



**Scottish Government Consultation on  
Inspection of Early Learning and Childcare  
and School Age Childcare Services in Scotland**

**Early Years Scotland Response**

**October 2022**

**About Early Years Scotland**

Early Years Scotland (EYS) is committed to providing the very best start in life for every child in Scotland. We are the leading national third sector organisation for children pre-birth to 5. Early Years Scotland's remit is broad, but with a strong focus on the professionals and families who care for the youngest members of our community. There are four strands to our work. These are:

- *Working directly with young children and their families*
- *Membership and support for ELC settings, students and professionals*
- *Professional learning*
- *Policy, practice and legislation: advice and advocacy*

**The Consultation**

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 early learning and childcare (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, HM Inspectors of Education (HMIE), sector representatives, practitioners, teachers, staff and children.

## 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?

Early Years Scotland (EYS) welcomes this consultation. EYS agrees with the overall vision for the purpose and aim of inspection of ELC and school age childcare services and is committed to supporting improvement and quality assurance in collaboration with children, parents, and early years professionals nationally. It is our firm belief that positive and nurturing early years experiences give children the best start in life and that access to high quality early years provision is the best way in which to achieve this.

Early Years Scotland was part of Professor Muir's Practitioner and Stakeholder Advisory Group and shared EYS Members' feedback regarding the challenges around the current inspection system for ELC in Scotland. The main themes raised reported on the current system as being overburdensome, and that being inspected by 2 very different regulatory bodies generally resulted in complex and unnecessary burdens for ELC providers and childminders nationally.

In preparing a response to this consultation, EYS has engaged extensively with our members to ascertain their views, experiences, and suggestions around inspection in Scotland. EYS would like to make clear that although the consultation documentation states that there will not be consideration of a single inspection body, this was very much the preference of not only our organisation, but more fundamentally the members we represent. EYS believes that this would be the ideal time for transformational change for Scotland's youngest learners, by creating a new and bespoke inspection body, with expertise from both respective regulatory bodies, to be in line with the rest of the education system. As Scotland is currently undertaking an ambitious and aspirational National Discussion on Scottish Education, we believe that this would be the ideal time to address transformative change for ELC in Scotland.

*"One framework with two bodies is simply not going to work. The National Standard is a single document for example, and it's implemented in completely different ways across the country. Why would a single inspection framework be any different?"*

- Nursery owner, online focus group.

Most members stated that it has become abundantly clear that the current approach to inspection over the last couple of years in particular, does not always encourage and empower settings to work collaboratively towards continuous improvement, given the very differing ways members reported in which Care Inspectorate (CI) and His Majesty's Inspectorate of Education (HMIE) carry out their work. While some members have had more supportive inspections, with positive discussions on improvement processes, many more have stated they experienced a much more scrutinous role, by the CI, which can leave staff members feeling stressed, anxious, and disheartened.

*"The proposed vision sounds good however we worry over how realistic this is, taking account of what it's like at present. A huge shift in culture is required as there are real challenges with consistency of practice at present."*

- ELC Manager, online focus group.

Overall, EYS members stated the previous joint inspections often felt very disjointed and conflicting in their approach for staff and settings. For this joint inspection aspiration with a single framework to be successful, it was felt that this would require significantly more cooperation, collaboration, and joint planning between both regulatory bodies to streamline the process to the benefit of the children, staff and parents in early years settings, childminders and out of school care settings.

It is also extremely important that the approach which both CI and HMIE/the new inspection body are expected to take under one single inspection framework is clearly outlined and defined, so that there is very little room for ambiguity and confusion from the perspective of those being inspected. Without this, members felt overwhelmingly that it is highly unlikely that two differing inspection bodies working under one framework would make any difference to the way things are at present for joint inspections.

*“It’s very difficult to align 2 very different inspection bodies, with different cultures and again the sector will be at the behest of this change. It would have been better if we had gone further with this inspection consultation and asked about a single inspection body, with one inspection framework.”*

- ELC Owner, EYS online focus group.

### **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?**

In principle, EYS supports the Scottish Government’s draft guiding principles. Our organisation believes that the basis of any new single framework should align with the aims of the eight points outlined within the consultation document. Inspections should be a tool which supports continuous improvement and settings feel supported to develop and grow in order to be able to provide the highest quality early learning and childcare possible for Scotland’s children.

