

## Education in the Scottish Parliament

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### PREAMBLE

This paper follows on from the previous bulletin (Redford 2010), which covered the education and lifelong learning remit of the Parliament's Education Lifelong Learning and Culture Committee between February and August 2010. The following bulletin covers the same remit of the Education Lifelong Learning and Culture Committee from September 2010 to March 2011, completing the third session of the Parliament (2007 – 2011).

### SEPTEMBER 2010 – MARCH 2011

The Education Lifelong Learning and Culture Committee had the following members during this period: Karen Whitefield (Convenor), Kenneth Gibson (Deputy Convenor), Alasdair Allan, 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>

The committee papers, e.g. cited as ELLC/S3/10/A, now have active links to the supporting material for each agenda item. This includes summary sheets for any bill under consideration e.g. for the Children's Hearings (Scotland) Bill, direct links to all evidence, reports and the bill itself can be found at: <http://www.scottish.parliament.uk/s3/bills/41-ChildrensHearing/index.htm>.

The committee spent the majority of their time during this period on Stage 2 of the Children's Hearings (Scotland) Bill. They addressed the issues of teacher employment, the funding of Further and Higher Education, the Future of Scotland's Schools and took evidence from Graham Donaldson following the publication of the Teaching Scotland's Future Report in January 2011. They met with Tam Baillie, Children's Commissioner for Scotland, to discuss his annual report and strategic plan, discussed the Draft Budget for 2011 – 2012 and heard Stage 1 of the Autism (Scotland) Bill. They considered a wide range of subordinate legislation: including instruments changing the name of the UHI Millennium Institute to the University of the Highlands and Islands, the change of name of the Royal Scottish Academy of Music and Drama to the Royal Conservatoire of Scotland, and the transfer of Edinburgh College of Art to the University of Edinburgh. The session ended with consideration of their annual report for the Parliamentary year 2010 – 2011 and a legacy paper for Session 4 of the Parliament.

## CHILDREN'S HEARINGS (SCOTLAND) BILL

The Committee considered the Stage 2 of the bill at their meetings on the 15, 22, 29 September, 6 and 27 October, concluding on the 3 November 2010. A complete record of the progress of this bill, with links to supporting papers and reports, can be found at: <http://www.scottish.parliament.uk/s3/bills/41-ChildrensHearing/index.htm>.

Date of Committee	Witnesses
15, 22, 29 September; 6 and 27 October, and 3 November 2010	Adam Ingram, <i>Minister for Children and Early years, Scottish Government</i>

The meeting on the 15 September addressed amendments relating to the hearing system and children's panels. It began with discussion of amendments 68, 69 and 70, which had been proposed by children's organisations. Ken Macintosh spoke to the group of amendments, 'about ensuring that we listen to and hear the views of the child' (Macintosh, 15.09.10, Col 3842). This included provision in amendment 68 that ministers should consult children and young people about the appointment of a National Convener. Elizabeth Smith and Margaret Smith welcomed the focus on children and young people, but questioned the ways in which they could be involved in the appointment of the National Convener. Adam Ingram noted that work was already underway to involve children and young people in the appointment of the National Convener and asked that the amendment was not moved. The amendments were moved with division; 68 and 69 were passed with the casting vote of the convener, 70 by division. The Minister then moved amendments 1 and 2, which were passed without division. Amendments 71 to 74 were moved by Elizabeth Smith, 'to place more autonomy with local authorities,' (Smith, 15.09.10, Col 3848) and were passed with division. The remaining amendments were discussed and agreed to as summarised below:

Amendments	Action taken by the Committee
1, 2, 3 and 4	Agreed to (without division)
68, 69, 70, 71, 71, 73, 74 and 78	Agreed to with division
75 and 76	Moved and withdrawn with the agreement of the Committee
79 and 80	Not moved
Section 1 and schedules 1 and 2	Agreed to as amended.
Sections 2, 3, 4 and 5	Agreed to without amendment.

The committee returned to their consideration of stage 2 of the bill at their following meeting on the 22 September 2010. The amendments addressed at this meeting included the selection of members of a children's hearing, the location of the hearing, provision of advice to the hearing, power to change the National Convener's functions and safeguard panels. The debate focused on amendment 82 in relation to advice to children and young people about children's hearings. Ken Macintosh introduced this amendment to redress the issue raised in earlier evidence to the committee:

Children and young people said that they did not always feel at the heart of the system, that their views were not always listened to and that they did not understand all the proceedings at children's hearings

(Macintosh, 22.09.10, Col 3901).

Adam Ingram commented that the amendment mixed up the roles of the National Convener and the Principal Reporter and suggested that the amendment be withdrawn. It was agreed that the issue would be addressed at Stage 43 of the bill, and the amendment withdrawn. The remaining items were addressed without further debate and agreed to as summarised below:

<b>Amendments</b>	<b>Action taken by the Committee</b>
5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 89, 27, 28, 29, 30, 31, 32, 33 and 34.	Agreed to (without division)
84, 87	Agreed to with division
82 and 220	Moved and withdrawn with the agreement of the Committee
91	Pre-empted
81, 65, 83, 85, 86, 88, 77, 90 and 92	Not moved
Sections 6, 9, 17 and 21, schedule 4, and sections 24, 26, 29, 30, 31 and 32	Agreed to as amended.

