommendations. For some time, ELC services have been raising questions over the bureaucracy of inspection approaches, including the pressure on some to adhere to two separate inspection frameworks, and this was reflected during Professor Muir's engagement sessions and responses to his call for evidence. The sector has also been vocal in expressing its concerns about the layering effect of some local monitoring and improvement activity on top of national approaches and the impacts of this on staff capacity.

We are committed to ensuring that inspection of ELC and school age childcare services provides independent assurance and is fit for purpose, collaborative, supportive and effective. It is essential that the feedback loop created through inspection encourages and supports continuous quality improvement across the sector while eliminating unnecessary burdens and duplication, and ensures that children consistently receive high quality ELC and school age childcare.

## **Efforts towards a shared framework**

Work on a shared framework between the Care Inspectorate and HMIE began in 2017. The two organisations worked collaboratively with stakeholders to develop a shared approach that could be used by both organisations during inspections between 2017 and 2018. In late 2019, HMIE, the Care Inspectorate and the Scottish Government agreed that work on the shared framework should be paused to enable the sector to focus on the implementation of the 1140 expansion and meet the [National Standard](#), originally due to be introduced from August 2020. When work ceased on developing a shared framework in September 2019, the Care Inspectorate continued to develop their own framework. The planned launch of this by the Care Inspectorate was spring 2020 but this was delayed due to the pandemic.

Since the onset of the COVID-19 pandemic, the Care Inspectorate has continued to support settings through inspection and/or wider improvement support. The Care Inspectorate issued a [report on their work during the pandemic](#), which included the suspension of routine inspections (replaced by the development of key question five - 'operating an ELC setting during COVID-19' - focussing on children's health and wellbeing). This was used as a self-evaluation tool and inspection focus for settings until full inspections were reinstated. They used the key question and reported on 389 self-evaluations undertaken by settings. The Care Inspectorate reinstated their quality themed inspections in September 2021. In addition to the self-evaluations, the Care Inspectorate undertook 1,620 inspections since March 2022. The Care Inspectorate also increased contact with settings to provide support, reassurance and guidance in the delivery of high quality care and learning to children and families in the context of the pandemic. Enhanced notification data informed Public Health Scotland and the Scottish Government of COVID-19 outbreaks and staff absences across the sector, and the Care Inspectorate developed interim registration and variation guidance to support settings to flexibly meet the needs of children and families during the pandemic.

Similarly, Education Scotland took the decision to pause routine inspections in March 2020 due to the COVID-19 pandemic to allow settings to focus on providing support to their colleagues, children and local communities. Instead, HMIE focused on supporting establishments to take forward plans for recovery and continuity of education provision. They worked with colleagues from across Education Scotland and in partnership with local authority colleagues to provide bespoke support and professional learning opportunities, including providing guidance to support the aims of 'Realising the Ambition'. From September 2021, HMIE carried out visits to settings that were identified, pre-pandemic, as requiring a further inspection, as well as three national thematic inspections focused on outdoor learning, approaches to supporting children's and young people's health and wellbeing, and local approaches to recovery. Since March 2022, HMIE have been carrying out 'recovery' visits on a voluntary basis to engage with a selection of ELC settings to focus on continuity of learning, safeguarding, and the wellbeing of children and staff.

### **Options for wider reform of inspection**

During his consultation Professor Muir heard from some stakeholders that their preference would be to move to a single inspection body for all ELC services in Scotland. Establishing a single body would require legislation and structural changes to take place, and we are mindful of the wider education reforms that are currently under way. Ministers have been clear that they would not wish further organisational changes to delay rapid progress being made to improve and streamline the approach to inspection of funded ELC in particular, and are confident that significant improvements can be delivered with the commitment of both inspectorate organisations and the support of the sector.

This consultation therefore seeks views on the proposal to develop a shared inspection framework, in line with Professor Muir's recommendation. The shared framework is intended to bring the currently separate inspection approaches together to provide clarity to the sector, support high quality provision of services and better support outcomes for children and families. It would reduce the inspection burden on providers by providing one document from which settings can receive clarity on what is expected from each of the inspectorate bodies.

We are also conscious of the work that has already gone into the development of a shared framework between the Care Inspectorate and HMIE and are keen to ensure that these proposals build on that important work whilst also considering the current context. Doing so presents an important opportunity to harness the experience and expertise of both the Care Inspectorate and HMIE and to maximise the impact of inspection and improvement activity across the sector while reducing the inspection burden on providers.