There is no doubt that the principles will require a significant culture change in order to successfully come to fruition. It will, for example, be very difficult to achieve points 3, 4 and 5 while two separate bodies work under one framework – despite the commitment both will no doubt demonstrate, they have very different approaches to inspection at present, and, as a result, settings receive what they describe as “mixed messages”, anxiety and stress. This is even more so the case now, as our sector struggles to recover from the pandemic, dealing with significant staffing issues and sustainability challenges which is making it difficult for the sector overall.

Despite this, EYS appreciates the ambitious nature of the principles, and we would particularly support a system which would truly support collaborative working during the inspection process. As this sector is disproportionately subject to external scrutiny, to a much greater extent than other parts of the education system, it is hoped that if this approach were to be successful, it could perhaps be a true catalyst for change in ELC.

**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?**

Due to the pandemic, it has been some time since our members had experienced a previous joint inspection from both respective bodies and it is therefore difficult to comment on that at present.

EYS members were keen to express their appreciation for the recent recovery visits carried out by Education Scotland following the pandemic. Members reported inspectors undertaking such appointments wanted to “*listen, learn and help the sector to recover*” after such a difficult time. It was made clear to managers/owners that inspections could not be fairly carried out if there was no understanding as to where settings had been and the position, they found themselves in at that time.

*“Recovery visits have been welcomed and the approach from Education Scotland was very supportive and proactive.”*

*Nursery Manager, online focus group*

Positive feedback was also shared by members when inspectors sought to focus on collaborative working towards achieving success during inspection processes overall. They appreciated when Care Inspectorate inspectors took time to learn more about them and their individual setting. It was felt that inspectors were then able to have a better understanding of the challenges faced and, as such, members felt would enable them to inspect in a more positive, supportive way.

*“Our recent Care Inspectorate inspection was a very positive experience with the new framework.”*

*Nursery Manager, online survey feedback.*

Overall, despite evidence of positive experiences from members, most members’ feedback remains very mixed in terms of positive versus negative experiences. As such, EYS has concerns that the proposed changes will continue to challenge the sector as they require to become familiar with yet another new inspection framework, whilst continuing to be inspected by 2 differing regulatory bodies, alongside local authority scrutiny as the guarantors of quality for the national standard.

**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?**

It is no exaggeration that COVID-19 has impacted on our sector in ways that could never have been imagined. The pandemic and its associated lockdowns meant, for private, voluntary, and independent (PVI) and childminding providers in particular, a significant loss of income and dip into financial reserves which has made business sustainability and, as a result, the ongoing provision of high quality ELC, extremely difficult.

The expansion to 1140 hours, while delayed by a year because of COVID, has taken a toll on the sector. Private and Third sector ELC settings and childminders are also facing ongoing sustainability challenges, as indicated in the publication of the Scottish Government's Financial Sustainability Health Check of the Childcare Sector. The variability of the funded rate paid to members nationally in particular, is extremely concerning for the ongoing sustainability of the sector and until this is addressed, will continue to create a pervasive gulf and an ever-increasing gap between the PVI and local authority sector. It simply should not be the case that a workforce, that has the same role, and the same guidance, policies, practice, and legislation, has such a significant difference in the wage scales provided nationally.

The continued loss of highly qualified and experienced staff from the PVI sector settings to local authorities or indeed other sectors entirely, which offer higher pay, and often improved terms and conditions, is an ongoing and very significant issue. In our 2021 Holyrood manifesto, EYS also called for the creation of a National Pay Scale to ensure that the (predominantly female) workforce delivering early years provision are paid a fair and equitable wage, which is based on qualifications, skills, and experience, and not subject to the type of setting that they work in. The benefits of this financial recognition may also counter the established and pervasive gender imbalance in the sector.

We believe that it is important to be aware of this challenging backdrop when considering the design and implementation of a new single, shared framework. There must be recognition of the fact that the aforementioned issues have not been created, but have certainly been exacerbated, by the pandemic. Our sector is now facing challenges which mean that the additional stress associated with up to three levels of inspection scrutiny (which includes local authority quality assurance for partners) is having a significant and detrimental impact on the capacity, resolve and mental health and wellbeing of staff.

