



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# EDUCATION AND CULTURE COMMITTEE

Tuesday 6 March 2012

Session 4

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**EDUCATION AND CULTURE COMMITTEE**

**8<sup>th</sup> Meeting 2012, Session 4**

**CONVENER**

\*Stewart Maxwell (West Scotland) (SNP)

**DEPUTY CONVENER**

Neil Findlay (Lothian) (Lab)

**COMMITTEE MEMBERS**

\*Clare Adamson (Central Scotland) (SNP)

Marco Biagi (Edinburgh Central) (SNP)

\*Neil Bibby (West Scotland) (Lab)

\*Joan McAlpine (South Scotland) (SNP)

\*Liam McArthur (Orkney Islands) (LD)

\*Liz Smith (Mid Scotland and Fife) (Con)

\*Jean Urquhart (Highlands and Islands) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

George Adam (Paisley) (SNP) (Committee Substitute)

Hanzala Malik (Glasgow) (Lab) (Committee Substitute)

Bill Maxwell (Education Scotland)

Ken Muir (Education Scotland)

Michael Russell (Cabinet Secretary for Education and Lifelong Learning)

Sarah Smith (Scottish Government)

John St Clair (Scottish Government)

**CLERK TO THE COMMITTEE**

Terry Shevlin

**LOCATION**

Committee Room 1



## Scottish Parliament

### Education and Culture Committee

Tuesday 6 March 2012

[The Convener opened the meeting at 10:00]

#### Interests

**The Convener (Stewart Maxwell):** Good morning, and welcome to the eighth meeting in 2012 of the Education and Culture Committee. I remind members and those in the public gallery to ensure that all mobile phones and other electronic devices are switched off at all times.

We have received apologies from Marco Biagi and Neil Findlay. In their place we have George Adam and Hanzala Malik. As this is Hanzala Malik's first appearance at the Education and Culture Committee, I ask whether he has anything that he wishes to declare.

**Hanzala Malik (Glasgow) (Lab):** Yes, convener. I would appreciate it if you would be so kind as to note that I am a member of Glasgow City Council.

**The Convener:** Thank you.

## Curriculum for Excellence

10:00

**The Convener:** Under agenda item 1, we will take evidence from the Cabinet Secretary for Education and Lifelong Learning on the curriculum for excellence.

Last week we took evidence from a panel of witnesses on East Renfrewshire Council's decision to delay for one year the national exams. We also heard from the Association of Directors of Education in Scotland, the Scottish Qualifications Authority, the Educational Institute of Scotland and Education Scotland—I welcome back Mr Maxwell, who has been here two weeks in a row.

As well as Bill Maxwell from Education Scotland and the cabinet secretary, I welcome Sarah Smith, director of learning in the Scottish Government. I invite the cabinet secretary to make brief opening remarks.

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** Thank you. I am pleased to be here and to accept the invitation to talk about curriculum for excellence and answer any questions that the committee may have.

Curriculum for excellence is the result of a long-lasting—in fact, it is eight years old—political consensus across Scotland about what Scotland wants from its education system and what it wants to give to its young people. In 2004, the then Minister for Education and Young People, Peter Peacock, wrote in the *Times Educational Supplement Scotland* that curriculum for excellence will be

“the key liberator ... opening up choice and flexibility in learning for the first time. ... It will allow more scope to progress through courses ... and get more time for Highers and Advanced Highers.”

In March 2008, Ken Macintosh stated in the Parliament:

“it is important to mention the broad agreement that has been reached on the way forward. ... It is also important to note that there has been broad political agreement on the aims and agenda of the curriculum for excellence—a move away from the dominance of exams and teaching to the test; a decluttering of the overcrowded curriculum; more room for teachers to teach and to exercise their professional judgment; and less focus on content and more focus on the importance of learning itself.”—[*Official Report*, 19 March 2008; c 7062-63.]

That shows the remarkable degree of political consensus that has been in place for eight years. I know that all parliamentarians in Scotland share a determination not to make our education system and young people the victims of political ideology or party politicking.

