

Education in the Scottish parliament

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PREAMBLE

This paper follows on from the previous bulletin (Redford 2009), which covered the proceedings of the Parliament's Education Lifelong Learning and Culture Committee between September 2008 and February 2009. The following bulletin covers the same remit of the Education Lifelong Learning and Culture Committee from February to September 2009, during the third session of the Parliament (2007 – 2011).

FEBRUARY – SEPTEMBER 2009

The Education Lifelong Learning and Culture Committee had the following members during this period: Karen Whitefield (Convenor), Kenneth Gibson (Deputy Convenor), Claire Baker, Aileen Campbell, Ken Macintosh, Christina McKelvie, Elizabeth Smith and Margaret Smith. Full records of the committee meetings, including minutes, official papers and transcripts of proceedings can be found on the Scottish Parliament website at:

<http://www.scottish.parliament.uk/s3/committees/ellc/meetings.htm>

During this period the committee completed their work on Stages 1 and 2 of the Education (Additional Support for Learning) (Scotland) Bill and heard evidence from panels on Offender Learning and the New Horizons University Taskforce. The major area addressed during this time was Stage 1 of the Schools (Consultation) (Scotland) Bill. They considered annual reports from Her Majesty's Inspectorate of Education (HMIE) and Scotland's Commissioner for Children and Young people, along with a small number of subordinate instruments. Two petitions were considered: PE1022 on foreign language learning in schools, which was closed, and PE1213 on the support and provision for children with autistic spectrum disorder.

EDUCATION (ADDITIONAL SUPPORT FOR LEARNING) (SCOTLAND) BILL

The committee considered a revised draft of their Stage 1 report, in private, at their meeting on the 4th February. This was agreed, subject to minor changes, and the committee moved to discuss stage 2 of the bill at their meeting on the 25th March:

Amendments	Action taken by Committee
1,2,3,4,5,6 and 7	Agreed to (without division)
18 (For 5, Against 3, Abstentions 0)	Agreed to (by division)
17 and 17A	Moved and with the agreement of the Committee withdrawn
7B	Not moved

Sections 2, 3, 4 and 5 were agreed to without amendment and section 1 as amended, at this meeting. The Committee returned to the bill at their meeting on the 22nd April, when they took evidence from the following:

Date of Committee	Witnesses
22 April 2009	- Adam Ingram, <i>Minister for Children and Early Years</i> - Robin McKendrick, <i>Support for Learning Division, Scottish Government</i> - Louisa Walls, <i>Legal Division, Scottish Government</i>

A paper prepared by the committee clerk for this meeting (ELLC/S3/09/11/3) presented a summary of the development of the bill, with active links to all related papers. The meeting discussed in detail amendments to the bill, which the Presiding Officer had ruled would require a financial resolution. The final series of amendments to the bill were considered at their meeting on the 29th April:

Amendments	Action taken by Committee
8, 31, 11 and 9	Agreed to (without division)
14A, 14B, 14C, 14D and 14E (For 3, Against 3, Abstentions 2: amendments all carried to on casting vote) 14 (For 4, Against 3, Abstentions 1) 10 (For 5, Against 3, Abstentions 0) 33 (For 5, Against 3, Abstentions 0) 12 (For 5, Against 3, Abstentions 0) 27 (For 5, Against 3, Abstentions 0) 28 (For 4, Against 4, Abstentions 0; amendment carried to on casting vote)	Agreed to (by division)
29 (For 3, Against 5, Abstentions 0)	Disagreed (by division)
21 and 22	Moved and with the agreement of the committee withdrawn
14F, 19, 20 and 24	Not moved
30, 13, 32, 25 and 34	Not taken by virtue of Rule 9.12.6 (Financial Resolution)

Sections 6, 7, 8, 9 and 10 were agreed to without amendment, the long title was agreed as amended and the committee completed their Stage 2 consideration of

the Bill. The Bill received Royal Assent on 25 June 2009. Copies of all papers relating to the 3 stages of the bill, the SPICe briefing paper and committee reports can be accessed at:

<http://www.scottish.parliament.uk/s3/bills/16-EdAddSup/index.htm>

OFFENDER LEARNING PROJECT

The committee began taking evidence on the Offender Learning Project at their meeting on the 25th February. A briefing paper from the Scottish Government (ELLC/S3/09/6/1/A) was considered prior to the meeting. This outlined the scope of the project, which was established to look at offender learning as a whole in Scotland, with the aim of providing a more streamlined and improved service. The project has an advisory group and three workstreams, focusing on three client groups:

- Offenders in custody
- Adult offenders/ ex-offenders in the community
- Youth offenders

Date of Committee	Witnesses
25 February 2009	• Rosemary Winter-Scott, <i>Offender Learning Project, Scottish Government</i> • Jim McCormick, <i>In Custody Workstream, Offender Learning Project, Scottish Government</i> • Esther Robertson, <i>In The Community Workstream, Offender Learning Project, Scottish Government</i> • Melanie Weldon, <i>Youth Offending Workstream, Offender Learning Project, Scottish Government</i> • Gary Waddell, <i>Scottish Prison Service</i>

The meeting on the 25th February began with Rosemary Winter-Scott describing the overall structure of the project, after which the Convener asked about resources, and what the money currently spent on offender learning delivered. Rosemary Winter-Scott replied that the focus of the project was on strategic planning, but in response to a question from Kenneth Gibson, Gary Waddell outlined the way in which adult learning was currently offered to offenders. It was a voluntary engagement, with teaching delivered through a contract with Motherwell and Carnegie Colleges. There was also a reading programme delivered by volunteers through the Shannon Trust. About 35% of the prison population participated in adult learning when in prison. The Convener followed this information with a question about incentives for prisoners to participate in education rather than in workshops. Jim McCormick replied that the study would involve talking to groups of prisoners: “We will talk about and try to understand how learning in its broadest sense, from vocational training through to education in classrooms, fits in the culture of the prison,” (McCormick, 25.02.09, Col 2061). The meeting moved on discuss issues of literacy and numeracy, the attainment of offenders engaged in education, and the ways in which participation and attainment were recorded. Christina McKelvie asked about the balance between

academic and vocational studies, to which Gary Waddell replied that there was a balance in the service, and that the Scottish Qualifications Authority was the main awarding body. The discussion finished with a series of questions from Ken Macintosh about the funding of the service, which currently goes direct from the Government to the Scottish Prison Service. Rosemary Winter-Scott replied, "During 2007-08, the Scottish Prison Service spent just over £3.5 million on its college contracts. The figure for 2008-09 is nearly £3.6 million" (Winter-Scott, 25.02.09, Col 2076). Gary Waddell added to this that a considerable number of prison service staff also served as vocational instructors. The committee agreed to re-visit the issue once the project had reported its findings. The Committee also agreed to commission SPICe to prepare a briefing paper on offender learning.

NEW HORIZONS TASKFORCE

The committee returned to the report of the Joint Future Thinking Taskforce at their meeting on the 4th March 2009 (ELLC/S3/09/7/2). They took evidence at that meeting from:

Date of Committee	Witnesses
4 March 2009	- Fiona Hyslop, <i>Cabinet Secretary for Education and Lifelong Learning, Scottish Government</i> - Stephen Kerr, <i>Higher Education and Learner Support, Scottish Government</i>

The meeting opened with a statement from Fiona Hyslop about the taskforce and the framework it set out for Scottish Universities for the next 20 years:

The key elements of that framework include recognition that Scotland's universities should become a key economic sector in their own right, and a requirement that, in return for the substantial public funding that they receive, universities must clearly demonstrate that Government-funded activities are aligned with the Government's purpose. Also in the framework is the idea that existing Scottish Government funding should be streamed into the more flexible general fund, which is to support mainstream activity, and the horizon fund, which is to provide new opportunities and incentives, and that funding council regulation should take a lighter-touch approach. That approach will give universities greater autonomy, with strong governance, challenge and leadership from governing bodies, in order to ensure that universities play an active part in the new approach. The framework also includes the creation of a new tripartite advisory group to advise on those new funding arrangements (Hyslop, 04.03.09, Col 2086).