As well as this, at present the ELC sector is subject to a series of standards and frameworks which have significantly increased bureaucracy, and this has become very challenging. The recent release of the new Care Inspectorate Quality Framework, alongside the requirement to also use Education Scotland's 'How good is our ELC?' is causing the sector increased challenges and pressure. These pressures also include staff recruitment and retention, professional learning, and training of new and existing staff, managing the resumption of full inspections, and balancing the health and wellbeing of staff and children and families. Therefore, the expectation that the sector will require to absorb yet another change to scrutiny, self-evaluation, recording, and reporting is causing considerable stress and anxiety. There is a clear request from

almost all members to streamline the process of inspection and improvement in ELC nationally – there are, however, legitimate concerns as to whether this will be achieved or not, even with two bodies working with a single framework.

Most members have also reported issues around a lack of consistency with regard to CI inspection processes as the sector naturally contrasts and compares their experiences during inspections. This is very unsettling for the sector, with members commenting more favourably on their regular inspectors, whilst others struggle to have a consistent approach from a range of differing inspectors attending their service.

We are also aware that with the Scottish Government manifesto commitment of the introduction of a 1-year-old offer of ELC provision, and increased wrap around school care, there could therefore be further capacity pressures on an already stretched sector. This has already led to many ELC professionals leaving the profession altogether and seeking employment in other sectors, due to the sheer burden of bureaucracy and workloads. As it stands, the current inspection methods are another burden on top of everything else for the sector overall.

From discussions with representatives from the ELC sector, it is clear that there are a number of challenges as a result of the way in which inspections are currently carried out. Fundamentally settings face inspection from two separate bodies, who are reported by most members to often take two very different approaches, using two frameworks and differing ways of grading.

Alongside this is the added complication of examination and analysis from local authorities as guarantors of quality. Not only does this provide a third level of inspection, but ELC managers and childminders reported feeling a conflict of interest given local authorities are the ones who provide the funding. Understandably, this added level of scrutiny causes a significant amount of stress and anxiety amongst staff within settings and childminders, who fear a loss of partnership and possible sustainability challenges as a result.

Most members have advised that they appreciate when inspectors provide useful advice and guidance towards continuous improvement planning during inspections. It is felt that they are therefore committed to helping to improve practice and give staff practical, useful guidance. As one EYS member said:

*“We feel it’s better when they inspect **with us**, rather than **to us**.”*

- EYS member, online focus group.

On the other hand, the majority of members reported negative experiences when inspectors appeared to “seek out negatives” focusing heavily on these in their reports rather than highlighting more positives and suggested methods for improvement.

Many members said that they have often felt “judged” in recent CI inspections and that there appears to be very little scope for managers and staff to work with the inspectors, post inspection, to improve practice. The grading system used in CI inspections was also a significant frustration, given the fact that school establishments were not subject to any scrutiny/grading during the pandemic. Settings felt that they can be having what they consider to be a successful inspection, then when one factor lets them down,

their CI grades are lowered. Members stated this does not appear to reflect an appreciation of their overall holistic practice of the setting. Questions were asked as to how this is supporting improvement and quality assurance developments within ELC after a very challenging number of years.

*“This way of inspection seems more about ticking boxes than actually about how to make sure quality is as high as possible and how best to achieve this. Inspections should be supportive and assist in improving practice overall.”*

- Conversation at EYS national membership steering group.

*“There appears to be very little understanding of the numerous challenges in the sector at the moment – particularly because of the staffing crisis. We’ve all heard of good settings seeing their grades drop below a 4 because of how arbitrary the grading is. If that happens, the staff have to attend a session to ‘learn how to improve’. Imagine the impact this has on the mental health and wellbeing of a workforce which is literally on its knees.”*

- Conversation at EYS national membership steering group.

**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?**

It is important that Scottish Government considers what action can be taken to support the sector at this present time, with the impending joint inspections commencing, and the challenges around this, without a single inspection framework at this time. EYS, and its respective members are concerned about what happens in the forthcoming months, as there is a need for further clarity and support for the sector around joint inspections. We appreciate that it will take time to analyse the results of the consultation, and then work towards any relevant actions resulting from this. We would therefore like to appeal to the respective regulatory bodies to consider how best to support the sector during this interim period.

