Education and Culture Committee

Remit and membership

Remit:

The remit of the Committee is to consider and report on further and higher education, lifelong learning, schools, pre-school care, skills and other matters falling within the responsibility of the Cabinet Secretary for Education and Lifelong Learning and matters relating to culture and the arts falling within the responsibility of the Cabinet Secretary for Culture and External Affairs.

Membership:

Clare Adamson
Marco Biagi
Neil Bibby
Neil Findlay (Deputy Convener)
Stewart Maxwell (Convener)
Joan McAlpine
Liam McArthur
Liz Smith
Jean Urquhart

Committee Clerking Team:

Senior Assistant Clerk
Terry Shevlin

Assistant Clerk
Neil Stewart

Committee Assistant
Jonas Rae
The Committee reports to the Parliament as follows—

1. At its meeting on 7 February 2012, the Education and Culture Committee considered the following instrument—

   *Scottish Public Services Ombudsman Act 2002 Amendment (No. 2) Order 2012 [draft]*

2. This instrument was laid on 22 December 2011 and is subject to affirmative procedure.

3. Dr Alasdair Allan, Minister for Learning, Science and Scotland’s Languages, moved motion S4M-01906—

   That the Education and Culture Committee recommends that the Scottish Public Services Ombudsman Act 2002 Amendment (No. 2) Order 2012 [draft] be approved.

4. After debate, the motion was agreed to.

5. During the meeting, Liz Smith sought clarification from the Minister on the issue of complaints against members of staff in independent schools. The Minister agreed to respond to the Committee in writing. A copy of that response is annexed to this report.
ANNEXE A: LETTER FROM DR ALASDAIR ALLAN, MINISTER FOR LEARNING, SCIENCE AND SCOTLAND’S LANGUAGES

Liz Smith asked a question in Committee this morning that neither I nor my officials were able to deal adequately with, and I undertook to write to you as soon as possible to clarify matters.

From a brief conversation with Liz Smith as we left the committee room, I now understand that the context in which the question was asked was in relation to situations in which local authorities place pupils with additional support needs in independent sector schools.

The Executive Note that accompanied the Order included an assurance that, “Complaints about the behaviour or conduct of a teacher could still be routed to the Ombudsman through the local authority as the teacher’s employer”. I understand that Liz Smith’s concern was about whether or not that route would still be available to, for example, a parent in the circumstances where his or her child had been placed in an independent sector school and the teacher was not, per se, an employee of the local authority.

Having now better understood the inference of the question and having had time to consider its implications, I am satisfied that there is no detriment to parents in this situation by the making of this Order.

A local authority that places a pupil with additional support needs in an independent sector school is responsible for the educational provision made for that pupil in a similar way as it is for every other pupil in its own schools.

Accordingly, any parent of such a child who had been placed by a local authority in an independent sector school that was dissatisfied with the educational provision that their child was receiving would be entitled to raise a complaint with the local authority about the discharge of its function. And, given that local authorities fall within the remit of the Scottish Public Services Ombudsman, if the complaint was not dealt with to the parent’s satisfaction they would have recourse to the Ombudsman in the same way as any other parent would.

There are other avenues of complaint available to a parent whose child has been placed in an independent school by a local authority. They would also have recourse to complain at a “local” level through the school's internal complaints procedure. Furthermore, in extreme circumstances where a teacher was thought not to be a proper person to be a teacher in an independent school, Scottish Ministers could investigate the matter.

I hope this is adequate clarification and assurance for members of the Education and Culture Committee on the matter raised this morning by Liz Smith.
Members who would like a printed copy of this *Numbered Report* to be forwarded to them should give notice at the Document Supply Centre.