## Our Vision – the Guiding Principles of Inspection

### Background

In 2022, we will be publishing a strategic plan setting out the Scottish Government's priorities for the ELC and school age childcare systems in Scotland until the end of this Parliament in 2026/27. The plan will set out the outcomes that the ELC and school age childcare systems helps to achieve for children and their families, and we will be engaging closely with the ELC and school age childcare sectors in the development of that strategic plan. We will also ensure that there are opportunities for those working in the ELC and school age childcare sectors to contribute to the wider national discussion on the future vision for the Scottish education and childcare system, which was one of Professor Muir's recommendations.

Childminders are an important element of the ELC sector and offer a unique experience of childcare for children and families. We are committed to building a vibrant, thriving childminding sector and to promoting childminding, along with other roles across the ELC sector, as a valued and fulfilling career choice. To support this we are working closely with the sector to take forward the programme of actions set out in [Our Commitment to Childminding](#), published in January 2021, to address the challenges that childminders are facing, some of which existed prior to the pandemic.

As part of the Scottish Government's commitment to providing high quality, flexible ELC that is accessible and affordable for all families, we published our expansion of ELC in Scotland '[Quality Action Plan](#)'. Within that plan, the essential characteristics of quality within nursery and childminding settings were:

- A high quality workforce
- Strong pedagogical leadership
- Warm and supportive interactions with children
- A holistic curriculum
- A focus on play-based learning
- Good access to outdoor play
- Supporting parents to engage in their children's learning
- Transitions that are well managed
- Professional collaboration
- Provision that is accessible to all
- High quality physical environments
- Clear quality standards and robust self-evaluation and quality assurance regimes

We know that school age childcare services also play a vital role in providing improved outcomes for children. High quality school age childcare and access to activities can benefit children by promoting positive social interactions and relationships, building social and emotional skills and confidence, and providing the opportunity for play in a safe environment. Due to the nature of school age childcare services and the age of the children attending these services, a high quality school age childcare service will not share all of the same essential characteristics as a high

quality ELC service and therefore the inspection approach will be different. However, our ambition to ensure that inspection improves outcomes for children and ensures consistent, high quality care, is the same regardless of setting categorisation.

## **Our proposed vision for inspection**

Inspection of ELC and school age childcare services is an integral tool for supporting settings to identify and implement improvements. All of these services, regardless of their service type or whether they provide funded ELC hours, should aspire to ensure high quality care, play and learning with nurturing experiences for all children who access them.

We have articulated our draft vision for the inspection of all ELC and school age childcare services as:

**High quality early learning and childcare and school age childcare experiences are critical to giving children the best possible start in life. Inspection of ELC and school age childcare 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 consistent, high quality services and experiences for all children. It takes a collaborative approach between the inspectorates, settings, practitioners and teachers, and respects children's rights. Quality expectations for settings are clear, consistent, evidence-based and proportionate.**

## **Draft guiding principles**

The Scottish Government believes that the approach to inspection of ELC and school age childcare services should:

1. **Support our [National Outcomes](#) and improve children's life chances** through the provision of high quality services, to ensure that our children's rights are respected, they grow up loved and safe, and can realise their full potential
2. **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
3. **Support consistency in outcomes** across services so that all children and families experience high quality provision, regardless of where it is accessed
4. **Support continuous improvement** within individual settings and add value to the delivery of services, including through building on settings' use of self-evaluation
5. **Support collaboration** and professional dialogue between providers, practitioners, teachers and staff working in settings, inspection bodies and local authorities
6. **Listen** to and take account of the views, experiences and needs of children and families
7. **Be adaptable** to respond to evidence and new policy developments



8. **Be efficient**, avoiding duplication and eliminating unnecessary bureaucracy for providers