I welcome the committee's interest in curriculum for excellence and its current progress. I hope that that will continue and I will ensure that my officials support you every inch of the way. I am grateful for the opportunity to ensure that the committee is reassured of our progress and is reassured about the current level of support that schools are receiving for implementation of curriculum for excellence.

Since I became Cabinet Secretary for Education and Lifelong Learning in December 2009, I have delivered on every commitment that I have made, including providing new investment of £3.762 million a year for supporting teachers' development of assessment methods. Furthermore, not one timescale of the programme for the introduction of the new qualifications has been missed under my watch.

However, this is not about me—despite the attempt by some Opposition politicians to make it about me—nor is it just about teachers, although I am in discussion with the EIS and I will meet its representatives again tomorrow to see whether we can resolve their concerns. I hope that we can. This is about young people and it is important that the committee understands the factors that will need to be taken into account when we are faced with calls from the EIS for a delay.

The first and most important factor is the view of the SQA, which would handle any of the changes in the exams. At the committee last week, Janet Brown, the chief executive of the SQA, said that

“the additional risk to our ability to deliver a successful diet would be over the top”

and that it is

“simply not viable”.—[*Official Report, Education and Culture Committee*, 28 February 2012; c 811.]

When we receive that advice from the SQA, it behoves all of us to listen.

The committee heard last week from one local authority that its seven secondary schools were not ready for the new qualifications. However, you also heard from Terry Lanagan, spokesperson for the Association of Directors of Education in Scotland, that 31 local authorities were confirming that Scotland's other 360 secondary schools were ready. On 29 February, the association issued a further confirmation that all authorities were committed to the national qualifications timetable, and that was again confirmed by ADES at the National Parent Forum of Scotland conference at the weekend.

The new qualifications are not being prepared in a closed box. Hundreds of teachers are involved in the SQA development process—teachers who know what is currently being taught in schools and what is deliverable in class. Many of those

teachers are devoting their own time to ensuring that the new qualifications meet the aims of the curriculum for excellence. I applaud and thank every one of them.

The majority of teachers are telling me not to delay and not to disrupt our pupils' learning; however, some are saying that they need more support if they are to be ready. I understand that. I will always listen and respond to teachers' concerns, as I always have done. That is why I have asked Education Scotland to go to every local authority and confirm that their schools are ready to proceed. If there is any doubt or lack of confidence within a school, the first offer will be to provide whatever support is necessary. If that is still not enough, there will remain a question. Nevertheless, the first thing for us to do is ensure that support is provided where it is needed, school by school, and we are doing just that.

We need to be clear about the consequences for individual pupils in secondary 2 if any school, either in whole or in part, were to choose to delay. There are 54,000 pupils in that cohort, who have been focused on what happens next. We should take very seriously our responsibility to all those pupils. Teachers have spent time with those pupils in developing courses.

For teachers who have no experience of teaching intermediates—we should remember that there are almost four times as many entries for standard grades as for intermediates—any change that stops the process and introduces intermediates or standard grades means an additional learning curve. Those young people now in S2 who have been experiencing the new arrangements will need to have their learning suddenly adapted to ensure success in intermediates for which they have not been prepared. Furthermore, the new higher and advanced higher qualifications are based on the changes that are taking place. That means that there will be further disruption if the progress through school is to be continuous.

I do not believe that the option of delay is in the best interests of our young people. It undermines one of the fundamental principles of curriculum for excellence—that our young people are entitled to a continuum of learning from three to 18 and to qualifications that fully reflect that learning. I do not understand how any delay would address the workload concerns that have been expressed by some. There are other ways of addressing those concerns and I am keen to take them.

Although the option of delay through use of the intermediates exists and will remain for subject departments for a few months yet, the risks for young people that are associated with that approach should not be underestimated. The committee would expect me to be mindful of those

risks. Through the partnership between Education Scotland, local authorities and schools, I will ensure that the risks are fully weighed up as and when there is evidence of any need to delay, although the decision will ultimately be one that schools will want to make in the best interests of their pupils and their entire school community. However, the first thing that we should do whenever there is any doubt about preparedness is ensure that the resources of Government, Education Scotland and any other body, including local authorities, are made available and are brought to bear on those schools to ensure that they finish what they have started.