**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?**

The additional pressure of local authorities (LAs) carrying out monitoring and supporting is something which has been raised during EYS' discussions around this consultation. Most members felt that local authorities simply should not have such a role for a number of reasons – primarily, that being inspected by two separate bodies is already burdensome, and that the information gathered by both CI and HMIE could be passed onto local authorities, as opposed to them coming into settings and adding an additional level of what is felt to be unnecessary scrutiny.

*“I’ve often wondered if council settings face the same levels of scrutiny as the PVI sector when LAs carry out their monitoring role. It’s just another example of the apparent difference in treatment between the two areas of the one ELC sector.”*

*Manager, ELC setting, EYS online focus group*

It would be helpful to have a more streamlined approach to improvement and quality assurance and there is a lot of information that could be shared with local authorities to support joined up working between the regulatory bodies and local authorities overall and reduce what has been perceived as excessive scrutiny and support a reduction of duplicative quality assurance practice and procedures.

**Do you support the proposal to develop a shared quality framework between HMIE and the Care Inspectorate? Can you tell us why you think this?**

Yes

No

**Unsure**

EYS has answered ‘unsure’ to this question for one key reason. It is not that our organisation does not think that a single framework would be a positive step forward for inspection within the sector, it will, however, not be able to achieve the desired aims if it is used by two separate bodies with, as previously outlined, two very different approaches to inspection.

EYS appreciates that the consultation document makes explicitly clear that the creation of a single inspection body is not something which is on the table at present, given the requirements for a range of changes in policy/legislation as well as the investment which would be required. Given the issues and concerns around 2 inspection bodies which have already been demonstrated in this response, however, EYS believes that this is something which requires careful reconsideration if the ambitious aims and visions set out within the consultation document are to be truly achieved.

Ultimately, inspections are carried out to ensure that early learning and childcare is being provided at the highest level of quality possible. Our sector very much remains in a period of recovery and is facing unprecedented levels of challenge around staffing and sustainability. The inspection landscape should be a way of supporting this in order to ensure that high quality service provision prevails. However, if settings continue to face what is perceived to be overly burdensome scrutiny and pressure

from two separate organisations, alongside LA quality assurance, regardless of the fact they are working with one framework, then this is not going to be able to happen. EYS members and the sector as a whole are also mindful of potential additional pressures arising from the Scottish Government's commitment to widening access to funded ELC to 1- and 2-year-olds.

This is an opportunity to really get inspection processes right, both for the sector and for children and families. Therefore, while EYS is in agreement in principle with the vision for a single framework, we feel it is unlikely that there will be any meaningful change if this is not accompanied by the necessary structural changes and the creation of a single inspection body, which encompasses the skillset and expertise of both organisations.

It would be much more beneficial overall to have a single, professional, streamlined service, encompassing the skills and expertise of both Care Inspectorate and the new Education Scotland body, that ensures quality and consistency in practice and approaches, rather than two very different systems which appear to inspect on care and education separately.

The concept of a 'shared inspection', with both organisations working together does, in theory, sound beneficial, however ultimately almost all members feel that it does not go far enough for ELC. We have the opportunity in Scotland to be creative and transform support for the ELC sector by devising a new inspection body. The aspiration for this would be an organisation which has the skillset needed to inspect the holistic nature of early learning and childcare, and this can only be a beneficial change for the sector, and most importantly, will support improved positive outcomes for children and families overall.

**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)? Why do you think this?**

EYS agrees that the protections afforded by the creation of a shared quality framework should be afforded to all services, whether funded or unfunded. Our sector is made up of such a wide range of settings that it would be remiss not to ensure a consistent level of quality across them all and not solely funded services. This is especially the case given the dedicated levels of care and learning provided by all staff, regardless of the unfunded or funded status of the setting.

Playgroups, for example, have consistently provided vital, positive experiences for children in their earliest years. In rural areas they are invaluable resources often serving as the only form of ELC available, given the unique geography of many parts of Scotland. Access to nurseries, whether they are local authority or PVI settings, and childminders – sometimes simply do not exist due to the geography of the area. This is particularly prevalent as stated, in rural areas.

Playgroups give children access to high quality ELC provision with the opportunity to learn and grow, develop friendships, and gain essential life skills often alongside their parents/carers, grandparents, and extended family watching and engaging at the same time. These types of settings are frequently the first interaction that families with young children have with ELC in its broadest terms and should, as such, be subject to the same levels of inspection and related support and guidance.