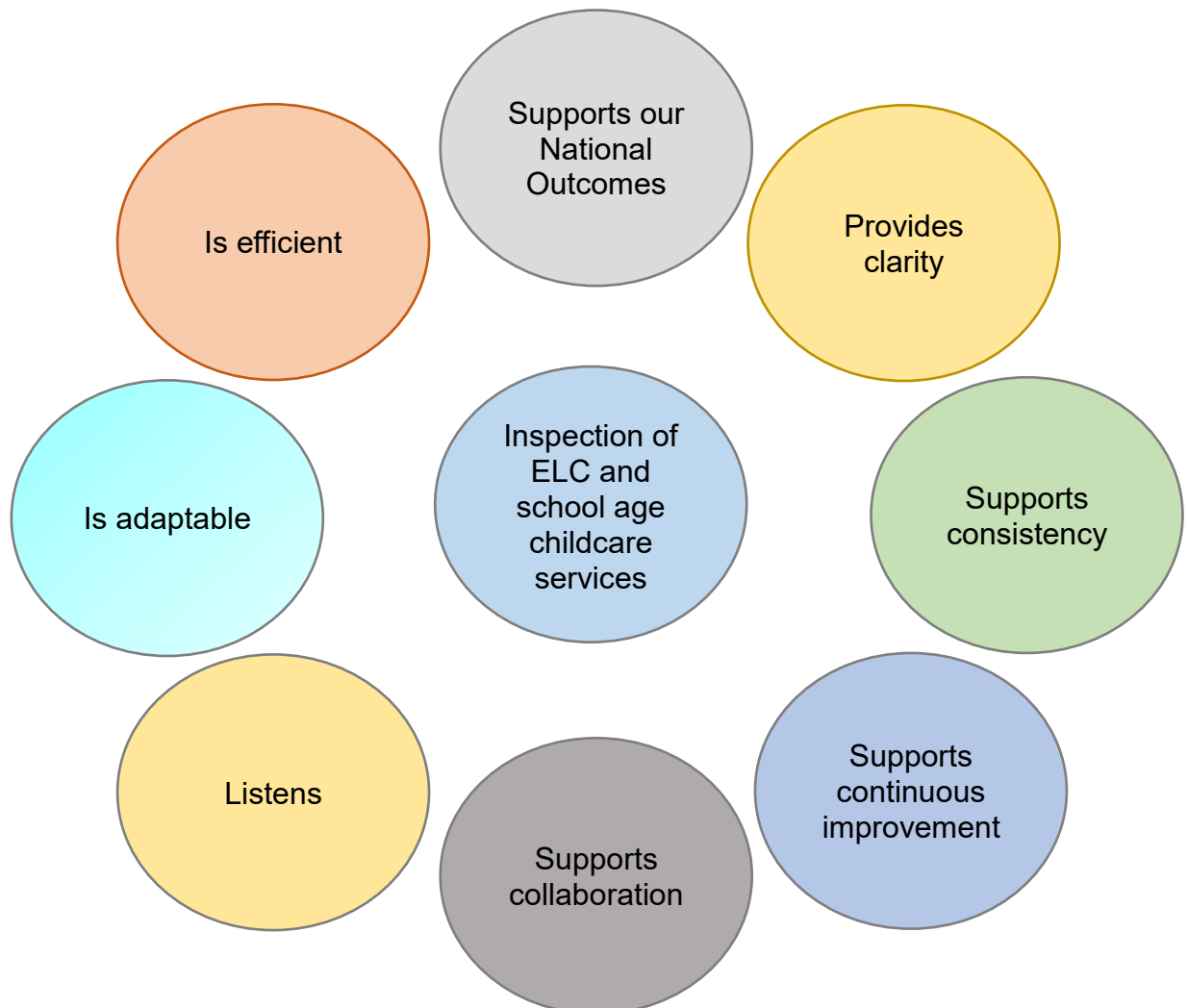


Figure 1: Overview of draft guiding principles for inspection of ELC and school age childcare services

## Questions

### The proposed vision

**Question 1.1: To what extent do you support, or not support, the Scottish government's overall proposed vision for the purpose and aim of inspection of ELC and school age childcare services?**

- Fully support
- Partially support
- Don't support

**Can you tell us why you think this?**

**Question 1.2: Do you think the proposed vision is missing anything or contains something that you think does not reflect the purpose and aim of inspection of ELC and school age childcare services?**

- Yes
- No

**If yes, can you tell us what that is?**

The draft guiding principles

**Question 1.3: To what extent do you support, or not support, the Scottish government's draft guiding principles for inspection of ELC and school age childcare services?**

- Fully support
- Partially support
- Don't support

**Can you tell us why you think this?**

**Question 1.4: If you answered 'partially support', please can you tell us more about which principles you do and don't support?**

**Question 1.5: Do you think the draft guiding principles are missing anything?**

- Yes
- No

**If yes, please can you tell us what you think we have missed?**

## **The current inspection and scrutiny landscape**

### **Considerations**

This section is intended to explore further the views of the ELC and school age childcare sectors and other interested individuals/organisations on the current operation of the inspection landscape for ELC and school age childcare services. This includes consideration of what inspection approaches and activity have been helpful and supportive in driving improvement across these sectors, and what has been less helpful, and where further improvements can be made to the current system.

The Care Inspectorate has a range of powers in relation to the regulation of ELC and school age childcare services. This is separate to their inspection of services and includes registering settings, investigating complaints and, where appropriate, issuing requirements for change. HMIE has functions to inspect the quality of education in funded ELC provision and does not have a role in regulation of ELC or school age childcare services. This consultation looks only at inspection of services and we are therefore not consulting on the sector's experience of wider regulatory activity carried out by the Care Inspectorate.