The committee asked the Cabinet Secretary about the make up of the taskforce and in particular the lack of trade union and student representation and the fact that it covered only universities and not colleges. The meeting then went on to discuss the ways in which universities encouraged philanthropy, and the introduction of a business voucher scheme which was designed to support joint work between universities and local businesses. Ken Macintosh asked if funding would be directed towards research which supported the Government's interests. Fiona Hyslop replied, "not necessarily" and that she did not expect there to be a,

“seismic change in the distribution of teaching and research” (Hyslop, 04.03.09, Col 2106). The meeting ended with a discussion about the funding challenges facing university and college students.

SCHOOLS (CONSULTATION) (SCOTLAND) BILL

At their meeting on the 25th of February 2009, the committee agreed to consider its approach to the Schools (Consultation) (Scotland) bill in private at future meetings. They then considered written evidence from local authorities and agreed to invite a number of local authorities to give evidence. Supporting papers available for the committee included a paper by the committee clerk (ELLC/S3/09/13/1) and a SPICe briefing providing a summary of written evidence (ELLC/S3/09/13/2). They began to take evidence from witnesses at their meeting on the 6th May 2009.

Date of Committee	Witnesses
6 May 2009	• Colin Reeves and Lynn Henni, <i>Schools Division, Scottish Government</i> • Johanna Irvine, <i>Scottish Government Legal Directorate, Scottish Government</i>
6 May 2009	• Professor Neil Kay, <i>Scottish Rural Schools Network</i> • Mervyn Benford, <i>National Association for Small Schools</i>
13 May 2009	• Donald Gunn MacDonald, <i>Scottish Parent Councils Association</i> • Sandy Longmuir, <i>Scottish Rural Schools Network</i> • Nicola Welsh, <i>Association of Scottish Community Councils</i> • Judith Gillespie, <i>Scottish Parent Teacher Council</i>
20 May 2009	• Bruce Robertson, <i>Aberdeenshire Council</i> • Lindsay Glasgow, <i>City of Edinburgh Council</i> • Councillor Angus Campbell, <i>Comhairle nan Eilean Siar</i> • Jim Wilson, <i>Glasgow City Council</i> • Moira Niven, <i>Association of Directors of Education in Scotland</i>
27 May 2009	• Annette Bruton and Douglas Cairns, <i>Her Majesty's Inspectorate of Education</i>
27 May 2009	• David Drever and Ken Wimbor, <i>Educational Institute of Scotland</i>
3 June 2009	• Fiona Hyslop, <i>Cabinet Secretary for Education and Lifelong Learning, Scottish Government</i> • Colin Reeves and Lynn Henni, <i>Schools Division, Scottish Government</i>

At the beginning of the first panel of witnesses, Lynn Henni outlined the background to the consultation; “The Government came to power with a clear commitment to create a legislative presumption against closure of rural schools and to tighten the process for all school closures” (Henni, 06.05.09, Col 2285). She went on to describe the consultations to develop the bill, which had included

10 public meetings around the country, workshops with pupils and parents, and a series of meetings with The Association of Directors of Education (ADES), The Convention of Scottish Local Authorities (COSLA) and the Scottish Rural Schools Network. Henni then described the provisions in the proposed bill, which seeks to establish a framework for local authorities, for all school consultations:

- an extended minimum consultation period of 6 weeks in term-time
- an extended list of consultees
- a duty to provide an educational benefits
- a mechanism to address inaccuracies in the proposal papers
- HMIE as part of every consultation
- A 3 week period from the end of the consultation to the taking of the final decision
- A list of specific factors which must be addressed before proposing the closure of a rural school
- A new call in power for ministers (Henni, 06.05.09, Col 2286)

The meeting discussed each of these items in detail, spending some time on the role of HMIE and the lack of a timescale for any proposals called in by ministers. The discussion with the second panel focused on the background to the bill, which had originated with a petition (PE342) from Neil Kay against the closure of 6 schools in Argyll in 2001.

The petition that I wrote — PE342 — remained open for three and a half years, but many of the points in it have been superseded by the work of others, particularly the Scottish rural schools network (Kay, 06.05.09, Col 2306).