The committee returned for day 3 of the amendments at their meeting on the 29 September 2010. The issues covered by the amendments considered at this meeting were: child assessment orders, child protection orders, obligations of the local authority as to where the child resides, termination of child protection orders and the duty of those involved to provide evidence to the Principal Reporter. The committee debated amendments relating to child protection orders and local authority obligations as to the residence of a child. The amendments were approved as follows:

<b>Amendments</b>	<b>Action taken by the Committee</b>
35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 121, 122, 123, 124, 125 and 126	Agreed to (without division)
177 and 120	Agreed to with division
100 and 103	Disagreed to by division
98, 102, 172, 174, 175 and 178	Moved and withdrawn with the agreement of the Committee
95, 96, 97, 99, 101, 104, 173, 176 and 179	Not moved
95, 96, 97, 99, 101, 104, 173, 176 and 179	Agreed to without amendment
Sections 33, 34, 35, 38, 41, 45, 46, 47, 49, 50, 51, 52, 53, 54, 58, 59, 60, 62, 64, 65, 66 and 67	Agreed to as amended.

The committee meeting on the 6 October 2010 considered amendments covering the rights of relevant persons, the referral of matters for pre-hearing determination, the grounds to be put to the child and relevant person, non- acceptance of grounds, the duties of the chairing member and the definitions of specific terms. The meeting agreed a series of technical amendments with little debate, the majority of these were proposed by the Minister and some by Ken Macintosh on behalf of the Law Society. The meeting gave time to a series of amendments which clarified the use of terms in the bill, in particular relating to the involvement of relevant individuals prior to a hearing. The minister argued against amendment 183:

The question whether a person has parental rights and responsibilities in respect of a child should be a matter of legal certainty, whereas the question whether a person is significantly involved in the child's upbringing is a question of fact that should be determined by the hearing, which will be the decision maker on that matter  
(Ingram, 06.10.10, Col 995).

Ken Macintosh disagreed with the minister and argued that the bill should make clear the distinction between the terms, 'deemed a relevant person' and 'relevant person' (Macintosh, 06.10.10, Col 4000). Ken Macintosh moved amendment 183 to support this distinction, which was disagreed to by division. The meeting moved on to discuss amendment 195, which was grouped with 196, 197 and 199, these related to legal aid and legal representation. In particular 199 which would delete subsection (4) of section 107:

A person representing the child or relevant person at the hearing need not be a solicitor or advocate.' Members will not be surprised to hear that it is the Law Society's view that it is of the utmost importance that a solicitor and only a solicitor is permitted to represent a child or relevant person at any children's hearing—  
[Interruption.] I note my colleagues' interesting reaction to the Law Society's view  
(Macintosh, 06.10.10, Col 4013).

The minister argued in response that section 107 provided, 'a right of choice and (will) ensure that, when a child or relevant person chooses an alternative representative, the representative can play a full part in proceedings' (Ingram, 06.0.10, Col 4015). Ken Macintosh thanked the minister for his remarks and agreed to withdraw the amendment. The meeting then moved quickly through amendments relating to sections 92 to 96 of the bill and discussed the detail of section 97 and the meaning of the term 'compulsory supervision order'. This amendment, 369, was proposed by Ken Macintosh following a suggestion from the Scottish Convention of Local Authorities (COSLA) and was supported by Scotland's Commissioner for Children and Young People, and the Association of Directors of Social Work.

The issue, which emerged at stage 1, is whether the duty of implementing the findings of a children's hearing should fall solely on a local authority. The local authorities' strong view is that it should be made more explicit that health boards and other agencies should share those responsibilities and duties  
(Macintosh, 06.10.10, Col 4017).

The minister argued that the amendment was not helpful, ‘since the start of the hearings system, local authorities have had a duty to give effective supervision requirements’ (Ingram, 06.10.10, Col 4017). He went on to give examples of the ways in which local authorities supported children and young people and used an example from the Highland pathfinder project which was part of the implementation of Getting it right for Every Child (GIRFEC) (Scottish Government, 2009).

Although health, the police and other agencies have played a full role in the establishment and operation of GIRFEC in Highland – all children come to hearings with a single, integrated child’s plan – it still falls to the local authority to implement supervision. That is not for historical or dogmatic reasons, but because the local authority provides the services, directly or indirectly, to which children and young people need access

(Ingram, 06.10.10, Col 4019).

Ken Macintosh responded that it was essential for the committee to support the GIRFEC agenda but that he did not wish, ‘to remove the lead responsibility from local authorities’ (Macintosh, 06.10.10, Col 4021) and agreed to withdraw the amendment. The meeting approved the amendments as below:

<b>Amendments</b>	<b>Action taken by the Committee</b>
127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 182, 221, 150, 151, 152, 153, 222, 154, 155, 156, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 191, 192, 235, 236, 237, 238, 193, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 332, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 333, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 334, 335, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 157, 158, 338, 63 and 159	Agreed to (without division)
183	Disagreed to by division
180, 189, 190, 194, 195, 369 and 198	Moved and withdrawn with the agreement of the Committee
181, 184, 185, 186, 187, 188, 196, 197, 199, 200 and 201	Not moved
Sections 71, 74, 75, 76, 79, 81, 83, 98, 101, 108, 115 and 116	Agreed to without amendment
Sections 69, 70, 72, 73, 77, 78, 80, 8	Agreed to as amended

The committee returned to their consideration of amendments at their next meeting on the 27 October 2010. The amendments presented covered the review of compulsory supervision orders, excusal from attendance at hearings; duties to initiate reviews for children to be taken out of Scotland and for secure accommodation authorisation; powers of the hearing on review, sections relating to secure accommodation and procedures for the determination of appeal. The discussion addressed in particular the issue of ensuring contact with the child for people who were not identified as ‘relevant’, or ‘deemed a relevant person’. The committee debated a series of amendments from Ken Macintosh relating to a child taking a criminal record from the hearing system into adult life. He argued that the amendments he proposed,

Would end the unfairness of the system in discriminating against those who admit offences and are brought before hearings, unlike those who do not go before the hearings system but who pose a far greater risk offending  
(Macintosh, 27.10.10, Col 4102).