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 National Standard. Local authorities also have a responsibility to ensure Best Value in use of public funds. These important local functions sit alongside the functions of national inspection bodies.

### **Questions**

#### **The legislative landscape**

The Care Inspectorate has statutory obligations under section 53 of the Public Services Reform (Scotland) Act 2010 to carry out inspections of all ELC and school age childcare settings that are registered with them. Under section 47 and schedule 12 of the Public Services Reform (Scotland) Act 2010, ELC and school age childcare services are also regulated by the Care Inspectorate as 'care services' (either as a 'day care of children' service, which includes some school age childcare services, or as a childminding service).

HMIE also has powers to inspect educational establishments under section 66 of the Education (Scotland) Act 1980. This includes powers to inspect 'nursery schools' that are providing funded ELC to children, which may be nursery or childminding settings.

Question 2.1: Some settings in Scotland currently receive inspections from both the Care Inspectorate and HMIE, visiting either separately or jointly.

**If you are an ELC and/or school age childcare setting (including childminders, practitioners, teachers and staff working within those settings), from which organisations has your setting or service previously received inspections?**  
(please tick all that apply)

Only the Care Inspectorate (single agency inspection)	Only HMIE (single agency inspection)	Both the Care Inspectorate and HMIE (as separate visits)	Both the Care Inspectorate and HMIE (as a joint visit)	Neither/ not applicable
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Question 2.2: If you are an ELC setting providing funded ELC (or a childminder, practitioner, teacher or staff member working within that setting), when did your setting or service last receive an inspection from HMIE?**

Within the last 2 years	2-5 years ago	5-10 years ago	More than 10 years ago	Never
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Question 2.3: If you are an ELC and/or school age childcare setting (or a childminder, practitioner, teacher or staff member working within that setting), when did your setting or service last receive an inspection from the Care Inspectorate?**

Within the last 2 years	2-5 years ago	5-10 years ago	More than 10 years ago	Never
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Question 2.4: Discounting periods of disruption over the COVID-19 pandemic, what is your experience of the current inspection approach?**

Mainly positive	Neither positive or negative	Mainly negative	I have not experienced this
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Question 2.5: Discounting periods of disruption over the COVID-19 pandemic, what do you consider are the benefits of the current inspection approach? Do you have examples of positive experiences to share?**

**Question 2.6: Discounting periods of disruption over COVID-19 pandemic, what do you consider are the challenges of the current inspection approach? Do you have examples of challenging experiences to share?**

Question 2.7: 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?**

Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Can you tell us why you think this?**

**Question 2.8: 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?**

- Yes, more could be done
- No, more could not be done

**If you answered 'Yes', what more could be done?**

**Question 2.9: 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?**

**Question 2.10: Please provide any further comments on how you think the current inspection approach could be improved.**



## A shared quality framework

### Proposal

- The introduction of one shared quality framework which would apply to all registered providers of ELC, including all nurseries and childminding services, as well as school age childcare services.
- The shared quality framework would be a self-evaluation tool designed to support services to improve the provision of ELC and school age childcare for children and families.
- The shared framework would align the quality indicators within, and replace, the Care Inspectorate [quality framework for day care of children, childminders and school-aged childcare](#), and Education Scotland's ['How Good is our ELC?'](#).
- It would be developed collaboratively by the Care Inspectorate, HMIE, sector representatives, practitioners, teachers, staff and children.
- It would include quality elements relating to care, play, nurture, wellbeing, education, development and learning. It would make clear which elements are relevant to which types of settings. Not all elements of the framework would apply to all types of services or all types of inspections.
- It would be used to inspect all ELC and school age childcare services that are currently inspected by HMIE and/or the Care Inspectorate.

### Considerations

This section is intended to explore further the views of the ELC and school age childcare sectors and other interested individuals/organisations on a proposed shared quality framework for all ELC and school age childcare services.

It explores how a shared framework might bring the Care Inspectorate and HMIE's separate inspection approaches together to provide clarity to the sector, support high quality provision of services and better support outcomes for children and families. It would seek to harness the expertise that the Care Inspectorate and HMIE each bring to the sector, and set out the quality indicators that each of the organisations expect services to meet in one document.

We recognise that a number of stakeholders previously contributed their views during engagement sessions with the Care Inspectorate and Education Scotland on the development of a shared framework in 2017/2018. The views gathered as part of that work remain helpful and informative. The responses gathered through this consultation will build on the work undertaken by the inspectorate organisations and stakeholders prior to the pandemic on the development of a shared framework in consideration of the current context.

