

The Education (Scotland) Bill:

Business and Regulatory Impact Assessment

June 2024

Title of Proposal

The Education (Scotland) Bill

Purpose and Intended Effect

- **Objectives**

The Education (Scotland) Bill is in two parts. Part 1 establishes a new qualifications body, to be known as Qualifications Scotland, to replace the Scottish Qualifications Authority (SQA). Part 2 establishes the office of His Majesty's Chief Inspector of Education in Scotland, removing these functions from Education Scotland.

Qualifications Scotland will be set up as a Non-Departmental Public Body (NDPB), including appropriate governance arrangements and statutory functions. As an operationally independent organisation, the provisions set out the basis for how Qualifications Scotland is governed and how it will be able to operate. The operational detail is being developed in parallel as part of the design of the new body, and once established, operational decisions will be the responsibility of Qualifications Scotland.

His Majesty's Chief Inspector for Education in Scotland will be responsible for the statutory functions of inspection of education provision, in Scotland. The Chief Inspector will lead a new independent education inspectorate, to take forward the education inspection functions that currently sit within Education Scotland. The Bill sets out the governance arrangements and statutory functions necessary in relation to the full range of educational establishments and services currently inspected, from early learning and childcare to adult learning. The operational detail is being developed in parallel as part of the design of the new body, and once established, operational decisions will be the responsibility of the Chief Inspector.

The objectives of the Education (Scotland) Bill are to provide the legal underpinning to support the design and delivery of a national organisational infrastructure for education in Scotland that more effectively supports the system, to deliver the vision for education in Scotland. The intention is to support the right balance of responsibility and autonomy between the different parts of the education system, including national and local government, national education bodies and schools, colleges and other places of learning. It is part of the holistic approach to education reform reflecting a clear expectation that all elements of the education and skills system will work together as one single system that has a collective responsibility to deliver for learners of all ages.

The education and skills reform being taken forward by the Scottish Government aims to reshape the ways in which the Scottish Government supports improvement in the quality of teaching, learning and assessment, and achieve improved outcomes and experiences for pupils and students in every setting.

- **Rationale for Government intervention**

New Qualifications Body

The SQA was established under the Education (Scotland) Act 1996¹ as a national awarding body responsible for the development, delivery, assessment, quality assurance and awarding of all types of qualifications except university degrees. The 1996 Act also gave the SQA responsibility for accrediting qualifications being offered by other awarding bodies.

The decision to replace the SQA with a new public body responsible for qualifications was announced by Scottish Ministers in June 2021 alongside the Scottish Government's response to the OECD Review of the Curriculum for Excellence². A further commitment was given in March 2022 in response to the report by Professor Ken Muir, "Putting Learners at the Centre. Towards a Future Vision for Scottish Education"³. These reports followed previous reports and reviews by Scottish Parliament Committees (Education and Culture, 2015, Education and Skills, 2017) and a Scottish Government White Paper, "Education Governance – Next Steps" (2017)⁴. These contained recommendations and objectives on and around creating a school and teacher-led system that put children and young people at its centre, including the need for improvement in the role and focus of the respective national bodies.

New Inspectorate

In June 2021, the then Cabinet Secretary announced that the inspection function would be removed from Education Scotland⁵.

Professor Muir's report⁶ included his view that having an inspection function within the same body charged with supporting improvement (Education Scotland) created potential conflicts of interest and compromised the organisation's ability to perform both roles well.

The Scottish Government announced in March 2022⁷ that Education Scotland would be replaced by a new national agency for education (which does not require legislation) and an independent inspectorate. This decision was in line with the views expressed by many respondents to Professor Muir's public consultation⁸ and in the engagements that he held, as reported in his findings.

¹ [Education \(Scotland\) Act 1996 \(legislation.gov.uk\)](#)

² [Scotland's Curriculum for Excellence: Into the Future | en | OECD](#)

³ [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](#)

⁴ [Education governance – next steps - gov.scot \(www.gov.scot\)](#)

⁵ [Meeting of the Parliament: 22/06/2021 | Scottish Parliament Website](#)

⁶ [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](#)

⁷ [Meeting of the Parliament: 09/03/2022 | Scottish Parliament Website](#)

⁸ [Education reform consultation on behalf of Professor Ken Muir, University of the West of Scotland and Independent Advisor to the Scottish Government - Scottish Government consultations - Citizen Space](#)

Consultation

• Within Government

The following Government agencies, directorates and enforcement bodies were consulted during the formulation of the policy proposals.

- Directorate for Learning
- Directorate for Legal Services
- Parliamentary Counsel Office
- Directorate for Communications and Ministerial Support
- Directorate for Digital Health and Care
- Directorate for Early Learning & Childcare
- Directorate for People
- Directorate for Lifelong Learning and Skills
- Public Appointments Team
- Public Bodies Unit

Since the beginning of the work on the Education (Scotland) Bill there has been engagement with other parts of government. This includes Education Scotland and the current HM Inspectorate for Education to support the development of plans to remove the inspectorate function from its current location. Relevant internal colleagues have had the opportunity to give input and feedback during various stages of policy development, which has shaped the final policy approach and the legislation itself.

There has been continued engagement on this, and wider education and skills reform work, with other public bodies, local authorities and connected associations, such as Skills Development Scotland, Scottish Funding Council, Care Inspectorate and COSLA.

• Public Consultation

Independent Reviews

In 2020 Scottish Ministers commissioned a review to be undertaken by the Organisation for Economic Co-operation and Development (OECD) to help better understand how the curriculum is being designed and implemented in schools in Scotland and to identify areas for improvement. The OECD met with a broad range of education organisations, researchers, schools, learners and their parents from across Scotland. The OECD reported in June 2021. It set out twelve recommendations and a number of actions that should be taken to strengthen the Curriculum for Excellence (CfE) and tackle ongoing implementation challenges as part of a structured approach to the future of CfE.

The specific OECD recommendation being addressed through the Bill is to “Simplify policies and institutions for clarity and coherence. To align the institutional structures with clear ownership of CfE, Scotland could explore assigning leadership and development responsibilities for curriculum (and perhaps assessment) to a specialist

stand-alone agency; and consider refreshing the remit of an inspectorate of education regarding CfE”. In addition to this recommendation, the OECD commented that having the inspectorate as part of an organisation that is also responsible for supporting school leaders, curriculum design and support, teacher professional learning and a range of other initiatives is an “unusual configuration”.