Adam Ingram spoke against the amendments which he suggested would, ‘introduce a confused system,’ (Ingram, 27.10.10, Col 4107) where decisions about classing offences as convictions would be made at different points in the hearing process. He suggested that a child would not understand the grounds for the decisions and asked that the amendment be withdrawn. The minister summarised his response:

Children’s hearings disposals will no longer be defined as convictions. Essentially, they will become alternatives to prosecution. In that way, we will decriminalise the system. That will apply retrospectively, so people who have been affected by the issue in the past will have the problems that Ken Macintosh and others have described addressed  
(Ingram, 27.10.10, Col 4112).

The focus amendment of this group, 370, was voted on by division: for 1, against 7, abstentions 0 (ELLC/S3/10/26/M). The remaining amendments discussed on the 27 October were passed as follows:

<b>Amendments</b>	<b>Action taken by the Committee</b>
339, 160, 340, 341, 161, 162, 163, 342, 343, 315, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 316, 317, 318, 164, 165, 166, 319, 320, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 372, 380, 381, 382, 383, 321, 322, 323, 324, 325, 384, 373, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398 and 399.	Agreed to (without division)
370	Disagreed to by division
204	Pre-empted

371, 202, 203, 205 and 206	Not moved
Sections 127, 128, 129, 132, 137, 138, 139, 141, 142, 143, 148, 149, 152 and 154	Agreed to without amendment
Sections 123, 125, 126, 130, 131, 133, 134, 135, 136, 140, 144, 145, 146, 147, 150, 151, 153, 155, 156, 157 and 158	Agreed to as amended.

The committee concluded their consideration of amendments at two meetings on the 3 November 2010. At the first meeting in the morning of the 3 November they addressed amendments relating to a child absconding, use of evidence from the prosecutor, evidence relating to cases involving sexual behaviour, vulnerable witnesses, disclosure of information and panel members sharing information. The debate at this meeting centred on a series of ‘probing amendments’ (Smith, 03.11.10, Col 4179) relating to the confidentiality of parents. The minister accepted the intent of the amendments but felt that the issues were already covered within the legislation. Amendment 329 was withdrawn and those related to it not moved. The meeting then discussed the importance of the proposed feedback loop for the members of children’s panels. Two amendments relating to this were accepted by division, and the Convener indicated that the committee would return to the issue at Stage 3 of the bill. The amendments passed during the morning meeting of the 3 November 2010 were as follows:

<b>Amendments</b>	<b>Action taken by the Committee</b>
400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 167, 430, 431, 469, 470, 471, 432, 472, 473, 474, 433, 376, 377 and 331	Agreed to (without division)
467 and 468	Disagreed to by division
207, 209 and 329	Moved and with the agreement of the committee withdrawn
208, 210, 211, 212, 213 and 330	Not moved
Sections 160, 161, 165, 172, 174 and 177	Agreed to without amendment
Sections 159, 162, 163, 164, 166, 167, 168, 169, 170, 171, 173, 175 and 176	Agreed to as amended.

The committee resumed its deliberations at 6.00 p.m. on the 3 November. The amendments discussed at this final meeting covered legal aid advice and the meaning of ‘child’. The meeting moved with little discussion through this series of amendments. Robin Harper MSP attended the meeting to propose a group of amendments relating to support for young people, aged over 16 and under 18 leaving care. The key recommendation in the amendments being that these young people could be referred to a panel, ‘even if they have not been under the care of the panel or social services beforehand’ (Harper, 03.11.10, Col 4208). The meeting

welcomed the intent of the amendments but noted that the existing system enabled had 'flexibility in dealing with those aged 16 and 17' (Ingram, 03.11.10, Col 4212). Robin Harper withdrew the amendment and welcomed the opportunity to discuss with the minister other ways to take forward his concerns. The meeting closed at 6.55 p.m. having agreed the following amendments:

<b>Amendments</b>	<b>Action taken by the Committee</b>
434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 365, 458, 459, 336, 337, 169, 326, 327, 374, 366, 477, 367, 478, 368, 64, 460, 328, 461, 462, 463, 170, 171, 378, 475, 464, 480, 379, 465, 479 and 466	Agreed to (without division)
214 and 66	Moved and with the agreement of the committee withdrawn
215, 67, 216, 217, 218, 375 and 105	Not moved
Sections 180, 182, 183, 186, 188, 189, 190 and the long title	Agreed to without amendment
Sections 178, 179, 181, 184, 185 and 187, schedules 5 and 6 and section 191	Agreed to as amended.

## **TEACHER EMPLOYMENT**

The committee took evidence on teacher employment at their meeting on the 27 October 2010.

<b>Date of Committee</b>	<b>Witnesses</b>
27 October 2010	
	<ul style="list-style-type: none"> <li>• Michael Russell MSP, <i>Cabinet Secretary for Education and Lifelong Learning, Scottish Government</i></li> <li>• Michael Kellet, <i>Schools: People and Places Division, Scottish Government</i></li> </ul>

The meeting began with an opening statement from Michael Russell in which he asserted that the figure of 53,000 teachers in Scotland was, 'essentially arbitrary and, indeed, we now know that it was unsustainable at the best of times' (Russell, 27.10.10, Col 4050). He went on to urge local authorities not to look to retiring teachers as an opportunity to save money but to recruit recently qualified teachers to fill those posts. The Convener began the discussion by asking why the figure of 53,000 teachers for Scotland was unsustainable, and should Government determine teacher numbers? Michael Russell replied that the figure had been raised from 50,000 teachers during the second Parliament to 53,000 during a time of falling school rolls.