**The Convener:** Thank you for those opening remarks, cabinet secretary.

I begin with a general question. You mentioned the audit of preparedness—that might be a reasonable way of describing it—that has been undertaken by Education Scotland. Can you give us some details about that process? What was the timescale for the audit and how will it impact on the progress that has been made on curriculum for excellence?

**Michael Russell:** I asked Education Scotland to do that, so I will say something about it and Bill Maxwell can add to what I say.

I keep constantly under review—and have done since I became cabinet secretary—the question of the progress on curriculum for excellence. I also work closely with Alasdair Allan on the matter. This is not the first time that there has been discussion of delay. Those of us who are long enough in the tooth will remember the discussion about a possible delay as the programme rolled into secondary schools, two years ago. As the discussion rose to the surface again, I wanted to ensure that we understood the position. I therefore asked Bill Maxwell and, through him, his colleagues to check with every local authority, school by school and, if there was any dubiety about a school's preparedness, to talk to that school.

Of course, some information is already coming from schools to me and to Education Scotland, and we are factoring that into the process. I visit schools and I speak to headteachers and teachers every week, and the majority of what I hear is very positive. Indeed if I could summarise the thing that is said to me most commonly, it would be, "Don't delay because we've worked so hard on this and a delay will check our progress."

I want to be sure that each one of Scotland's state secondary schools is in a position to go forward and, if they are not, I want to know where we can best target the resource and help. That is the process in which Mr Maxwell and his colleagues are engaged.

**The Convener:** Do you have anything to add to that, Mr Maxwell?

**Bill Maxwell (Education Scotland):** I can say a little more about the process. We have a set of district inspectors who maintain close links with every local authority throughout our working engagement with the local authority and who keep an overview of what is happening in each local authority. We also have a set of area advisers who provide support for each local authority, particularly on curriculum issues. I have asked those teams of district inspectors and area advisers to go into their local authorities this month and undertake what we are calling a deep status audit with the local authority of the state of play in every secondary school and the departments within those secondary schools.

We will do that by sharing. We already have a lot of intelligence as a result of inspections, follow-ups to inspections and engagements in relation to national surveys, for example of science. We will pool our intelligence with the intelligence that the local authority has, and wherever we see a need for additional support or investigation, we will undertake that directly.

**Michael Russell:** As I have done throughout the process, I would encourage headteachers or teachers in schools that they think could benefit from more support to come forward, too. That will also inform the process. If that takes place, it will undoubtedly be on the basis of a positive engagement to provide additional support.

**The Convener:** Let me get this clear. I think you said that there will be district inspectors going out, who will use the intelligence that you have plus the reports that you get directly from them on the process. The inspectors will look at individual schools and indeed individual departments—

**Bill Maxwell:** We will be reviewing those with the authority, yes.

**The Convener:** If additional support is required, that will be provided.

I assume that people are working very hard on this and that they will be ready. However, if, in your opinion, a department or school is not ready, at what point do you decide—

**Michael Russell:** That is the crucial issue. With the greatest respect, I hope that there is broad support for what has taken place. The key issue now is about those few places that have doubts. What timescale are we on and how do we react?

The EIS and I have been in detailed discussion over the past couple of weeks. We have devised jointly a helpful plan for support right across the sector so that every school and every teacher can have some additional help.

The sole point of difference now is exactly the point that you raise. I read comments from Liz Smith at the weekend and I accept this issue. At what point does a school say, "We're not ready"? What mechanism exists for that? I do not think that a school should say that until we have given every ounce of support that we can, through Education Scotland, and until the local authority has given every ounce of support that it can. There is a possibility over the next couple of months of that taking place.

If we were to get to the summer and that school still believed that it was not prepared, that is the point of decision. However, I have tried to outline the implications of that decision for what happens in the school. Does it mean extra work for teachers who are trying to reorientate a cohort of pupils towards a different system in which they will operate? What would triple running mean for the marking load on the SQA?

We would hope that the help, advice and support that we give—which are and would be considerable—would allow a school to reach the stage of saying that it is up to speed.