In respect of the SQA, the report acknowledged that the SQA’s role and remit had expanded since its creation, creating some confusion regarding its functions and services and how these cross over with the functions and services of other national institutions. It also commented on the unusual arrangement for the SQA to be both an awarding body and body responsible for accrediting qualifications.

The Cabinet Secretary for Education and Skills subsequently appointed an independent Advisor, Professor Ken Muir, in August 2021 to engage widely with stakeholders and report findings and recommendations to the Scottish Government on the implementation of the OECD’s recommendations.

Professor Muir’s report, ‘Putting Learners at the Centre: Towards a Future Vision for Scottish Education’, was published in March 2022⁹. Respondents to the consultation were generally supportive of the reform proposals which included removing the inspection function from Education Scotland and replacing the SQA, although there were mixed views regarding whether the SQA should be replaced or reformed, most respondents agreed some form of change was required. In response to Professor Muir’s report, the Scottish Government announced in March 2022¹⁰ that the SQA would be replaced by a new qualifications body, and, that Education Scotland would be replaced by a new national agency for education (which does not require legislation) and an independent inspectorate.

Scottish Government Consultation

Following the decision by the Cabinet Secretary for Education and Skills in June 2023 to reschedule the Bill, a public consultation¹¹ on the proposed content of the Bill was undertaken between 7 November and 18 December 2023. The purpose was to seek specific views on the detail of creating a new qualifications body, as well as views on the purpose and priorities of education inspection and on options for taking forward a new approach to inspection, whether that be to establish the inspectorate as a separate Executive Agency or by establishing the role of HM Chief Inspector of Education in Scotland as an office-holder in legislation. The consultation responses reemphasised much of Professor Muir’s report, reaffirming support to establish a new qualifications body, and removing inspection from Education Scotland.

For Qualifications Scotland, key points also included the need for a range of learner-centred qualification pathways with parity of esteem and equality of access between different qualifications, as well as a collaborative approach to developing and understanding new qualifications.

⁹ [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/putting-learners-at-the-centre-towards-a-future-vision-for-scottish-education/pages/1-1-introduction.aspx)

¹⁰ [Meeting of the Parliament: 09/03/2022 | Scottish Parliament Website](https://www.parliament.scot/parliamentary-business/2022-03-09-meeting-of-the-parliament)

¹¹ [Education Bill provisions: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/education-bill-provisions-consultation/pages/1-1-introduction.aspx)

There was strong support from respondents for greater involvement and representation from teaching professionals and learners in decision making, but that there was a need to ensure this included a sufficient number of individuals from these groups to avoid tokenism. Changes were made to include a greater number and better balance of these groups within the governance structures of the body.

The importance of the independence of accreditation from government was stressed, whilst others questioned this function operating alongside the awarding functions, suggesting that a separate body is needed. Some additional legislative measures have been added to strengthen the separation of these two functions, and the intention is to further strengthen these within the organisational and operational design of the body.

For the Office of HM Chief Inspector for Education in Scotland, there were some key themes. Around two thirds of all respondents agreed with the purposes of inspection as well as support for inspection covering the range of education establishments and services that are currently inspected. There were mixed views on the need for legislation to establish a new approach to inspection, although broad agreement for it to be separated from Education Scotland.

For both organisations, a significant proportion of responses focused on how the organisations should deliver their day-to-day activities and operations. This feedback will support the design of how the new organisations deliver their services, although future operational decisions will be the responsibility of the organisations themselves.

In total, 386 consultation responses were received and analysed. This consisted of 234 individuals and 152 responses submitted on behalf of organisations. A higher number of people contributed overall as several organisations had conducted their own consultation to inform their response. In addition, nine online consultation events were held which were attended by nearly 1,000 people.

- **Business**

Muir Review

In respect of Qualifications Scotland, there was a significant response to Professor Muir's report from a range of different organisations and businesses who use, deliver, develop, award and recognise qualifications. This included education and training establishments in the post-school sector, employers and industry sectors, as well as organisations that create and deliver their own qualifications, (known as awarding bodies). Relevant businesses included:

- 43 Third Sector organisations, which include a range of different stakeholder associations, community organisations, and charitable bodies, many of which shape, create and influence skills, training and qualifications.
- 18 organisations from the post-school sector which include colleges and training providers.
- 8 industry organisations, including private employers and training bodies.
- 11 awarding bodies.

There were a range of different views from these organisational or business groups regarding Qualifications Scotland's two separate functions.

For the qualifications and assessment services of Qualifications Scotland, in general, more qualifications in a broader range of subjects were welcomed. Many respondents felt that despite the SQA having an adequate breadth of qualifications, there was a need to update these to reflect the changing needs of the workplace and industry landscapes. A key theme was that more collaborative links needed to be made between schools, higher education, employers and wider communities in respect of qualifications. It was highlighted apprenticeships and industry qualifications were a good model for this.

On accreditation functions, some organisations were in favour of stronger regulation of qualifications, while others commented on the positives of the current accreditation remit and the flexible and proportionate processes currently undertaken by the SQA.

In general, the SQA as an organisation was viewed more positively by employers, industry sectors and training providers compared to how they are viewed by teachers, learners, parents and carers, and schools and educational establishments. While viewed more positively, employer and training providers saw the replacement of the SQA as an opportunity to improve on some specific issues, with some highlighting the need for a smooth transition to minimise issues and avoid losing current good practice.

For example:

“Transition to a new organisation:... Problems with transition may impact income, delivery of qualifications and apprenticeships and employer buy-in and confidence” (Employer/Industry)

Regarding awarding bodies, Professor Muir's consultation also received responses from 11 different awarding bodies. This included a response from the Federation of Awarding Bodies, a collective which represents 120 awarding bodies across the UK, 24 of these which were accredited by the SQA, with many others operating in Scotland's qualifications market. As noted above, many respondents acknowledged the positive accreditation process and engagement with the SQA and emphasised the need for this to be retained in the transition to a new organisation. The Bill makes no changes to the legislative remit of accreditation, and work is underway to ensure positive, existing processes remain in the body.

Given Qualifications Scotland will assume the responsibilities of both SQA's functions, we anticipate there being some associated costs incurred by businesses to reflect the change in ownership. This will likely include resource to digital and administrative updates to reflect the change in name and brand, and the replacement of any physical SQA certificate stock with Qualification Scotland's.

Regarding HM Chief Inspector for Education in Scotland, there was little evidence provided in response to the Muir Report in terms of the specific impact on businesses resulting from the removal of the inspectorate from Education Scotland.

making. Awarding bodies – the organisations that directly use the accreditation services – expressed little concern over the location of these functions, as long as decisions on accreditation were made independently of the awarding functions and the current accreditation model remained proportionate and flexible to change.