I have reduced the number of people being trained to ensure that we do not have an oversupply, but the history of the supply of teachers in Scotland is one of boom and bust for as long as people can remember. That is one of the problems, and is why I said at the end of my opening remarks that the Donaldson Review should be helpful, because we need to get to the bottom of the matter

(Russell, 27.10.10, Col 4053).

Margaret Smith then said that the figure of 53,000 was, 'due to the tasks and projects that teachers were asked to be involved in. One of the key projects was the Curriculum for Excellence' (Smith, 27.10.10, Col 4055). The Cabinet Secretary replied that there was a lack of detail in the figures and, 'Not every teacher among the 53,000 is involved in classroom contact' (Russell, 27.10.10, Col 4055). Elizabeth Smith asked what the Government's position was on changes to teachers' working terms and conditions. In reply Michael Russell referred to the negotiating committee between the local authorities, the Government and the teaching unions. 'I would be very surprised if it were not being discussed, given that the McCrone agreement is 10 years old and any 10-year-old agreement probably needs revisited' (Russell, 27.10.10, Col 4057). Claire Baker then asked about the reduction in secondary teacher numbers in specific areas, to which Michael Kellet responded that the Government kept the issue under review. He went on to say that traditionally recruitment in maths and science had been difficult but there were also current difficulties in recruiting teachers for Gaelic and home economics. Ken Macintosh returned to the overall issue of teacher numbers for Scotland, before asking specifically about reducing the number of retired teachers working as supply teachers. Michael Russell said that, 'very substantial progress' (Russell, 27.10.10, Col 4062) had been made to reducing these numbers but declined to give actual figures. Kenneth Gibson then asked again about the number of teachers required:

Surely there must be a legal figure below which the number of teachers cannot fall, as there are maximum class sizes and, if we multiply the number of pupils in classes by the number of teachers, there must be a minimum figure. What is the minimum threshold at primary and secondary levels?

(Gibson, 27.10.10m, Col 4066).

The Cabinet Secretary replied that the numbers of pupils and school capacities varied, 'it is a volatile situation' (Russell, 27.10.10, Col 4066) and suggested that the Donaldson Review would provide a solution. Alasdair Allan then asked about the numbers of teachers due to retire and when teacher numbers would settle. Michael Russell responded with figures on the age profile of teachers:

When teachers in primary and secondary schools are divided into age groups, the majority group is 55 or over—4,732 primary teachers and 5,133 secondary teachers are in that group. The next largest groups are those aged 50 to 54 and then those aged 25 to 29

(Russell, 27.10.10, Col 4070).

Alasdair Allan followed this with a question about extra borrowing powers given to local authorities to fund retirement packages for teachers. Michael Kellet replied

that the offer was made on the condition of one new teacher employed for each retiral and only two local authorities, Falkirk and West Dunbartonshire, had taken up the offer. The discussion ended with a question from Des McNulty (attending) about the number of unemployed teachers. Michael Russell replied that he could not answer that question as it depended upon a wider range of changing variables.

## FURTHER AND HIGHER EDUCATION

The meeting took evidence on issues related to further and higher education at their meeting on their first meeting on the 3 November 2010.

Date of Committee	Witnesses
3 November 2010	<ul style="list-style-type: none"> <li>• Liam Burns, <i>National Union of Students</i></li> <li>• Linda McTavish, <i>Scotland's Colleges</i></li> <li>• Alastair Sim, <i>Universities Scotland</i></li> <li>• Tony Axon, <i>University and College Union Scotland</i></li> </ul>
10 November 2010	<ul style="list-style-type: none"> <li>• Michael Russell MSP, <i>Cabinet Secretary for Education and Lifelong Learning, Scottish Government</i></li> <li>• John Ireland, <i>Education Analytical Services, Scottish Government</i></li> <li>• Stephen Kerr, <i>Higher Education and Learner Support, Scottish Government</i></li> <li>• Andrew Scott, <i>Lifelong Learning, Scottish Government</i></li> </ul>

The convener opened the meeting with a question about the impact of uncertainty about future budgets was having on the sector. In reply Alastair Sim emphasised the concern felt in higher education about, 'Scotland's ability to maintain internationally competitive universities' (Sim, 03.11.10, Col 4126). Linda McTavish talked about anxiety in the college sector and the impact on the communities that colleges support, Liam Burns highlighted problems caused by a one year budget for further and higher education; and Tony Axon highlighted the impact on jobs in the sector. Elizabeth Smith asked the witnesses about expanding extra sources of funding following international examples. Alistair Sim gave examples of shared service initiatives and research pooling, 'as a small country, we are generating the critical mass that enables us to be a force that punches above its weight research-wise' (Sim, 03.11.10, Col 4134). The meeting then moved on to discuss the implications for Scottish institutions from the introduction of variable student fees in England. Christina McKelvie asked about 'potential Scottish solutions' (McKelvie, 03.11.10, Col 4140) to address the funding gap. Alistair Sim and Linda McTavish outlined possible changes to the routes that students could take through college and university to complete degrees. Liam Burns suggested that the issue of articulation between college and university programmes needed to be addressed to support students to move from National Certificates and Diplomas directly into years 2 or 3 of a degree programme. The meeting then spent some time discussing graduate

contributions to student funding before concluding the session with questions about protecting wider access to further and higher education.