The committee continued to take evidence at their next meeting on the 13th May. The discussion with this panel focused on the detail of the statutory guidance, the educational benefits statement, the pupil capacity of Edinburgh primary schools, the 6 week consultation timeline and the role of public meetings and written information. The committee took further evidence with a round table discussion at their next meeting on the 20th May 2009 (ELLC/S3/09/15/1 Annexe A). The convener structured this meeting by opening discussion on each topic in turn, beginning with the consultation process for all schools and the educational benefits statement. All the representatives welcomed the educational benefits statement proposed in the bill. The proposed list of consultees was also welcomed, although as Lindsay Glasgow pointed out:

On consulting pupils, we feel that there is a role for age-and-stage considerations. We want to avoid causing distress to the younger pupils by engaging with them, because we acknowledge that such a consultation is a stressful procedure to go through. We want to ensure that we target the right age group when consulting pupils. As a local authority, the bill gives us the flexibility to identify the pupils with whom it would be appropriate to engage (Glasgow, 20.05.09, Col 2376)

The meeting moved on to discuss ways in which pupils had been involved in consultation recently and consultations with school staff. All representatives felt that the 6 week consultation period should work well and moved on to debate the issue of 'pupil post' and whether letters sent home with pupils always reached parents/carers. Some time was spent discussing who attended public meetings and inaccuracies in material presented to the public. There was general concern

about the capacity of HMIE to be involved in all consultations and concerns that their role should relate to the educational benefits statement only. Kenneth Gibson then asked the panel about the requirement for authorities to consider 3 particular factors in the closure of rural schools:

- (a) any viable alternative to the closure proposal,
- (b) the likely effect on the local community in consequence of the proposal (if implemented),
- (c) the likely effect caused by any different travelling arrangements that may be required in consequence of the proposal (if implemented) (Gibson, 27.05.09, Col 2399).

Bruce Robertson replied that both Aberdeenshire Council and Glasgow City Council had said in their written submissions that the same factors should apply to urban and rural schools. He added that if the factors were to be different then it would help authorities if rurality was defined. All representatives were confident that local representatives in an authority were best placed to make decisions about schools, and were concerned about how the proposed system of call ins by ministers would it operate and the timescales involved. The group felt that there was a need for guidance to be issued with regard to call ins.

At their meeting on the 27th May the committee took evidence from two panels, firstly from two representatives of HMIE and then from two representatives of the Educational Institute of Scotland (EIS) (ELLC/S3/09/16/1 Annexe A). The meeting began with Annette Bruton for HMIE describing the current involvement of the Inspectorate in school closures or catchment changes:

Those procedures include drawing on any recent reports that we have on the school; looking first hand at what is happening in the school; talking to children, parents and headteachers; talking to other affected schools that may not be closing or amalgamating but for which there might be some significant change; and considering the quality of learning, teaching provision, accommodation and so on in each of the schools with which we are concerned (Bruton, 27.05.09, Col 2418).

The committee discussed with the panel the ways in which the current processes would fit with the proposals, identifying that it would be District Inspectors, who already have close links with local authorities, who would take part in consultations. Annette Bruton felt that it would help inspectors to attend consultation meetings but that it did not need to be mandatory. She also addressed the issue of resources and was confident that HMIE had the resources to deliver, “what is proposed in the bill” (Bruton, 27.05.09, Col 2427). The meeting moved on to debate educational attainment in rural schools, to which Douglas Cairns responded that they had inspected 134 of 221 rural schools since 2003. In looking at attainment:

The overall conclusion was that the proportion of small rural schools that fall into the weak category is almost exactly the same—around a fifth—as the national average. A slightly greater proportion—by around 7 per cent—than the national average, or around a third compared with a quarter, fall into the very good category. Roughly half the schools—46 per cent of small rural schools and 54 per cent of schools nationally—fall into the middle category. Therefore, there are slight differences at the top end but, by and large, the spectrum of quality across small rural primary schools seems to be much the same as the national average (Cairns, 27.05.09, Col 2429).

The panel closed with a comment from Annette Bruton that the new proposals would help to put HMIE advice more centrally in the public domain. The committee then met with two representatives of the EIS, David Drever and Ken Wimbor and discussed in detail the role of the educational benefits statement, the 6 week consultation period and the role of HMIE in the process.