There has been regular engagement between the Scottish Government and the Federation of Awarding Bodies, the most recent of which was in January 2024. They remained keen to see no changes to the scope of the accreditation functions. They stressed the importance of ensuring operational transition does not negatively impact their members, for example, by ensuring the qualifications that are already accredited do not have to be unduly re-accredited by Qualifications Scotland. While this is an operational decision for the new body, there is a clear expectation this will be the case as part of the move to the new body. The design and transition work underway will seek to ensure this.

Education (Scotland) Bill consultation

A consultation on the Education (Scotland) Bill was carried out between November to December 2023¹³. Ahead of the Bill’s finalisation, stakeholder views were sought through the public consultation¹⁴ to build on the specific Scottish Government proposals following the Muir Report.

The following table sets out the number of organisations that responded to the consultation:

	Number	Percent
School/Early Years	28	18%
Third Sector	28	18%
Local Authority	27	18%
Trade Union/Professional Representative Body	22	15%
National Agency/Public Body	15	10%
Post-School Sector/College/University	14	9%
Representing parents/carers and/or children and young people	9	6%
Awarding Body	4	3%
Industry and Private Sector	2	1%
Other	2	1%
Not Disclosed	1	1%
Total	152	100%

The public consultation received submissions from a wide range of respondents, including groups representing businesses, employers, training providers and others in the post-school landscape, such as the Scottish colleges sector, the Federation of Awarding Bodies, the Awards Network, the Scottish Training Federation, the Scottish Community and Development Centre, Third Sector education and skills organisations and children, young people and learner representatives, the ELC

¹³ [Education Bill provisions: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/consultations/education-bill-provisions)

¹⁴ [Education Bill provisions: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/consultations/education-bill-provisions)

sector, the Construction Industry Training Board and the Engineering Construction Industry Training Board, among others.

On Qualifications Scotland in general, the responses from businesses and organisations reflected the views received in response to the Muir report. Key points included strengthening the role of employers and industry in the development and evaluation of qualifications and their processes, and the need for user “Local Market Intelligence” information to support this. It was emphasised that there needed to be sufficient engagement and communication with stakeholders, including employers and higher education providers, regarding any qualification and assessment changes, or creation of new qualifications, to ensure there is shared understanding in their value.

There were mixed views across a range of respondents regarding the location of the accreditation functions and the remit of these. This included some calls to review the decision to place the accreditation functions in Qualifications Scotland. Others welcomed the benefit of the two functions being in the same organisation but emphasised the need for clearer separation from the awarding functions (the need for further detail on the robustness of clearer separation was noted). Furthermore, there were mixed views from businesses, specifically some awarding bodies, on the scope and remit of the accreditation function itself. Some felt there was a need for all qualifications to be accredited, regulated and included on the Scottish Credit and Qualifications Framework (SCQF), while others supported a voluntary approach that enabled a more flexible and responsive model.

Given the complexity of the qualifications regulation system and diverging stakeholder views, no change to the remit of accreditation functions is proposed in this Bill.

On HM Chief Inspector, the views expressed in the above sections were similarly reflected in responses to this consultation. As with the Muir Report, it was not possible to distinguish between public and publicly funded education establishments and education services, and those which are non-public or private businesses. We are of the view that both public and non-public sector organisations and businesses share similar impacts as a result of education inspection.

There were a range of suggestions that inspections should be broadened beyond the current inspection remit. In relation to businesses, there were calls for third sector and “for profit” organisations who provide educational services to be included, as well as training providers who work in a range of different sectors. Many of the broader suggestions are already in scope of the services that are currently inspected, either by the current inspectorate or other inspection or scrutiny organisations.

Much of the evidence received from the Bill consultation relates to the detailed operations of the inspectorate, which will not be specified in legislation. However, the consultation included a request for feedback on whether to take forward the new approach to inspection by establishing the inspectorate as a separate executive agency or by establishing an independent officeholder. Whilst there was no clear consensus on this point, among those who supported the appointment of an

independent officeholder, many commented that legislation would make accountability and independence more obvious and more stringent which, in turn, could maximise public and professional confidence in the inspection process. We have therefore set out to establish a new officeholder in the Scottish Administration in the Bill: the HM Chief Inspector of Education in Scotland.

Options

The options considered, and the decisions taken for both Qualifications Scotland and HM Chief Inspector were informed by Professor Muir's consultation activity and report, along with a selection of key criteria to understand how each option would deliver on the following:

- Efficiency, flexibility, and user focus
- Simplicity, coherence, and stability
- Alignment with vision and outcomes
- Governance, accountability and autonomy
- Affordability, resources and risk

• **Qualifications Scotland**

In respect of the new qualifications body, and as part of the Scottish Government's assessment of Professor Muir's report¹⁵, four options were considered:

Option 1

A 'do nothing' option was considered. This would have seen no action taken on Professor Muir's report and the SQA would not be reformed or replaced.

Option 2

The option of reforming the SQA without replacing it was considered. This option would see the SQA brand retained, with the identified areas for reform taken forward and built into their existing continuous improvement work.

Option 3

A new curriculum and assessment agency was considered. This would have seen a single body created to oversee the functions currently delivered by the SQA and some of the functions currently delivered by Education Scotland. This would have taken forward part of the OECD's recommendation and would have placed most of the national education infrastructure into one organisation.

Option 4

This would see the SQA replaced with a dedicated and focused new qualifications body responsible for the development and awarding of qualifications. The Scottish

¹⁵ [Putting learners at the centre: response to the independent advisor on education reform's report - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Government decided this option would enable the establishment of a new public body which best supports the overall desired vision for the Scottish education system. The development of the new body would provide an opportunity to define and refocus its activities, relationships and interaction with the broader education and skills system. Following the Scottish Government's decision to locate the accreditation function in the new qualifications body, this option would ensure strengthened and separate governance arrangements were embedded in the new body from the outset.

- **His Majesty's Chief Inspector of Education in Scotland**

In respect of the new inspectorate body three options were considered.

Option 1

Do nothing – this option would see the inspectorate function remaining within Education Scotland. The same body would therefore remain responsible for the improvement of education in schools, whilst also being accountable for assuring education standards in a range of institutions. This could reinforce the perceived conflict of interest, and risks undermining confidence in the judgements of HM Inspectors. Such an approach was therefore discounted.