The committee returned to the subject at their next meeting on the 10 November 2010, when they took evidence from the Cabinet Secretary on the New Horizons Report (Scottish Government, 2008) and the work of the tripartite advisory group (TAG) for the sector; Universities Scotland, the Scottish Funding Council and the Scottish Government. The convener opened the questions by referring to the concerns raised during the evidence on the 3 November and asked, about 'the financial prospects for FE and HE in Scotland' (Whitefield, 10.11.10, Col 4227). Michael Russell replied, 'The overall financial prospects for the coming year or two are pretty grim' (Russell, 10.11.10, Col 4228). Elizabeth Smith asked about possible reforms of funding, in reply to which Michael Russell outlined the timescale of consultation towards the publication of a green paper in December 2010 for each party to then consider prior to the Scottish Government elections in May 2011.

If I am still in this job, as I hope to be, I will commit myself to introducing quick legislation in 2011 that will bring in the final funding solution in 2012

(Russell, 10.11.10, Col 4229).

John Ireland then summarised the work of the TAG group for the committee on the comparability of funding between Scotland and England, concluding that 'in real terms the funding for the English and the Scottish systems has grown on roughly comparable terms' (Ireland, 10.11.10, Col 4236). The meeting went on to discuss access issues raised during the evidence taken on the 3 November, and Ken Macintosh asked about the skills review and the role of colleges and universities in vocational training. Andrew Scott replied on behalf of the Government that the review had a broad remit across post-16, but not University, education. The meeting concluded with a question from Alasdair Allan about colleges, to which the Cabinet Secretary replied that the contribution of colleges to higher education was recognized, but that it was, ' a period of great financial stringency' (Russell, 10.11.10, Col 4247).

## **AUTISM (SCOTLAND) BILL**

The committee took evidence at stage 1 of the Autism (Scotland) Bill at their meetings on the 17 and 24 November 2010. They considered their draft report at their meetings on the 8 and 15 December 2010 and agreed the report at their final meeting of this parliamentary session on the 9 March 2011. The Scottish Parliament provides direct links to Stage 1 of the bill at:

<http://www.scottish.parliament.uk/s3/committees/ellc/inquiries/AutismInEducation/AutismBillCommitteeHomepage.htm>

Date of Committee	Witnesses
10 November 2010	<ul style="list-style-type: none"> <li>• Robert Moffat, <i>The National Autistic Society Scotland</i></li> <li>• Alan Somerville, <i>The Scottish Society for Autism</i></li> </ul>
17 November 2010	<ul style="list-style-type: none"> <li>• Bryan Kirkaldy, <i>Association of Directors of Education in Scotland</i></li> <li>• Christina Burnett, <i>Association of Directors of Social Work in Scotland</i></li> <li>• Carolyn Brown, <i>Association of Scottish Principal Educational Psychologists</i></li> <li>• Andrew Morrison, <i>COSLA</i></li> <li>• Dr Judith Piggot, <i>NHS Tayside</i></li> <li>• Shona Robison, <i>Minister for Public Health and Sport, Scottish Government</i></li> <li>• Jean Maclellan, <i>Adult Care and Support Division, Scottish Government</i></li> <li>• Rachel Sunderland, <i>Support for Learning division, Scottish Government</i></li> </ul>
	<ul style="list-style-type: none"> <li>• Hugh O'Donnell <i>MSP</i></li> <li>• Doreen Nisbet, <i>Parliamentary Aide</i></li> </ul>
9 March 2011	<ul style="list-style-type: none"> <li>• Shona Robison, <i>Minister for Public Health and Sport, Scottish Government</i></li> <li>• Jean Maclellan, <i>Adult Care and Support Division, Scottish Government</i></li> </ul>

The convener opened the discussion on the 10 November 2010 by asking the witnesses why it was important to identify the, 'approximately 1 per cent of the Scottish population' (Whitefield, 10.11.10, Col 4229) who have autism or were on the autistic spectrum. Robert Moffat replied:

It is vitally important that we go through a rigorous process of identification to identify the 38,000 adults who are missing from the statistics. Basically, it is expected that there will be 50,000 people with autism in Scotland. When we take into account family members, the reality is that autism touches directly the lives of 200,000 people in our nation.

(Moffat, 10.11.10, Col 4249).

This statement was supported by Alan Somerville, who added that there was considerable agreement between the two organisations, with some difference in their approaches to addressing the issues. The convener followed this by asking if the key issues were partnership working and access to services. The witnesses both said that early intervention was important, but that 'autism affects people's whole lifespans' (Moffat, 10.11.10, Col 4251). Margaret Smith asked why they felt that legislation was needed to ensure, 'the best possible provision of services' (Smith, 10.11.10, Col 4255). In reply Robert Moffat said that developments over the

previous 10 years had brought little progress and it was felt that a national strategy supported by legislation was, 'the only way we can make meaningful change' (Moffat, 10.11.10, Col 4256). Christine McKelvie pointed out that the bill included a statutory duty for authorities to have regard to guidance, which did not mean, 'that they had to comply with it' (McKelvie, 10.11.10, Col 4261). The witnesses disagreed, and Alan Somerville suggested that it would achieve more than the existing guidance, and Robert Moffat that it would encourage local authorities to take action on autism. The meeting considered the costs of implementation and addressed issues of potential discrimination raised by the Association of Scottish Principal Educational Psychologists (ELLC/S3/10/29/A).

The evidence taken on the 17 November 2010 began by addressing a multi-agency pilot in Fife, which was part of the GIRFEC agenda, jointly funded by health and education. Elizabeth Smith asked about the ability of different schools to identify young people and provide specialist support. Bryan Kirkcaldy replied that there would be variation across Scotland and that all authorities worked within the context of the Education (Additional Support for Learning) (Scotland) Act 2004. The meeting moved on to discuss the need for legislation, with Andrew Morrison, Bryan Kirkcaldy, Carolyn Brown and Christina Burnett questioning the need for further legislation. The convener responded, 'We do not always need legislation, but without it things just do not happen' (Whitefield, 17.11.10, Col 4298). The meeting agreed that current legislation should meet the needs of children on the autistic spectrum and discussed possible gaps in existing legislation to meet the needs of adults on the spectrum.