At their next meeting on the 3rd June 2009 the Committee agreed to consider a draft report on the Schools (Consultation) (Scotland) Bill in private at future meetings and then took final oral evidence from Fiona Hyslop, Colin Reeves and Lynn Henni of the Scottish Government (ELLC/S3/09/13/11). The Convener opened the meeting with the remarks about the responses from panels to the proposed educational benefits statement asking for clarity about what the Government expected it to contain. Fiona Hyslop replied that there was a need to avoid a checklist, “as the educational benefits statement must reflect the needs and the circumstances of the individual area” (Hyslop, 03.06.09, Col 2453). She was sympathetic to the proposal from witnesses that guidance should be given on the educational benefits statement. They moved on to discuss the consultation timeline, which the Cabinet Secretary felt was manageable, particularly as it would not be done during school holidays. In relation to pupil consultation she suggested that the Children’s Commissioner could advise about best practice, and that it should be carried out, “in a responsible way that ensures that nothing untoward happens” (Hyslop, 03.06.09, Col 2455). The meeting then considered the expectation of HMIE to attend consultation meetings rather than making it a requirement. This led to discussion about the information issued to parents, and then wider community issues in relation to school closures in urban deprived areas. Considerable time was given to discussing the call in processes, which the Cabinet Secretary felt was similar to her current powers to issue guidance, “We think that the provisions are fairly well set out in the bill,” (Hyslop, 03.06.09, Col 2473), adding that it was felt there would be fewer call ins. The Committee considered a draft Stage 1 report at their meeting on the 10th June and agreed various changes. A revised draft report, subject to minor changes, was agreed to at its next meeting on the 17th June.

ANNUAL REPORTS

The committee took evidence and debated Annual Reports from HMIE at their meeting on the 11th February 2009, this followed a decision taken at their meeting on the 17th September 2008, when they agreed to scrutinise the work of HMIE, including its annual reports and any other significant publications. This meeting considered the publication *Improving Scottish Education 2005-2008* (HMIE, 2008) and the *Annual Report 2007-08* (HMIE, 2008).

Date of Committee	Witnesses
11 February 2009	Graham Donaldson, Wray Bodys, Annette Bruton, Chris McIlroy and Stuart Robinson, <i>HMIE</i>

The meeting began with an account by Graham Donaldson of the background to the series of inspections of local authorities held from 2000-2008. He noted that there had been, “a significant improvement in all those areas throughout the 32 authorities” (Donaldson, 11.02.09, Col 2014). Annette Bruton, the inspector with responsibility for local authorities added, that “one of the key things that we find in the best-performing councils is their capacity to raise aspirations for children and their families” (Bruton, 11.02.09, Col 2015). Margaret Smith went on to ask about the use of self evaluation, to which Annette Bruton replied that they had seen improvement in self-evaluation across all sectors, while Graham Donaldson referred to it as a, “success story in Scottish education ... the work on self-evaluation in Scotland is regarded as being at the leading edge” (Donaldson, 11.02.09, Col 2018). Elizabeth Smith asked about changes to the inspection process and the way that was being used by local authorities. Graham Donaldson provided an account about how the process was being used differently in each school, and that it was designed to create an inspection process that was done with schools rather than to them. The meeting went on to discuss leadership issues in pre-school provision, attainment in literacy and numeracy in primary schools and the use of international comparison studies. Ken Macintosh asked about the inspection of Physical Education, as he was particularly concerned about, the “wide variation between schools that are extremely supportive of PE and very into sport and those that are not,” (Macintosh, 04.02.09, Col 2032). Other areas debated included school ethos, the role of parents, the role of special education, the college sector and the school estate.

At their meeting on the 3 June 2009 the Committee considered and agreed a draft annual report for the Education Lifelong Learning and Culture Committee for the Parliamentary year from 9 May 2008 to 8 May 2009 (ELLC/S3/09/17/2 – draft). On the 23rd of June they met with the new Commissioner for Children and Young People and took evidence on the on the Commissioner's annual report for 2008-09 (ELLC/S3/09/20/1) and his priorities for 2009-10.