Option 2

This option would see the inspectorate function move to a new separate executive agency, which would therefore still form part of the Scottish Government. The public consultation¹⁶ revealed mixed views from stakeholders on whether the inspectorate should remain within government or have a greater level of independence. No clear themes emerged, with several respondents commenting on what they perceived to be the strengths and weaknesses of each option. However, there was also strong support for the idea that whichever approach was adopted, the new agencies/new officeholder must have a degree of independence from government. Establishing a new executive agency was therefore considered an unsuitable approach as it would not provide the level of independence being sought.

Option 3

This involves removing the inspectorate function from Education Scotland and establishing a completely new independent inspectorate (as recommended by Professor Muir in his report¹⁷). This option would see the establishment of a new inspectorate body with its independence enshrined in legislation. Its governance would reflect this independence, with the body funded by the Scottish Government, staffed by civil servants and inspectors, the latter of which would be appointed with the approval of His Majesty via the Privy Council.

This option was chosen as it would ensure the independence of the inspectorate from the Scottish Government.

¹⁶ [Education Bill provisions: consultation - gov.scot \(www.gov.scot\)](http://www.gov.scot)

¹⁷ [Putting learners at the centre: response to the independent advisor on education reform's report - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Sectors and Groups Affected

- **Qualifications Scotland**

Awarding bodies operating in Scotland

The Scottish Government recognises that effective accreditation and regulation of the qualifications on offer in Scotland is essential for a thriving and world-leading education and skills system. Ensuring the quality of qualifications is crucial to protecting young people and adult learners and encouraging a wide range of qualifications and awards for learners, education establishments, employers and industry sectors. Qualifications Scotland will support a high-quality education and skills sector in Scotland by providing effective regulation for the delivery and assessment of qualifications. This allows users to make informed choices on suitable qualifications. Through an effective qualifications accreditation process, awarding bodies can clearly demonstrate that their qualifications are of a high-standard and support them to be competitive in a highly active market, providing consumers with clear information on the value of different qualifications.

Employers, Industry and Training Providers

Qualifications Scotland will work with and support employers, industry sectors, and training providers in a number of different ways. The qualifications developed and offered by Qualifications Scotland will need to be developed in ways that take appropriate consideration of employer, industry and training provider needs and expectations. This is to ensure those who undertake, achieve and recognise qualifications have confidence in the relevance of them to the workplace, industry sector, or training programme. Furthermore, employers, industry leaders and training providers may also be direct users of Qualifications Scotland's qualifications development, assessment, certification or accreditation services. Additionally, these organisations will also be able to offer and deliver Qualifications Scotland's qualifications by becoming approved awarding centres.

Individuals

Qualifications Scotland will ensure a wide range of different types of qualifications can be offered to individuals in Scotland. Qualifications Scotland will have responsibility for setting and publishing the requirements that must be met in order for qualifications to be accredited. These requirements must be published to ensure the accreditation process is transparent. Obtaining accredited status for a qualification will clearly indicate that the highest standards in the delivery and assessment of qualifications have been met and approved by the national standards-setting body. Provision of a wide range of qualifications will allow Qualifications Scotland to play a leading role in supporting individuals to reach their full potential and gain the qualifications they need to progress to their next stage in life, giving them confidence to succeed in the workplace or elsewhere. Skills and qualifications will give individuals the means to make the most of their economic and employment opportunities.

Other Public Bodies

Qualifications Scotland will be operating in the wider context of Scottish education, impacting on employment, industry, skills, voluntary and economic systems, alongside a range of other Scottish Public Bodies that support these sectors. These include, but are not limited to, the Agency replacing Education Scotland, Skills Development Scotland and the Scottish Funding Council. The new body will be expected to work with these organisations, and others to support wider strategies that support learners, the education sector, businesses, industry, charities and the Scottish economy.

- **Office of HM Chief Inspector of Education in Scotland**

For the purposes of this Business and Regulatory Impact Assessment, we consider the affected groups to include; independent schools, some community learning providers, private early learning and childcare partner providers, English language school providers and private prisons.

It is not considered that this part of the Education (Scotland) Bill will have a direct positive or negative effect on any of these groups, as the inspection of their establishments, undertaken by His Majesty's appointed Inspectors, is already current practice. Changes will be seen in how the function is delivered through any new operational arrangements set by the new independent body rather than by the legislation.

Benefits

- **Qualifications Scotland**

The benefits associated with the various options are considered below.

Option 1 – Do Nothing.

The 'do nothing' option would have seen no action taken on Professor Muir's report and the SQA would not be replaced.

This option would be the least disruptive option for the system, including various businesses, as SQA would continue to provide services as usual. It would also minimise the costs associated with education reform.

Option 2 - Reforming the SQA without replacing it.

Focussing on reform of the SQA, rather than replacing it, would have the benefit of being able to reprioritise some of the resource required to establish a new body towards reform initiatives. While some changes cannot be taken forward without legislation, there are some reform initiatives that could be implemented more quickly with support and cooperation from the SQA and specific activity built into their continuous improvement cycle.

There would be lower one-off programme costs than replacing the SQA with a new

body. The financial cost of developing a new brand, estate fit-out and costs associated with transferring staff to a new NDPB suggests savings estimated between £525,000 - £858,000.

Other benefits include providing more certainty for staff, as well as minimising disruption to the SQA's stakeholders regarding the delivery of services, and through the retention of the SQA brand.

Option 3 - Creation of a new Curriculum and Assessment Agency.

This option would see a single body created to oversee the functions currently delivered by the SQA and some of the functions currently delivered by Education Scotland. This would have taken forward part of the OECD's recommendation¹⁸ and would have placed most of the national education infrastructure into one organisation.

There were some potential benefits to this option. It delivers on the OECD recommendation for consideration of a single body. A single body would support improved clarity for stakeholders by creating a single national level voice for the curriculum, qualifications, assessment and improvement that is able to collaborate effectively to align policy and services and simplify engagement for stakeholders.

Furthermore, through this collaboration, there would be potential for greater alignment between the Curriculum for Excellence and the Senior Phase, as identified by the OECD and considered in the Independent Review of Qualifications and Assessment.

Option 4 - SQA replaced with a new and refocused qualifications body.

Establishment of a new body would provide the greatest opportunity to support a fundamental change in approach and culture.

In addition, the use of legislation would provide a stronger basis for more effective implementation of the necessary changes once the Bill has passed. The strengthened legislative basis would provide reassurance to stakeholders, particularly for groups who would see new mechanisms established to ensure their views feed into decision making, and for awarding bodies and other businesses in the post-school sector in terms of the improved separation of accreditation and awarding functions.