The Minister for Public Health and Sport opened the second panel of evidence with a summary of the Government's response to the bill concluding; 'we can do what the bill sets out to do without the need for legislation by developing a strategy with guidance' (Robison, 17.11.10, Col 4309). In reply the convener outlined the task facing the committee,

Whether we go down the road that the Scottish Government is currently on, which involves working in partnership with COSLA and other agencies, or choose to support the bill, the outcomes will be more or less the same. The committee's job is to decide whether the bill is appropriate or necessary

(Whitefield, 17.11.10, Col 4310).

Elizabeth Smith asked the minister how the non-legislative route would address what were seen as inequalities in delivery across Scotland. Shona Robison replied that this would be easier to address with health boards because the Government had performance management arrangements with them, but she felt that there was recognition in COSLA that improvements were needed. The discussion then moved on to consider cost. The minister expressed her concern:

The financial memorandum only mentions the costs of publication and consultation. It does not talk about the potential costs of a dramatic and revolutionary change in the way that we provide services to people with autism at local level, but it raises the expectation that that will happen. There seems to be some expectation among service users that that will happen, but it is difficult to see how it could without a major injection of resources

(Robison, 17.11.10, Col 4138).

Margaret Smith followed this with a question about the National Audit Office report which put the cost of autism services across the UK at £28.2 billion. Jean Maclellan replied that this was the only cost data which existed but that the Government needed to apply only the relevant sections to the Scottish context. Kenneth Gibson asked about the discriminatory nature of the bill and the possible impact of this legislation on other groups. Rachel Sunderland replied on behalf of the Learning Directorate that for education the legislative framework was in place through the 2004 and 2009 Additional Support for Learning (Scotland) Acts. She added that on a policy level both the existing and previous administrations did not wish to list specific groups of children:

There is a risk that if we have a separate autism bill, it might send a message that children with autism have a slightly different status from that of the rest of those children and young people who have additional support needs, so it might be thought that their needs require a slightly different emphasis. The committee was concerned about how we deal with different groups of young people when it was considering the bill that became the 2009 Act. That issue might come back.

(Sunderland, 17.11.10, Col 4323).

The committee took evidence from Hugh O'Donnell MSP, the member in charge of the bill at their final session of evidence on 24 November 2010. The convener opened the session, by asking why there was a need for legislation rather than a strategy for autism. Hugh O'Donnell replied, 'this is an equalising bill that seeks to address the levels of institutional and indirect discrimination that are faced by people with autism in accessing mainstream or person-centred services' (O'Donnell, 24.11.10, Col. 4339). Further questions from the committee focused on their concern in legislating for one named group and areas that they felt were already covered by the Additional Support Needs (Scotland) Acts. The meeting agreed to consider their draft report in private at their meeting on the 8 December 2010. They returned to the issue at their final meeting on the 9 March 2011 when they heard a report from the Minister for Public Health and Sport on the development of the autism strategy. At that meeting Shona Robison described the work of the reference group and in particular the extension of the reference group, 'to strengthen user and carer participation' (Robison, 09.03.11, Col 4826).

## REVIEW OF TEACHER EDUCATION IN SCOTLAND

Graham Donaldson and Graeme Logan of the Review of Teacher Education in Scotland attended the committee on the 26 January 2011 to present the report *Teaching Scotland's Future* (Scottish Government, 2011).

Date of Committee	Witnesses
26 January 2011	<ul style="list-style-type: none"> <li>• Graham Donaldson, <i>Review of Teacher Education in Scotland</i></li> <li>• Graeme Logan, <i>Review of Teacher Education in Scotland</i></li> </ul>

In his opening statement Graham Donaldson drew the committee's attention to the focus of the report on the quality of the current teaching workforce and educational leadership. The convener and Elizabeth Smith asked about the quality and range of applicants for teacher training. In reply Graham Donaldson referred to the recommendation in the report to introduce additional routes into teaching. When asked about which of the 50 recommendations should be emphasised, he answered that the main test of any of the recommendations should be, 'what impact something will have on children's learning' (Donaldson, 26.10.11, Col 4588). The meeting considered support for teachers with literacy and numeracy difficulties, and the focus on career-long learning. Christina McKelvie asked about the ways in which schools and universities could work in partnership and followed this with a question about professional development. Both witnesses talked about the need to move the evaluation of professional development from provision to impact, with a focus on accredited courses linked to Masters degrees. Graham Donaldson summed up the challenge as:

How we take the groups of people who are, by and large, doing okay—they are not causing mayhem or damage, and in many cases they are doing quite a good job—raise aspirations and expectations and improve them

(Donaldson, 26.10.11, Col 4598).

The session concluded with a series of questions from Ken Macintosh regarding expertise in modern languages, which Graham Donaldson referred to recommendations linked to that in the report.