The shared quality framework would support and strengthen an integrated approach to inspection for funded ELC services, enabling the two separate inspectorate bodies to work together, assessing the quality of settings at the same time, using the same framework, and aligning and quality assuring their findings. This integrated approach would be achieved through joint working between the inspectorates, including a shared approach to planning of inspection activity, ensuring that inspection cycles are joined up and transparent.

A shared quality framework would also mean that settings that are currently inspected by both the Care Inspectorate and HMIE would only be required to work with and review one document to receive clarity on what is expected from each of the inspectorate bodies. Additionally, and to support consistency, services that are only inspected by one organisation would be able to review the same document as other services across the sector, which would set out clearly which inspection elements are relevant, or not relevant, to their type of service. The development of this framework would be strongly informed and based upon core elements and strengths of the inspection frameworks currently in place.

### **Questions**

**Question 3.1: Do you support the proposal to develop a shared quality framework between HMIE and the Care Inspectorate?**

- Yes
- No
- Unsure

**Can you tell us why you think this?**

**Question 3.2: What do you consider are the benefits to implementation of a shared quality framework?**

**Question 3.3: What do you consider are the challenges to implementation of a shared quality framework?**

**Question 3.4: Do you think that the development of a shared quality framework will meet the needs of the sector to simplify the inspection landscape and reduce the inspection burden?**

- Yes
- No
- Unsure

**Why do you think this?**

**Question 3.5: 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)?**

- Yes
- No
- Unsure

**Why do you think this?**

## **Section 4: Additional comments**

**Question 4.1: Do you have any additional comments in relation to improving inspection of ELC and school age childcare services in Scotland?**

## About you

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

**Please Note** this form **must** be completed and returned with your response.

Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will still take account of your views in our analysis but we will not publish your response, quote anything that you have said or list your name. We will regard your response as confidential, and we will treat it accordingly.

To find out how we handle your personal data, please see our privacy policy:  
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

#### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

**The following questions seek to gather additional information about consultation respondents. This data will help us identify where we need to target further communications activity to promote the consultation and to encourage participation.**

**It will also help us to understand which parts of the ELC, childminding and school age childcare sector have responded to the consultation, to better understand what the different parts of the sector are telling us about their experiences and views of inspection arrangements.**

**Whilst it would be helpful if respondents complete these questions, they are not required to do so.**

If you are responding on behalf of an organisation, in which local authority area are you based?

What type of organisation are you responding on behalf of:

Inspectorate body

Local authority

Sector representative body/membership organisation

Trade union

Primary school (with nursery provision)

Local authority nursery

Private sector nursery

Third sector nursery

Childminder

Local authority Care Inspectorate registered school age childcare service

Private sector Care Inspectorate registered school age childcare service

- Third sector Care Inspectorate registered school age childcare
- Local authority specialist ELC provision for children who have additional needs
- Third sector specialist ELC provision for children who have additional needs
- Independent specialist ELC provision for children who have additional needs
- Unregistered activity club
- Unregistered activity holiday care service provider
- Family centre
- Crèche
- Playgroup
- Breakfast club

Other, please state

If you are responding on behalf of an organisation, what is your role within that organisation?

If you are responding on behalf of an ELC setting (including childminders), does your setting provide funded ELC?

- Yes
- No
- Not applicable

If you are responding on behalf of an ELC setting (including childminders), does your setting receive inspections from both the Care Inspectorate and HMIE?

- Yes
- No
- Not applicable

If you are responding as an individual, please state



Your occupation

Are you a parent or carer of an ELC aged child?

Yes

No

Are you a parent or carer of a child attending school age childcare?

Yes

No

## Glossary of terms for this consultation document

Term	Description
Early learning and childcare (ELC)	All pre-school education and care for children aged 0-5 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 of school age (over 5 years old) that is registered with the Care Inspectorate.
The Care Inspectorate	The independent regulatory body for ELC and school age childcare sectors in Scotland and every provider of ELC and/or school age childcare must register with them. The Care Inspectorate has statutory obligations to carry out inspections of all ELC and school age childcare settings and, where appropriate, provide services with improvement support.
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. Her Majesty's Inspectors of Education (HMIE) are located within Education Scotland. HMIE carry out inspection of the quality of education from early learning and childcare to adult learning.
Inspection of ELC and school age childcare	Examination or scrutiny 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 <a href="#">in Parliament</a> on 9 March 2022.

Organisation for Economic Co-operation and Development (OECD)

A forum of countries providing a platform to compare policy experiences, seek answers to common problems, identify good practices and coordinate domestic and international policies of its members.



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