We must remember that this is an eight-year process. If a school is not up to speed, we have to ask what has happened in that school. Why is it in that position? I hope that the next stage would be the offer of help and that the ultimate decision at a school level would be taken only if that help proved not to be helpful. I hope that that would not be the case.

**Neil Bibby (West Scotland) (Lab):** Why has it taken until today—when you are giving evidence to the committee—for an audit of readiness for exams to be carried out? Why have you not insisted that that be done before today?

10:15

**Michael Russell:** Because, as I have indicated to you, we have a constant process. In response to concerns that have been expressed by you and your colleagues and by members of the EIS, I think that it is appropriate to add this additional check.

It would be ludicrous to say that local authorities, schools, Education Scotland and so on are not in constant contact, and I am sure that you are not saying that. The system of education that we have involves constant contact between those elements. However, I have added an additional dimension because I am keen to ensure that we get the approach right and do so in a way that ensures that it is always right. I am keen to offer additional support if it is needed.

I am sure that you might wish to err on the side of charity and view it as a positive development

that Education Scotland is taking additional actions to try to meet some of the concerns that you, your colleagues and others have expressed.

**Neil Bibby:** What is your view on the current readiness for exams, from the previous audits that you have carried out?

**Michael Russell:** My view is that the level of preparedness across Scotland is good, and that in many places it is exceptional. I would be happy to take you and other members of the committee to schools that have inspired me by the work that they have done.

For example, 10 days ago, I was at St Peter the Apostle high school in Clydebank, which is a remarkable school in which the enthusiasm for and engagement with curriculum for excellence was tangible. Some of the things that curriculum for excellence does, which need to be talked about—we need to talk about the positives of the programme—were so well on display that they were quite remarkable to me. Earlier this morning, I was talking about one of them. When I was at school—I have a good memory—I learned things without knowing why I was learning them. However, if you go to any school that is undertaking curriculum for excellence, the young people know why they are learning and they know the connectedness of what they are learning. That is an enormous step forward. It puts pupils in a powerful position in taking charge of their learning and ensuring that the learning process is a positive one.

Headteachers often say to me that one of the big differences with regard to curriculum for excellence is that children want to come to school, because they see that connectedness and understand how things work. We should share that positive enthusiasm. You should go to see it on display in those schools. When you see it, you will, I hope, be bowled over by it.

**Neil Bibby:** You said that you would give schools whatever support is necessary. From the concerns that we have heard—particularly from the EIS last week—it seems that the form of support that is needed is more time for teachers to prepare for the exams. When you talked about the ability of teachers and schools to come to you with concerns, you mentioned the summer. Do you not accept that, in terms of preparing for courses for next year, you are limiting the time that is available? For example, the new course material for exams will not be finalised until May. In some cases, there will be only eight weeks for teachers to prepare for the new courses and, if the courses start in June, there will be only four weeks.

**Michael Russell:** I am afraid that that shows a misunderstanding of the system in schools. Please

come and see what is taking place. If you do that, you will be able to understand the position.

Teachers are not being dumped on at the end of April and told what will happen in the next year. This process has been a continuum. The vast amount of the material for next year has been in teachers' hands for three years. This is not a question of something suddenly happening. The timetable for finalising all the material, which was set by the management board—on which the trade unions sit and in which they were willing participants—has always indicated that, this April, the final material in the process would be made available.

With the greatest respect, I always think that it is best to listen to what is actually being said rather than to the views of those who have interpreted what has been said.

The EIS bulletin that was issued to secondary school members yesterday is positive about the nature of the support that is being discussed between the EIS and ourselves. It lists the support, and it focuses on the one thing on which we have not yet agreed, which is the school-by-school opt-out. It talks about the difficulty that exists and the advice that I am getting, and says that we are still discussing the matter and will continue to do so. It is always best to have such discussions in a way that means that a result can be achieved without external pressure.

In that regard, I would say that the choice of subject for the Labour Party debate in the chamber on Thursday is not a sensible one, given that we are in the middle of the discussions, and it risks damaging the negotiations. However, whether the subject is debated at that time is a matter for that party to decide.

**Neil Bibby:** When it comes to decisions being made on a school-by-school basis, you said that schools could come to you this summer. Do you not accept that that will limit even further the time that they have to prepare for next year?