## **THE FUTURE OF SCHOOL MANAGEMENT IN SCOTLAND**

The Committee had established a scoping exercise in relation to school management in February 2010. They returned to the subject in February 2011 and took evidence from witnesses on 2 February 2011 in a round table discussion, on the 9 February 2011 from David Cameron Chair of the Review Group and on 23 February 2011 from the Cabinet Secretary for Education and Lifelong Learning. They agreed to consider their draft report in private at their meeting on the 2 March 2011. The research and written evidence submitted to the committee can be found at: <http://www.scottish.parliament.uk/s3/committees/ellc/inquiries/StructureSchoolManagement.htm>

Date of Committee	Witnesses
2 February 2011	<ul style="list-style-type: none"> <li>• Kay Barnett, <i>Educational Institute of Scotland</i></li> <li>• Keir Bloomer</li> <li>• Greg Dempster, <i>Association of Headteachers and Deputies in Scotland</i></li> <li>• Professor Richard Kerley</li> <li>• Don Ledingham, <i>East Lothian Council</i></li> <li>• Christina McAnea, <i>UNISON Scotland</i></li> <li>• Dr Judith McClure</li> <li>• Professor Denis Mongon</li> <li>• Robert Nicol, <i>Children and Young People Team, COSLA</i></li> <li>• Eileen Prior, <i>Scottish Parent Teacher Council</i></li> <li>• Colin Sutherland, <i>School Leaders Scotland</i></li> <li>• Gordon Ford, <i>West Lothian Council and Association of Directors of Education in Scotland</i></li> </ul>
9 February 2011	<ul style="list-style-type: none"> <li>• David Cameron, <i>Review of Devolved School Management</i></li> </ul>
23 February 2011	<ul style="list-style-type: none"> <li>• Michael Russell, <i>Cabinet Secretary for Education and Lifelong Learning, Scottish Government</i></li> <li>• Jamie MacDougall, <i>Educational Options, Scottish Government</i></li> <li>• Peter Hope-Jones, <i>Options and Partnerships Division, Scottish Government</i></li> </ul>

The roundtable discussion began with a debate about current structures and possible changes to them. Keir Bloomer argued that there were things in the current structure that limited progress, ‘the system is still set up to deliver a top-down change programme’ and went on to identify the need to release ‘creativity at ground level’ (Bloomer, 02.02.11, Col 4620). Gordon Ford added that the committee should be considering value systems and work that was already happening across local authority structures. Don Ledingham talked about providing incentives to change in localities with primary and secondary schools working together. The meeting then considered comparative examples with school management structures in England and ended with a discussion about the role of local authorities in education management. Denis Mongon commented that one of the pieces of evidence described local authorities as:

The glue that holds our schools together.’ To the outsider, it appears that your system needs not glue but oil. It needs lubricating and to be faster on its feet—it does not need to be stuck in its present attitudes and approaches

(Mongon, 02.02.11, Col 4647).

The committee took further evidence at their next meeting on the 9 February 2011, when David Cameron outlined the remit of the work of the review and gave examples of the evidence the review group was currently considering. The committee completed their collection of evidence on the 23 February when the



Cabinet Secretary responded to a series of questions relating to the evidence given at the round-table discussion. They considered a draft report in private at their meeting on 9 March 2011, which was agreed for publication.

## **SUBORDINATE LEGISLATION**

- The committee took evidence, debated and approved the following subordinate legislation related to education and lifelong learning during this period:
- The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Amendment (No. 2) Rules 2010 (SSI 2010/274)
- The Additional Support for Learning (Co-ordinated Support Plan and Dispute Resolution) (Scotland) Amendment Regulations 2010 (SSI 2010/275)
- The Additional Support for Learning (Appropriate Agencies and Sources of Information) (Scotland) Amendment of Commencement Dates Order 2010 (SSI 2010/276)
- The Equality Act 2010 (Qualifications Body Regulator and Relevant Qualifications) (Scotland) Regulations 2010 (SSI2010/315)
- The Education (Fees and Awards) (Scotland) Amendment Regulations 2010 (SSI2010/325)
- The Education (Treatment of Student Loans on Sequestration) (Scotland) Regulations 2010 (SSI 2010/300)
- The National Health Service (General Ophthalmic Services and General Dental Services) (Scotland) Amendment Regulations 2010 (SSI2010/378)
- The Scottish Social Services Council (Appointments, Procedure and Access to the Register) Amendment (No. 2) Regulations 2010 (SSI2010/379)
- The Protection of Vulnerable Groups (Scotland) Act 2007 (Power to Refer) (Information Held by Public Bodies etc.) Order 2010 (SSI2010/380)
- The Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Purposes for Consideration of Suitability) Regulations 2010 (SSI2010/381)
- The Police Act 1997 (Alteration of the Meaning of Suitability Information relating to Children and Protected Adults) (Scotland) (No. 2) Order 2010 (SSI2010/382)
- The Police Act 1997 (Criminal Records) (Registration) (Scotland) Regulations 2010 (SSI2010/383)
- The Regulation of Care (Social Service Workers) (Scotland) Amendment Order 2010 (SSI2010/442)
- The Regulation of Care (Fitness of Employees in Relation to Care Services) (Scotland) (No. 2) Amendment Regulations 2010 (SSI2010/443)
- The Children's Hearings (Scotland) Act 2011 (Consequential Provision) and Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2011 (SSI2011/draft)
- The Teachers' Superannuation (Scotland) Amendment Regulations 2011 (SSI2011/42)

- The Teachers' Superannuation (Scotland) Amendment (No. 2) Regulations 2011 (SSI2011/52)
- The Public Services Reform (General Teaching Council for Scotland) Order 2011 (SSI 2011/draft)
- The Public Services Reform (General Teaching Council for Scotland) Order 2011
- The Fundable Bodies (University of the Highlands and Islands) Order 2011 (SSI2011/draft)
- The Fundable Bodies (Royal Conservatoire of Scotland) Order 2011 (SSI2011/draft)
- The Edinburgh College of Art (Transfer) (Scotland) Order 2011
- The Additional Support for Learning (Sources of Information) (Scotland) Amendment Order 2011 (SSI2011/102)
- The Additional Support Needs Tribunals for Scotland (Appointment of President, Conveners and Members and Disqualification) Amendment Regulations 2011 (SSI2011/103)
- The Additional Support Needs Tribunals for Scotland (Disability Claims Procedure) Rules 2011 (SSI2011/104)
- The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Amendment Rules 2011 (SSI2011/105)
- The Individual Learning Account (Scotland) Regulations 2011 (SSI2011/107)
- The Ethical Standards in Public Life etc. (Scotland) Act 2000 (Devolved Public Bodies and Stipulated Time Limit) and the Freedom of Information (Scotland) Act 2002 (Scottish Public Authorities) Amendment Order 2011 (SSI2011/113)
- The Children's Hearings (Scotland) Act 2011 (National Convener Appeal against Dismissal) Regulations 2011 (SSI2011/143)
- The Adoptions with a Foreign Element (Scotland) Amendment Regulations 2011 (SSI2011/159)