The key benefits of this option would be that it implements a key recommendation from the OECD Review¹⁹ and the Muir Review²⁰ relating to simplifying institutions in Scotland's education system and replacing the SQA. A new body ensures the organisation is able to reset relationships with learners and other stakeholders, particularly in terms of new ways of meaningfully influencing decision-making of the organisation. With the awarding and accreditation functions being part of the same

¹⁸ [Scotland's Curriculum for Excellence: Into the Future | en | OECD](#)

¹⁹ [Scotland's Curriculum for Excellence: Into the Future | en | OECD](#)

²⁰ [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](#)

organisation, albeit with operational boundaries, there will be the opportunity for the body to benefit from financial and operational efficiencies, such as shared corporate services and digital integration.

Qualifications Scotland will be able to build on some of the existing positive relationships SQA has with business, such as employers, industry sectors, awarding bodies and training providers in a way that aligns with reform principles of ensuring our national education bodies are open, collaborative, communicative and accountable to those in the system they are designed to serve.

Furthermore, part of the design criteria for Qualifications Scotland is that the organisation will be financially sustainable. The decision to allow the new body to charge for its services, as SQA does now, will support its fiscal sustainability. The ability to sell services to businesses will support a flourishing and active qualifications market and provide opportunity for learners, employers and industry to enhance their own outputs and services through increased access to qualifications, training and skills development.

- **Office of HM Chief Inspector of Education in Scotland**

Option 1 ('Do Nothing').

This option would minimise disruption and cost associated with the programme of education reform. This option would be the least disruptive as Education Scotland would continue to provide inspection services as usual. It would also minimise the costs associated with education reform.

Option 2 - Inspectorate function moving to a new separate Executive Agency.

Reinstating HMIE as a distinct executive agency would clearly separate the operations of the improvement agency and the inspection function. It would also offer the opportunity to clearly set out the relationship between it and core Government, through a framework agreement, though it would be closer to Government than in option 3.

Option 3 - Establishment of a new inspectorate body.

The empowering, flexible legislative underpinning being sought for the HM Chief Inspector gives rise to the opportunities Professor Muir sets out in his report²¹, including 'opportunity to demystify the inspection process and make it more transparent, for example by ensuring inspectors have greater direct engagement and professional dialogue with teachers, practitioners and schools'. Further, there is the opportunity for the new independent body to explore (with stakeholders and learners) different models of inspection, including digital approaches. This may bring further benefit to businesses if the number of inspections increases.

²¹ [Putting Learners at the Centre: Towards a Future Vision for Scottish Education - gov.scot \(www.gov.scot\)](http://www.gov.scot/putting-learners-at-the-centre-towards-a-future-vision-for-scottish-education)

Costs

- **Qualifications Scotland**

SQA's forecast costs for the 25/26 financial year (the anticipated year in which Qualifications Scotland will be established in Autumn) across both resource and capital is currently £58.336m. This figure assumes a flat cash allocation for operational costs with uplifts for staff pay. This figure is directly relevant to options 1, 2 and 4. It would be assumed that these costs would form part of the costs associated with option 3.

Option 1 – Do nothing.

This option presents no new implementation costs, and it would see current levels of funding being maintained.

By doing nothing, the non-monetary cost of not replacing or reforming the SQA is that concerns identified within the system would not be addressed. These include low trust in Scotland's national qualifications body; lack of opportunities to involve learners, teachers and wider stakeholders in governance of the organisation; and the wider cultural concerns associated with the organisation and across the education and skills system. There would be limited opportunities to improve areas and services that impact the different businesses and organisations that work with the SQA.

Option 2 - Reforming the SQA without replacing it.

This option would see current levels of funding maintained for the delivery of SQA's existing functions. The extent of any additional financial cost would be dependent on the prioritisation of specific reform activity being taken forward and the implementation of these as part of the reform programme. This may require new funding to support reform and/or activity supported by a re-prioritisation of the SQA's current funding.

Alongside the financial costs associated with this option, there are non-monetary costs of not replacing the SQA. These include the opportunity to strengthen the body's governance through robust legislation – particularly in respect of ensuring independent decision making between awarding and accreditation functions. This particular aspect risks the confidence and trust of businesses and awarding bodies in relation to the integrity of decisions taken across the two different functions.

It also means the identified concerns – such as reputational damage and a lack of trust in the SQA brand from certain stakeholders – would not be sufficiently addressed in the absence of strengthened governance arrangements underpinned by legislation. There is a risk that any alternative reform would be perceived as weaker and fail to improve trust, service delivery and stakeholder engagement. This would be amplified by the risk, and associated perception, that SQA is effectively reforming itself – a concern already expressed by the public and the Scottish Parliament.

Option 3 - New Curriculum and Assessment Agency.

From the initial appraisal of the benefits and non-financial costs of Muir's option, it was concluded that this option would not be pursued, and so the financial costs were not assessed in detail. However, it was anticipated that costs associated with this option would be higher than for all the other options.

For example, greater one-off programme costs, and a significantly longer programme of design and reform, would be needed to create a new body with a completely different remit to the predecessor bodies. Additional resource, including financial costs would be required to design new structures, facilitate staff and property transfers between different status organisations, develop and design products and services that aligned within the organisation's expanded remit, as well as the creation of shared services to support the organisation's corporate arrangements and operational delivery.

There are other non-monetary costs and risks with this approach. In his review, Muir highlighted that a single agency with a large and extensive remit may add further complexity to the national education landscape. There is a risk that it misses the opportunity to simplify the landscape as the OECD recommended. The benefit of having organisations with clearer, more focused roles and responsibilities that address the current needs of the system outweighed the benefits of a single body.

Finally, there were some potential governance and accountability risks with this option. For some parts of the organisation, such as qualifications and accreditation of qualifications, a public body with a closer relationship with Ministers would not have been appropriate. Similarly, parts of the organisation that need to align closely with Scottish Government policy development and Ministers, such as curriculum design, may have been negatively impacted if that relationship was weakened in a different type of public body.

Option 4 - SQA replaced with a new and refocused qualifications body.