**Michael Russell:** I do not. If you are saying that there are some schools in which nothing has been done and in which people are holding off doing anything until the matter is resolved, that would be very foolish indeed. The question is whether more time is needed to add to the preparation that has already been done and whether we can create the circumstances that support such schools and the teachers in them as we move forward.

However, it would be a real misrepresentation to say that we are in a binary state, which involves nothing having been done and then everything having been done. That is not what has been happening in schools. If there is any school in which that has happened, that will be a severe

educational problem. I know of no school that is in that position.

**Liz Smith (Mid Scotland and Fife) (Con):** I entirely agree with the cabinet secretary that the one thing that matters in all this is the best interests of the pupils and teachers in every department in every school.

There are quite a few teachers—although by no means in the majority of schools—who feel, as I think John Wilson said at last week's meeting, that they are not quite ready, which is leading to bit of insecurity. It is not that they are saying that they will not go ahead with the curriculum for excellence exams; it is simply that they feel that they are not quite ready and that the decision about whether to proceed should be taken on a school or department level. Do you accept that it is better that they should make that decision, as they are best placed to decide what is going on in their school, or do you think that the decision should be made by local authorities or by Government?

**Michael Russell:** It should not be made by Government. My job is to ensure that we offer as much support as possible.

I do not disagree with you, but I want to segment the discussion, because I think that there are a number of factors at play. There is still a small group of teachers in Scotland who do not like curriculum for excellence. They are entitled to feel that way. Some of them are quite vocal. I must say to them that that argument is over. One of the dangers, certainly of the way in which the Labour Party is approaching the issue, is that it gives succour and comfort to that group. That is immensely regrettable, and it damages the programme. The members of that group may have entirely sensible points of view, but that argument is over and I am not involved in it.

There is also a small group whose members genuinely regard themselves as not being ready. I think that my job is to offer them as much support as I can through Education Scotland. I know that local authorities wish to do the same to get them ready. That is the right thing to do—it is the right thing to do in employment terms, let alone anything else. If there are employees who need additional help, rather than be judgmental with them, we should provide additional support. I hope that that will allow them to join the group of teachers who, with a greater or lesser degree of confidence, believe that they are ready. We are all different human beings. Some people are very confident about change; others are less confident but still know that they are ready for it. I want to do everything that I can to help get the teachers who think that they are not ready into that group. We want that to happen right across the system.

If, at the end of the day, that cannot be done and there are sufficient numbers of teachers in a department or in a school who believe that they are not ready, it will be possible to delay implementation. The department-by-department issue is already resolved. It was agreed by the management board that individual departments would have the right to delay, but that that right could be exercised only after all the support that could be put in place had been put in place.

Whether a whole school would be in such circumstances is a wider issue, but if a school said that it still could not manage, even after all that support and help had been provided, there would be questions about why that was so. However, at the end of the day, it would have that right.

We should remember that our system is run by local authorities. We can discuss that issue—it has been discussed by the committee previously. I do not have the right to say to a school that it can proceed with the new exams and ignore its local authority. There are chains of command in education as in every other field, so the local authority's involvement would be required.

At the end of the day, if no support could help, a decision to delay could be taken, but I do not believe that we are there. I believe that we have several months before we get to that position, and I want to do everything possible to help anyone who regards themselves as being in that middle group.

**Liz Smith:** Do you accept that you sent a confused message on “Good Morning Scotland” a month ago? You were asked about the East Renfrewshire decision, and you said that there were special circumstances because East Renfrewshire was not doing standard grades. When John Wilson gave evidence to us last week, he specifically said that there were two reasons why East Renfrewshire had—unanimously, as he reported it to us—taken that decision. He said unequivocally that quite a few of his teachers and headteachers feel that they are not ready to deliver the new qualifications.

East Renfrewshire's schools are to be given that privilege of delay—as are some private schools, but those are not in your remit. Does that not send a message to the public that some schools can delay if they do not feel ready, and raise the question of why that is not the case for what is probably a small number of schools that also do not feel ready?