The Committee took evidence on the Education (Lower Primary Class Sizes) (Scotland) Amendment Regulations 2010 (SSI 2010/326) at their meeting on the 27 October 2010.

Date of Committee	Witnesses
27 October 2010	<ul style="list-style-type: none"> <li>• Michael Russell MSP, <i>Cabinet Secretary for Education and Lifelong Learning, Scottish Government</i></li> <li>• Michael Kellet, <i>Schools: People and Places Division, Scottish Government</i></li> </ul>

In an opening statement the Cabinet Secretary reaffirmed the commitment of the Scottish Government to their class reduction policy, and referred the committee to the agreement made between the Government and COSLA to have 20% of primary 1 pupils in classes of 18 or fewer from August 2010. The discussion

with the committee focused on the difference between the agreed roll of 18 and the number in the legislation of 25, with Michael Russell arguing that when the agreed roll was 25 the number in the legislation was 30. Ken Macintosh asked about the recommendations for secondary schools, which are provided by circular. Michael Russell confirmed the Scottish National Party policy was for class sizes of 20 in English and Maths in the first year of secondary school, but that he had no intention of legislating on secondary class sizes. The discussion then moved onto a motion from Elizabeth Smith that the legislation of class sizes of 30 should remain, and that 'the Scottish Government should abandon its failed class size policy' (Smith, 27.10.10, Col 4089). The convener explained that such a motion to annul subordinate legislation was unusual and that the committee was invited to make one contribution to a debate prior to voting on the proposal. After debate, the motion was disagreed to by division: for 1, Against 7, Abstentions 0 (ELLC/S3/10/26/M).

## 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

## BUDGET

The Committee considered and agreed its approach to the scrutiny of the Scottish Government's Draft Budget 2011-12 in private at their meeting on 10 November 2010 (ELLC/S3/10/32/A). They took evidence on the draft budget at their meeting on the 1 December 2010 and considered their draft report in private on the 22 December 2010.

Date of Committee	Witnesses
1 December 2010	<ul style="list-style-type: none"> <li>• Michael Russell MSP, <i>Cabinet Secretary or Education and Lifelong Learning, Scottish Government</i></li> <li>• Colin MacLean, <i>Learning, Scottish Government</i></li> <li>• Andrew Scott, <i>Lifelong Learning, Scottish Government</i></li> <li>• Sarah Smith, <i>Children, Young People and Social Care, Scottish Government</i></li> </ul>

In his opening statement to the committee the Cabinet Secretary listed the reduced budgets for the Scottish Funding Council, Learning and Teaching Scotland and the Scottish Qualifications Authority and Skills Development Scotland, but added, 'We have reached a deal with COSLA and come to an agreement with universities and colleges to protect teaching jobs and student places' ((Russell, 01.12.10, Col 4403). He went on to say that pupil teacher ratios in primaries 1

to 3 and educational grants for school pupils would be maintained. Questions from the committee focused on the costs of school-college partnerships, the ways in which the Horizon fund would be affected by the budget proposals, and the impact on existing strategic initiatives. Members were particularly concerned about the impact of budget cuts on training places and modern apprenticeships. Ken Macintosh asked about teacher training numbers, to which Colin MacLean replied, 'We will take a view next year on how to balance the number of people leaving and the number required to come in' (MacLean, 01.12.10, Col 4413). In response to a question from Margaret Smith, Michael Russell added that, 'There is £15 million of new money that is specifically focused on the teacher employment issue' (Russell, 01.12.10, Col 4429). The meeting ended with a discussion about the review of teachers' pay and conditions.

## ANNUAL REPORTS

Tam Baillie, Scotland's Commissioner for Children and Young People presented his annual report for 2009 – 2010 and a draft strategic plan for 2011- 2015 to the committee at their meeting on the 24 November 2010 (ELLC/S3/10/31/A). In his opening remarks he talked about the success of 'A Right Blether' in raising awareness among children and young people about the United Nations Convention on the Rights of the Child and the role of Scotland's Commissioner. 'There is a rumbling sense of engagement with professionals, children and young people that makes me feel hopeful about and affirms our approach, ' (Baillie, 24.11.10, Col 4358). Elizabeth Smith asked how the ideas from the 'big blether' would be included in the strategic plan. Tam Baillie replied that he would amend the document if need be, but that he was sure from the work that he was doing with children and young people that their responses would fit with the strategic plan. Alasdair Allan asked about the inquiry service, which Tam Baillie described as 'responsive', 'I do not have the resources to set myself up as an ombudsperson, but we certainly try to respond to all the inquiries that come in' (Baillie, 24.11.10, Col 4362). Committee members also asked about partnership working and working with the news media

The Committee considered a draft annual report for the parliamentary year from 9 May 2010 to 22 March 2011 at their final meeting on the 9 March 2011. The report was agreed for publication. At the same meeting they considered a draft Legacy paper in private. After various changes were agreed to, the report was agreed for publication.

## REFERENCES

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