This option would see the SQA replaced by Qualifications Scotland. The costs are set out in detail in the Education (Scotland) Bill Financial Memorandum. In summary:

- Qualifications Scotland's costs for 2025-26, including savings from the cessation of the SQA, are estimated to be between -£0.268 and £1.555 million. This reflects total savings of between £30.268-35.366 million against £30.000 - 36.921 total costs:
- One-off costs on staffing (£0.514 - £0.629 million), branding/website (£0.325 - £0.458 million) and costs associated with staff transfer, such as the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) (£0.200 - £0.400 million) amounting to between £1.039 - £1.487 million; and
- Recurring costs on staffing (£29.310 - £34.263 million) operational (£24.827 - £31.941 million), and estates (£2.409 - £2.944 million) minus recurring income (£27.584 - £33.713 million). Amounting to £28.961 - £35.434 million.
- Savings from the cessation of SQA on staffing (£29.310 - £34.195 million), operational costs (£26.133 - £31.941 million), and estates (£2.409 - £2.944 million) - minus a loss of income (£27.584 - £33.713 million) - amounting to

£30.268 - £35.366 million.

There are also non-monetary considerations for this option. Implementation of reform becomes linked to legislative timescales and may impact on the timeline for the benefits of reform to be realised. These impacts go beyond the education and skills sector and include improved experiences or outcomes for relevant businesses and organisations that use related qualifications, assessment and accreditation services.

Furthermore, positive perceptions of the SQA brand – particularly evident within the employer, industry, training provider and awarding body sectors – would need to be carefully managed in the transition to the new organisation, whilst also ensuring the creation of a new and distinct brand and identity for Qualifications Scotland.

- **Office of HM Chief Inspector of Education in Scotland**

Option 1

This option (do nothing) would see the inspectorate function remaining within Education Scotland. This option presents no implementation costs and would see current levels of funding continue.

However, not creating a new independent inspectorate would result in having the inspectorate function within the same body charged with supporting improvement, which could lead to an actual or perceived conflict of interest that devalues education in Scotland. Such an approach was therefore discounted.

Option 2

This option would see the inspectorate function moving to a new separate Executive Agency.

The cost of this option would be broadly equivalent to the cost associated with Option 3 to establish a new officeholder which would have responsibility for inspecting education provision in Scotland and lead the operations of the new Inspectorate. This assumes that shared services and staffing arrangements would remain.

However, as with option 1, a new separate Executive Agency was not considered to be a sufficiently viable approach. Whilst offering a non-regulatory option, it would not reach the full independent nature being sought for the inspectorate function.

Option 3

This option would establish a completely new and independent inspectorate. The costs are set out in detail in the Education (Scotland) Bill Financial Memorandum, in summary:

- The new inspectorate costs for 2025-26, including savings from cessation, are estimated to be between £1.744 - £2.864 million. This reflects total savings of between £8.380 - £10.242 million against £10.124 - £13.106 total costs:

- One-off costs on staffing (£0.334 - £0.408 million), estates (£0.000 - £0.212 million), branding/ website (£0.325 - £0.458 million) and staff transfer, such as TUPE (£0.000 - £0.282 million). Amounting to between £0.659 - £1.360 million; and
- Recurring costs on staffing (£7.147 - £8.735 million), operational (£1.959 - £2.394 million), and estates (£0.359 - £0.617 million). Amounting to between £9.465 - 11.746 million.
- Savings from moving the inspectorate function from away from Education Scotland on staffing (£6.198 - £7.576 million) and operational costs (£2.181 - £2.666 million), amounting to £8.380 - £10.242 million.

Regulatory and EU Alignment Impacts

• Intra-UK Trade

Only the provisions within Part 1 of the Education (Scotland) Bill, focused on Qualifications Scotland, are likely to involve intra-UK trade.

The SQA currently provides qualifications and assessment services across the UK, as well as accrediting qualifications from awarding bodies that also operate across the UK. To note, accreditation services remain free of charge for all awarding bodies seeking to have their qualifications accredited. The SQA delivers its qualifications through 233 approved awarding centres in the rest of the UK, as well as providing a variety of qualifications and assessment services to Scottish and UK employers, industry sectors and training providers. In 2020/21, this provided around £1.5m in income to the SQA.

The legislation will allow the new qualifications body to offer services outside of Scotland. The services, awards and accreditation processes and how this impacts intra-UK trade and regulation will be for Qualifications Scotland to determine and assess and to ensure they align with trade and regulatory requirements.

• International Trade

Only the provisions within Part 1 of the Education (Scotland) Bill, focused on Qualifications Scotland, are likely to involve international trade.

The SQA has historically exported its qualifications and awarding services on an international basis. The SQA currently delivers services to 74 SQA international approved awarding centres. These deliver and charge for a range of SQA awards to students in China, the Americas, the Middle East, Europe, South Asia and ASEAN Regions. In 2023/2024 the SQA's international income from these areas was £3.5 million. This is carried out under the current SQA International brand which has a strong reputation in overseas markets.

It is intended that Qualifications Scotland will have the same ability to export its services to markets beyond Scotland and to charge for its services. While the Bill itself will not directly impact the trade flows of qualifications and assessment services between Scotland and other countries, there will be a strong focus on ensuring the

existing international reputation and brand of the SQA and Scottish qualifications and assessment services can be continued by Qualifications Scotland, alongside a refreshed reputation for other stakeholders. The work to ensure this, will be taken forward through non-legislative work, with implementation being part of the operational decisions to be made by Qualifications Scotland.

- **EU Alignment**

Qualifications Scotland will be expected to align with the EU in relation to its people, goods and services. As the Body will be accountable to Scottish Ministers, it will share the same commitment and ambition to maintain and advance the high standards Scotland shares with the EU.

The Bill establishes a new public officeholder (HM Chief Inspector of Education) on which the statutory functions will be conferred and who will lead a new independent education inspectorate to take forward the education inspection function.

The independent Inspectorate will be expected to align with the EU in relation to people and its services. The body will be independent of Ministers whilst being part of Scotland's public body infrastructure and therefore expected to align with Scottish Government commitments as appropriate.

Scottish Firms Impact Test

Professor Muir's consultation and the Bill consultation resulted in a significant number of contributions from Scottish firms, supported by related engagement. This is set out in the section on consultation above, alongside their views and potential impacts of this Bill. These views informed the provisions within the Bill.

The Bill consultation report highlights how responses often focused on the practical implementation of qualifications as opposed to the legislative underpinnings of creating a new organisation with statutory functions. Responses tended to go beyond the set-up of a new qualifications body and instead focused on addressing potential reforms to the wider system (including areas relating to the independent review of qualifications and assessment and the Skills Delivery review), as well as specific aspects of current qualifications on offer and the structure of assessment. This was similarly the case for HM Chief Inspector provisions, where the inspection models, and practical and reporting aspects of inspection, tended to be the focus of the responses, rather than the legislative underpinnings and functions.