**Michael Russell:** There is one additional issue to which Mr Wilson did not refer—as, in my view, he should have done. It lies in the letter from the headteachers that was published in the *Times Educational Supplement Scotland*. I have it in front of me. In the second paragraph, the teachers talk

about the issues and finish with a line about the delay in which they are involved. They state:

“This is only possible because of our unique position.”

They put that exactly correctly. I am listening to seven headteachers and, as they rightly say, they do things in a different way, and the option of delay was available to them only because of that “unique position”. There is an interrelationship there.

If I thought for a moment that those good schools were not able to cope with curriculum for excellence, I would offer them the support that I am offering others. I would be surprised if they needed that support, and, if I were to ask Bill Maxwell and his colleagues to go and look, they would come back and say that those schools do not need that support. They have made that decision because of their unique position.

I am glad that Liz Smith listens to me so closely, and I am always ready to accept it if I have got something wrong, but on this occasion I think that I am reflecting correctly the situation that exists in East Renfrewshire.

**Liz Smith:** Do you accept that that is a bit illogical? The whole principle that underpins curriculum for excellence is that it is up to individual schools to decide what they base their curriculum on and the way in which they structure their scope.

It seems that we are being very prescriptive, and I am not sure how we have got into that problem in the first place. If it is a decision for the schools to take, and—as it seems from the evidence that we have heard—the majority of schools are quite comfortable about starting, but there is a group that is not comfortable, they ought to be allowed to have that delay. It is up to them as the professionals on the front line to make that decision.

**Michael Russell:** I do not disagree with you; all I am saying is that we are not there yet. Those who are in difficulty or who have doubts should be able to avail themselves of the offer of support—it is a genuine, strong offer—to help them with any difficulties that they have. That is a very positive thing.

If at the end of that process we were to say that we could give a school no more support, and the school said, “We genuinely don't think that we're ready”, I would want to discuss that with them, but there is not an irresistible force and an immovable object. That option would exist, but we are not there yet. At present, there is the opportunity to offer additional support, which I need to do in order to be fair.

To be blunt, the young people—as Liz Smith mentioned—are at the centre of this. In each of

those schools—whether it is one, two, three, four or a dozen—there are a cohort of young people who are involved in the continuum of learning that is curriculum for excellence and have made that progress, and who are now to be denied the next stage of it.

There is also the issue of the disruption that may take place by changing so suddenly to a different outcome in third and fourth year. It is not an option without price or difficulty, and that needs to be factored in.

I do not think that Liz Smith and I genuinely disagree on the matter. I am not uncomfortable with the position that she is taking, but I believe that the option to offer substantial additional support and have that offer taken up, and to help those schools, is where we are now. That is the option that should be exercised.

**Liz Smith:** Convener, can I ask one more question?

**The Convener:** Yes—a quick one.

**Liz Smith:** The cabinet secretary has allowed one local authority to take a different line and he has decided to have an audit. I ask him to reflect on what the message is to parents.

10:30

**Michael Russell:** It is a message that was reflected to you in a letter from Iain Ellis, of the national parent forum, at the weekend. The message is that there is no need for delay. Indeed, Mr Ellis might be critical of the latitude that we have given East Renfrewshire, and I accept that criticism, the reason for which lies in that letter. However, that is where we are. The national parent forum is clear that there is no need for delay. The letter was sent to the other party spokespeople, too, and I hope that they have taken cognisance of it.

Your response to Mr Ellis was positive and I certainly do not include you in this, but one damaging aspect of the debate is that the confidence of parents could be affected by what I believe is an unnecessary dispute. I have made clear from the beginning that there is an offer of additional help and support to teachers and schools. That is a genuine offer. We made the same offer two years ago when there was a similar debate. Parents should take strong reassurance on the issue. Some of the most enthusiastic backers of the curriculum for excellence are parents who see how it has affected their children. The Labour Party issued a highly selective transcript of a recent “Call Kaye” programme. If the whole transcript had been issued, it would have shown a number of parents ringing up and saying strongly that the curriculum

for excellence is a good thing that is good for their children and asking us please not to damage it by delay.