Date of Committee	Witnesses
23 June 2009	Tam Baillie, <i>Scotland's Commissioner for Children and Young People</i>

The Convener welcomed Tam Baillie to the committee and congratulated him on his appointment as Scotland's Commissioner for Children and Young People. Tam Baillie responded by first of all paying tribute to the work of his predecessor Kathleen Marshall: “She campaigned tirelessly and successfully on behalf of children and young people, and promoted their rights” (Baillie, 23.06.09, Col 2541). He went on to outline his three main areas of work during his tenure: the United Nations Convention on the Rights of the Child (UNCRC), the involvement of children and young people, and the area “that is loosely described as discrimination” (Baillie, 23.06.09, Col. 2542). He described how he wished to consult and contact young people through the education system and new technology.

Scotland has about 2,700 education institutions. That is a lot of education institutions and a lot of teachers. There is no way I can contact them all, but we will pilot the system in some local authority areas and we will consider the capacity and the scope for direct contact with groups of pupils (Baillie, 23.06.09, Col 2541/2).

He went on to talk about contacting children and young people through children's organisations and other professions that have contact with children outside school. He identified this area as his priority until March 2010, and to start the whole processes he plans to hold a national consultation with children and young people. He then outlined the way in which his office was currently involved in areas of discrimination for young people: moving and handling for disabled children and work on looked-after children, which will continue. He recognised that other areas of work would arise through the national consultation. He went on to identify poverty and inequality in the early years as two areas which need to be addressed to ensure, "the creation of a more equal society" (Baillie, 23.06.09, Col 2542). The Committee discussed with the commissioner the ways in which he intended to take forward his remit.

SUBORDINATE LEGISLATION

The committee took evidence, debated and approved the following subordinate legislation during this period:

- Protection of Vulnerable Groups (Scotland) Act 2007 (Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006) Order 2009 (SSI2009/39)
- Protection of Children (Scotland) Act 2003 (The Meaning of Disqualified from Working with Children: Corresponding Disqualifications in Northern Ireland) Order 2009 (SSI2009/39)
- Police Act 1997 (Criminal Records) (Scotland) Amendment Regulations 2009 (SSI2009/40)
- Repayment of Student Loans (Scotland) Amendment Regulations 2009 (SSI2009/102).
- Individual Learning Account (Scotland) Amendment Regulations 2009 (SSI2009/176)
- Education (School Lunches) (Scotland) Regulations 2009 (SSI2009/178)
- St Mary's Music School (Aided Places) (Scotland) Regulations 2009 (SSI2009/181)
- Adoptions with a Foreign Element (Scotland) Regulations 2009 (SSI2009/182)
- Education (Fees and Awards for EC Nationals and UK Returners) (Scotland) Regulations 2009 (SSI2009/188)
- Education (Interest on Student Loans) (Scotland) Regulations 2009 (SSI2009/189)

UK LEGISLATION

The committee took evidence, debated and approved the following subordinate UK legislation during this period:

- Apprenticeships, Skills, Children and Learning Bill (UK Parliament legislation) legislative consent memorandum LCM(S3) 19.1

PETITIONS

The committee returned to PE1022 on the promotion of foreign language learning and intercultural awareness in Scotland's schools, colleges and universities at their meeting on 13th May 2009. This petition had been kept open from the 19th November 2008. The Committee agreed to write to the Cabinet Secretary for Education and Lifelong Learning to seek her views on the petition in the first instance and to advise the Petitioner of this decision. They returned to the petition at their meeting on the 23rd June when they agreed to close the petition and to raise the issue of foreign language learning and intercultural awareness at an evidence session with the Cabinet Secretary in the autumn.

The committee considered Petition PE1213 (ELLC/S3/09/16/3) at their meeting on the 21 January 2009. This petition, presented by Annette Masson, concerned the assessment, diagnosis and support available in the education system for children with autistic spectrum disorder. The Committee agreed to defer further consideration of this petition until it had completed its scrutiny of the Education (Additional Support for Learning) (Scotland) Bill. They returned to this petition at their meeting on the 27th May when they agreed to write to the Minister for Children and Early Years, asking him to comment on the petition, plus its relation to ASL legislation, the Disability Discrimination Act 1995, and "whether the Government intends to review current assessment, diagnosis and appeal procedures for autism" (Macintosh, 27.05.09, Col. 2448).

REFERENCES

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HMIE, (2008) *Annual Report 2007-08*, Edinburgh, Scottish Government
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