Once established and fully operational, there will be a requirement for both Qualifications Scotland and HM Chief Inspector of Education in Scotland to actively consider the impact of their operational and policy decisions on Scottish firms.

Competition Assessment

There is not expected to be an impact on any aspect of competition as a result of the provisions in the Bill, or from the activity that stems from implementation in relation to limiting the range or ability of suppliers to compete, or the choices available to

consumers. This is because the role and remit of the functions are already present in the system as part of the SQA and Education Scotland.

Qualifications Scotland

The functions of Qualifications Scotland will have some relevance to competition in the qualifications market, particularly around the accreditation of qualifications. These are already present in the system and therefore will not change as a result of the Bill.

The Bill will establish a new qualifications body with two distinct functions. One of these will be to develop and award qualifications. The other, will be to accredit and regulate the qualifications market in Scotland. However, the Bill will establish a new body that will replace the current provider in this space. For the aforementioned reasons, there is clearly an active market for qualifications suppliers, providers, and those that seek to use them. The Bill makes no changes to these functions that impact on competition.

As such, the Bill will not have a limiting impact on competition in Scotland. In fact, the opposite may be said as through an effective and credible accreditation function the competitiveness of the market should increase, as credentials that signal quality provide significant incentives for market providers and send clear, credible information to consumers to inform their choices.

The Bill will enable the new body to develop and award qualifications of any kind except university degrees. In practice these can be developed to meet the specific needs of businesses, consumers, and the education, qualification and employment system. This is no different to any other market provider. In Scotland, there is nothing to stop any consumer choosing alternative qualifications to those that will be provided by the new body. In fact, there is a clear market for different types of qualifications that are currently being provided for in different education and training establishments to meet different individual and group needs. The establishment of the new body will not alter the current demand-led model seen in Scotland and the rest of the UK.

Inspectorate

It is not considered that this part of the Bill will have a direct positive or negative effect on any competition as the inspection of the establishments, undertaken by His Majesty appointed Inspectors reflects current practice. The Bill will provide for the HM Chief Inspector of Education to undertake inspection of the full range of establishments currently inspected.

Consumer Assessment

There is not expected to be an impact on consumers as a result of the provisions in the Bill, or from the activity that stems from implementation. This is because the role and remit of the functions that may impact this are already present in the system as part of the SQA and Education Scotland. The measures in the Bill do not: impact the goods and services in the qualifications market; affect essential services; involve

changes in how consumer data is used; increase opportunities for consumers to be targeted by unscrupulous suppliers; affect the information available to consumers; or affect routes for consumers to seek advice or raise complaints.

Qualifications Scotland

The functions of Qualifications Scotland will take on the responsibilities of the SQA across two areas. The measures in the Bill will make no change to these.

The first is with the awarding functions of the Qualifications Scotland, which will mean it can provide an array of qualifications, assessment, awarding, training and other types of qualifications related services to consumers. This includes learners, as the direct users of qualifications, and other types of consumers that will procure Qualifications Scotland's services on behalf of learners, such as education and training establishments, local authorities, and businesses and employers. The ability to provide different services and products means the demands and needs of consumers will be more easily met by Qualifications Scotland. The involvement of consumers of qualifications in the governance of the body will also better support meeting their expectations.

The second is with the accreditation functions of the body, which means it can provide consumers of all types with information relating to qualifications which have and have not been accredited and awarding bodies who are or are not regulated and approved by the Qualifications Body. Similarly, the ability for other awarding bodies to operate in the Scottish market and create and offer different types of qualifications improves the overall choice for consumers. Through the accreditation process, Qualifications Scotland will be able to give a credential which is a clear indicator of the quality and high standards of a qualification, providing consumers with more information to help them make informed decisions and have confidence in quality of the services and products they buy.

Office of HM Chief Inspector of Education in Scotland

The function of HM Chief Inspector of Education will take on the responsibility for the inspection function of Education Scotland.

There is not expected to be any direct impact on consumers as a result of this part of the Bill. This includes learners, parents and the broad range of education establishments that will be inspected. However, the role of the HM Chief Inspector of Education will be to inspect education and other establishments and ensure they are delivering education provision and related services in a way that meets inspection criteria. Through effective inspection of these establishments, there will be a positive impact for users of education and related services, either as users or consumers of education provision in Scotland.

Test Run of Business Forms

There will be no new forms for businesses to be introduced within the Education (Scotland) Bill provisions. It will be the responsibility of Qualifications Scotland and the HM Chief Inspector of Education to consider any new business forms they may

require. This would include the format they take and the implications of them.

Digital Impact Test

The Bill will establish Qualifications Scotland as a Non-Departmental Public Body and establish a new officeholder in the Scottish Administration: the HM Chief Inspector of Education. Statutory functions will be conferred on the Chief Inspector and the Chief Inspector will lead a new independent education inspectorate which will provide autonomy in its decision making and how it goes about its operations.

The broad functions being provided within the Bill should not restrict either Qualifications Scotland or HM Chief Inspector of Education in responding to digital and technological advances or changes. While the Bill will not impose any digital or technological change, the implementation of the Bill and the creation of Qualifications Scotland and the new inspectorate will expressly take into account the digital environment. There is a clear vision that the new bodies will be digital by default. For any digital developments that may impact the new bodies, it will be for them to determine how they will respond and adapt to this and assess the impacts on individuals of any changes.

Legal Aid Impact Test

The Education (Scotland) Bill does not create any new legal processes or new rights or responsibilities for individuals or the bodies themselves. It is therefore not envisaged that there will be any additional demands placed on the legal system by this Bill. It is not expected that there will be any effect on individuals' ability and rights to access justice through legal aid.

Enforcement, Sanctions and Monitoring

Qualifications Scotland is expected to be a Non-Departmental Public Body. It will be accountable to the Scottish Ministers for the delivery of its statutory duties, and this will be managed, monitored and assessed through its governance arrangements and statutory reporting and performance evaluation requirements set out in the Education (Scotland) Bill. This includes its corporate plans and annual reports.

The Bill establishes a new public officeholder; His Majesty's Chief Inspector of Education in Scotland, who will lead the new independent education inspectorate, to take forward the function of inspecting education provision in Scotland.