**Clare Adamson (Central Scotland) (SNP):** I take comfort in the reassurance about the help that is being offered to schools. The cabinet secretary mentioned triple running, which came up last week as a concern of the SQA. There is a lot of talk and speculation about the damage that it might do to some pupils to go ahead with implementation. However, there does not seem to be the same interest in the damage that could be caused by delaying. Given the issues of timetabling and so on with triple running, it is the worst-case scenario. Can you give us an idea of the damage that a delay would do to the current cohort of children?

**Michael Russell:** I have taken a strong interest in the current cohort. I was cabinet secretary when they moved from primary 7 to secondary 1. I took what I think was the unique step of writing to the parents of every single child who was going through. Some members might have received one of those letters—I think that the convener got one. I did the same for the cohort that came into secondary this year and I will continue to do that, because it is one thing that counters some of the negativity.

A commitment has been made to those parents and children. They have taken part in a new approach to Scottish education. We have to be mindful of the damage that might be done if we said, “Hang on a minute—we’re not going to finish this voyage for you. You have come close, but we’re going to divert you away from what we think is really good and let somebody else go through.” That would be the wrong message. We should do everything to avoid that. There could be single schools that, in the end, cannot help their children and will actually have to delay, but we should avoid that as much as we can by offering as much support and help as we can.

I must be mindful of the advice from the SQA. I was part of the inquiry in 2000 into the problems in the SQA and I remember it well. There are no great similarities between then and now and it has been foolish of people to say that there are. However, one of the few similarities is that no alarms were given back then. On this occasion, if I hear an alarm about something that might happen, I need to listen to it. The chief executive of the SQA said:

“the additional risk to our ability to deliver a successful diet would be over the top.”—[*Official Report, Education and Culture Committee*, 28 February 2012; c 811.]

She said that it “is simply not viable”. When she says that, I really have to listen.

**Liam McArthur (Orkney Islands) (LD):** On occasion, you have rather unreasonably accused me of focusing on negatives, so I will start with the positives. You set out entirely accurately the background to the curriculum for excellence. There has been consensus across the board on the issue. I welcome the audit of readiness that you have initiated.

It is probably fair to say that over recent weeks you and the EIS appear to have come closer together in what you say. That it will ultimately be schools that make the decision echoes much of what we heard last week from the EIS.

I am slightly troubled by the remarks about East Renfrewshire. I know that there are specific circumstances there and that it is the interconnectivity that allows it to take the decision that it is taking. However, it is not the fact that it is not doing standard grades now that leaves it in the position to which Liz Smith pointed, which is one of insecurity, lack of confidence and not feeling ready. That position is not a reflection of the authority not doing standard grades now. East Renfrewshire felt it necessary to take an early decision, which was not intimated to ADES terribly far in advance. It was taken at a point at which the authority felt it needed to take it in order to demonstrate commitment to the curriculum for excellence but allow time to transition at a pace and in a way that suited it.

You are right about the scale of the problems that may exist, and the support that is going in is very welcome. However, I might have similar concerns in relation to the wider school network. For each school and for departments in schools, there will come a point at which keeping the current situation going until the summer, as you have said, might lead them to think that they have insufficient time to make the transition in a way and at a pace that meets their needs.

**Michael Russell:** I accept what you say, but I suspect that any school that has in its collective mind any suggestion that it might want to delay knows that now. I have had that conversation with the EIS. In such circumstances, there will not be a binary choice: "We've done nothing, and now we'll do something." The school or department that is in that position is a ripe candidate for as much help as we can give. It is not a question of delay but a question of putting in support at an early date as intensively as possible.

I entirely accept that the process is not open-ended. Such schools would have to be able to say during the coming term, "That support got us into the right position and we can see our way forward. Thank you. You have helped to change things." One should always thank Bill Maxwell's colleagues for the work that they do. Alternatively, and regrettably, schools might have to say that they

still have severe doubts. That is the situation that we are dealing with, but a very small number is involved.

I repeat what I said to Liz Smith. Other, parallel, factors need to be taken into account. What would be the additional burden of diverting the work of teachers into different qualifications from the anticipated qualifications? What would be the effect on the cohort? What would the parents think?

I think that the group that might want to delay is already in existence and has selected itself. We need to identify where it is and offer targeted help.

It is not rocket science. We have 370 or so schools in Scotland.

