

# Educational Institute of Scotland (EIS) submission of 19 May 2023

PE1979/U: Establish an independent inquiry and an independent national whistleblowing officer to investigate concerns about the alleged mishandling of child safeguarding enquiries by public bodies

The Educational Institute of Scotland ('EIS') welcomes the opportunity to comment on PE1979.

## ***An Independent Inquiry***

In assessing the rationale for the inquiry referenced in the Petition, it is necessary to consider the current framework for child protection and safeguarding in Scotland, its implementation, quality assurance processes and whether there are gaps in provision, necessitating the intervention sought.

- **Legislation, Policy and Practice**

The EIS believes that Scotland has a strong legislative and policy framework, underpinned by a commitment to upholding children's rights.

The Children and Young People (Scotland) Act 2014 sets out the duties and responsibilities of Scottish Ministers and of public authorities in embedding 'Getting It Right for Every Child' policy. The supporting statutory guidance outlines the continuum of wellbeing needs, citing child protection at the acute end of this spectrum.

A range of national guidance also supports multi-agency approaches to facilitate early intervention, inform local policies, reduce risk and promote the wellbeing of children and young people.

Implementation of child protection and safeguarding policies is supported by professional learning, with Child Protection

Committees ('CPCs') having responsibility for inter-agency child protection training strategy at a local level.

- **Quality Assurance**

To monitor the implementation of the statutory duties, a range of quality assurance processes are in place at national and local levels. Supervision, critical reflection and self-evaluation are integral aspects of children's planning processes and of the work of CPCs. National frameworks, such as those published by the [Care Inspectorate](#) and [Education Scotland](#), are intended to support self-evaluation and quality assurance, by identifying strengths and areas for development.

- **Child Protection Concerns outwith the Family**

Child protection concerns are not restricted to familial abuse. Where such concerns are raised about an individual in their employment, a range of procedures may apply:

*Child Protection Investigation* – a child protection referral can be made to the core agencies. This can result in criminal proceedings being instigated.

*Disciplinary Procedures* – in employment, an investigation may be instigated to determine whether alleged conduct falls within the ambit of the disciplinary policy and requires action.

*Referral to a Regulator* – once child protection and disciplinary processes have been exhausted, the employer or an interested party can refer the matter to a professional regulator. As the Petition specifically refers to GTCS and the EIS has direct engagement with the GTCS, we have provided some commentary on the regulatory processes in place for teachers.

GTCS, through the Professional Standards, has set high standards of teacher professionalism spanning early career to leadership and management. The Standards highlight core professional values which are central to teacher professional identity. Permeating these values is the commitment to promoting the health and wellbeing of pupils, and providing a safe and secure learning

environment in which they can thrive. Teachers reflect on how they embed these Standards in practice through Professional Update.

Anyone can raise concerns about a teacher's conduct through the Fitness to Teach process. The process focuses on maintaining public trust and confidence in the profession rather than punishing teachers. Like other regulators, GTCS adopts a threshold policy and only investigates an allegation if it is considered to be an act of misconduct or criminal offence where there is a realistic prospect of a finding of impairment. Fitness to Teach is impaired where a teacher's conduct or professional competence falls below the standard that would be expected under GTCS's Rules and legislation. We believe that the approach adopted by GTCS through the application of this policy ensures balance and proportionality.

GTCS is held in high regard, and its work endorsed internationally. The Institute believes that its independence as a professional regulator is key to enhancing teacher professionalism, quality teaching and learning, and public confidence and trust in the profession.

*Disclosure Scotland* – Disclosure Scotland holds lists of people who are barred from undertaking regulated work with children and vulnerable adults. Teaching is regulated work. If a teacher is 'listed', they are barred from teaching. Employers must refer employees to Disclosure Scotland in certain circumstances, including where the employee has harmed a child or placed a child at risk of harm, and as a result the employer has transferred the employee to another role or has dismissed the employee (or would have, had they remained in employment).

The GTCS and courts can make referrals to Disclosure Scotland.

- **Redress if dissatisfied with the outcome or the process**

Given the nature of the concerns, it is important that any party involved in a child protection investigation has the right to seek redress if dissatisfied with the outcome or process. There are various mechanisms which provide scope for review:

- *Complaints Procedures of relevant agencies*
- *The Scottish Public Services Ombudsman ('SPSO')* - If the complaint procedure has been exhausted, a referral can be made to the SPSO. It can consider complaints against Education and Social Work Departments within a local authority.
- *Whistleblowing Policies* – the law protects workers in public bodies when they make a disclosure in the public interest. The statutory definition of 'whistleblowing' is restricted to workers to ensure that someone employed or in an employment related position is not unfairly treated after raising a concern.

## **Conclusion**

Given the range of investigation and review procedures highlighted, we would question what additionality the role of a National Whistleblowing Officer for Education and Children Services would deliver in practice. Those working in local authorities are already covered by whistleblowing protections, and policies are in place to facilitate implementation of these protections. Staff in Education can raise concerns about teachers' conduct through child protection procedures; employment policies; and ultimately, can make a referral to GTCS, as the independent regulator of teachers.

Rather than devoting resources to the launch of an inquiry or the creation of a whistleblowing service, funding could be allocated to support greater multi-agency co-operation, ensure sufficient time is available to develop relational approaches, and support the implementation of early intervention measures to address needs before they reach the acute stage of child protection interventions.