The Office of HM Chief Inspector of Education in Scotland is expected to be a Non-Ministerial Public Body. It will be accountable to the Scottish Ministers and Scottish Parliament for the delivery of its statutory duties, and this will be managed, monitored and assessed through its governance arrangements and statutory reporting and performance evaluation requirements set out in the Education (Scotland) Bill. This includes its annual reports.

Implementation and Delivery Plan

It is anticipated that Qualifications Scotland and the office of HM Chief Inspector of Education in Scotland will be established once the Education (Scotland) Bill has been passed, expected in autumn 2025. However, this is subject to Parliamentary processes, commencement of provisions, transition and subsequent issues that may arise.

Delivery and governance arrangements are in place to support implementation and provide assurance to the education reform programme. This includes the aspects of the new education bodies covered by the Bill and the broader work required to design services, develop culture, and transition from existing organisations.

The education reform programme governance structures include a Ministerial group chaired by the Cabinet Secretary for Education and Skills and a Programme Board chaired by the Senior Responsible Officer for the education reform programme. Membership of the Ministerial group includes independent experts and professional advisors. Membership of the Programme Board includes Scottish Government officials, the Confederation of Scottish Local Authorities and the Association of Directors of Education in Scotland as well as experts, professional advisors and individuals working across Scottish education, ensuring insights, assurance and challenge on the delivery of the new organisations.

The Education (Scotland) Bill is the legislative basis for establishing the new body and office, and as such decisions around their operational set-up, organisational structures, services and products, procedures and corporate and administrative activities are in development in parallel to the passage of the Bill through Parliament. The Scottish Government will continue to engage with key partners and stakeholders on this as the work progresses, including the existing bodies and the range of businesses impacted by reform.

Post-implementation Review

The effect of the legislation will be reviewed within 10 years of commencement, alongside a review of this Business and Regulatory Impact Assessment.

Summary and Recommendation

- **New Qualifications Body**

Option 1

Total benefit per annum: - economic, environmental, social

- No benefits

Total cost per annum: - economic, environmental, social - policy and administrative

- Reform budget and resources could be re-prioritised to other initiatives. The continuation of service delivery and no disruption to this as a result of reform activity. No costs other than the current allocation of SQA's budget as no implementation required. For 25/26 the forecasted budget is £58,336,000. Cost of not replacing and reforming and addressing current concerns.

Option 2

Total benefit per annum: - economic, environmental, social

- Continuation of delivering the essential qualifications services to their diversity of users with less disruption to the system, including staff at SQA.
- Reform savings estimated between £525,000 - £858,000 as new costs associated with branding work, estate fit-out and costs associated with transferring staff to a new NDPB.
- The benefits of the proposed non-legislative changes could be realised more quickly.
- Retention of some positive reputation associated with SQA brand such as in international settings, and with awarding bodies.
- Lost opportunity to strengthen the body's governance through robust legislation.

Total cost per annum: - economic, environmental, social - policy and administrative

- Lost opportunity to address reputational damage associated with SQA brand. Risk that reforms may still fail to address concerns around trust, service delivery and stakeholder engagement.
- Potential for a reliance on SQA reforming itself – a concern expressed by public and Parliament.

Option 3

Total benefit per annum: - economic, environmental, social

- Delivers on OECD recommendation for a single body.

- Provides a single voice for curriculum, qualifications and assessment.
- Potential for greater policy alignment between curriculum and the Senior Phase.

Total cost per annum: - economic, environmental, social - policy and administrative

- Costs were calculated as part of review of Professor Muir's recommendation.
- Added complexity in the system that would not simplify the role and activity of institutions as the OECD's report intended.
- Greater one-off programme costs and a longer lead in time required to create a brand new, and potentially entirely different body with different structures. This includes staff and property transfer, the development and design of products and services, creation of new shared services within a new body, creation of new and reformed governance processes.
- Depending on type of body, could see a change in relationship between the current operations and with Ministers for both SQA and Education Scotland. Questions regarding operational independence and need for a closer relationship with Ministers.

Option 4 (chosen)

Total benefit per annum: - economic, environmental, social

- Deliver on Programme for Government and Bute House commitments.
- Opportunity to support a new approach to culture for the qualifications body, aligned with wider education and skills reform.
- Opportunity to reset relationships with the new qualifications body and its stakeholders, to build trust and reputation.
- Stronger basis for quick and efficient implementation of the necessary changes once legislation is passed.
- Embeds a stronger legislative framework for the governance of Qualifications Scotland compared to SQA. This includes robust legislative measures for the separation of its awarding and accreditation functions; and strengthened stakeholder governance arrangements.
- Reform and replacement being driven by Ministers in collaboration with the education and skills system, rather than by SQA itself.

Total cost per annum: - economic, environmental, social - policy and administrative

- One-off costs on branding/website and staff costs such as transfer of staff via any potential mechanism, such as the Transfer of Undertakings Regulation 2006 (TUPE)

estimated to be between £1,039,000 and £1,487,000.

- Slower realisation of some benefits that could be delivered without legislation.
- Positive perceptions of the SQA brand – particularly evident within the employer, industry, training providers and awarding body sectors – need to be carefully managed in the transition to the new organisation

- **New Inspectorate**

Option 1

Total benefit per annum: - economic, environmental, social

- No benefits - the inspection function would remain part of same body charged with supporting improvement.

Total cost per annum: - economic, environmental, social - policy and administrative

- Costs associated with the current running and allocation of Education Scotland budget.

Option 2

Total benefit per annum: - economic, environmental, social

- Continuation of delivering inspection of education provision.
- Would have taken forward OECD recommendation to split the operating functions of Education Scotland.

Total cost per annum: - economic, environmental, social - policy and administrative

- Perception that Scottish Government making substantial financial investment to retain full legislative control of inspection, with Scottish Ministers.
- Perception that could in effect bring the Inspectorate closer to Scottish Ministers.
- Criticism that level of independence is not in line with that recommended by Professor Muir.

Option 3 (chosen)

Total benefit per annum: - economic, environmental, social

- Independent body established with new legislative foundations – as recommended by Professor Muir.
- Shift in legislative powers from Scottish Ministers to HM Chief Inspector – in that decisions and direction of inspection of education will now be taken forward by independent office-

holder.

Total cost per annum: - economic, environmental, social - policy and administrative

- Seeking Parliamentary time to consider new legal structures being sought.
- Criticism over time taken to establish through new legislation and become fully operational.

Declaration and Publication

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non-departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication. Use appropriate text from choices below:

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date: 01/05/2024

Jenny Gilruth, Cabinet Secretary for

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