**Sarah Smith (Scottish Government):** We have 372.

**Michael Russell:** We have 372 schools, so that would be manageable. I suspect that the number concerned is very small indeed—that is what a large number of people have indicated—so we can work on that.

I have an additional observation about East Renfrewshire that I hope will be helpful. The schools in East Renfrewshire knew, as did all other schools in Scotland, that the standard grade would end in 2012-13. However, as East Renfrewshire did not use standard grades, I think that the momentum for change in East Renfrewshire was different and that, from an early date, there was probably a different mindset about the timetable. Perhaps we should have picked that up earlier and realised that it would change East Renfrewshire's position, because it was unique in Scotland and did not do things in the same way. The pace and the map that were set out in East Renfrewshire were different from the beginning, because one of the key drivers of change did not affect it. I suspect that that is one of the issues.

I go back to the final line of the second paragraph in the letter from the East Renfrewshire headteachers, which states:

"This is only possible because of our unique position".

That is true. It is only possible because of that uniqueness.

**Liam McArthur:** It is perfectly reasonable to argue that East Renfrewshire was on a different trajectory for those reasons. I certainly accept that having an open-ended process for the support that is going in is not viable. However, even if we identify each of the schools or each of the departments that has difficulties at the moment, they will have different problems to address and will have different expectations about the point at which they need to take a decision. What concerns me is that you are saying that the

summer is an end date—that the process will run until the summer—and that no decisions will be taken prior to that.

**Michael Russell:** We know broadly where the schools that might be involved lie. We will know in detail where they lie very shortly, and there will be an intensive process.

If, having visited a school and looked at it, Bill Maxwell and his colleagues said, “Look, there isn’t a hope that the school can be ready for a variety of reasons,” I would want to know those reasons, which would be clear. However, I do not think that there is any such school in Scotland. Curriculum for excellence is not a surprise, and it is inconceivable that there could be a school in Scotland that has not been deeply involved in the process of developing it, but there may be confidence issues, preparation issues and things of that nature with which we can help.

We are keen to stress that, in addition to tailored help, there are generic types of help that I am happy to bring forward. I am in discussion with the EIS about those generic types of help, such as additional training. We are happy to provide what anybody thinks is necessary, but we are talking about a very small number of schools and departments that would ever be in a position to say, after all the help has been applied, “We can’t do this.”

**Hanzala Malik:** Good morning, and thank you for your opening statement. I also had the opportunity to listen to your radio interview, and I am a little more reassured today that things are in place. However, I have some comments to make.

Education, particularly of our young, is obviously very important, and we are competing in the international arena—we are not really competing against one another in Scotland—so the challenges are tremendous. Our teaching staff face huge challenges in the classroom, so when a teacher or a school suggests that they are having difficulties, I, like you, take the matter very seriously. The majority of schools throughout the country are in a position to deliver for their pupils and their parents, but I want to know from Bill Maxwell in particular what support can be given to schools that are not able to meet the challenge for whatever reason, and what resources that will entail. I am talking about not only money, but expertise, with people going in to assist schools to make the grade and ensure that the pupils in them can meet the deadlines.

**Michael Russell:** I am happy to add to what Bill Maxwell says, but he would like to go first.

**Bill Maxwell:** The menu of support is varied. It depends on the particular circumstances. I suspect that we will see individual departments rather than whole schools struggling to see their

way forward in introducing the new curriculum, but we will be able to do everything from fielding individual inspectors to go in and talk with principal teachers and their colleagues about how best to find the resources that they need to support them to talking through subject-specific issues. It is fair to say that there is more change in some subject areas than in others. For example, there is more change in science than in many other areas of the curriculum. We have a range of available responses.

I think that part of the reason why we have not already seen much demand for the use of the exceptional circumstances arrangement is that there is constant support. Over the course of the year, we have talked with local authorities about where they would like additional input—often for groups of teachers across the country or across a local authority area—on particular issues that they are concerned about. There is a varied menu of additional support, which can mean bodies going into the school to work with teachers.

10:45

**Michael Russell:** It is important to see what is happening in curriculum for excellence as a continuum over a period of time. If we look at the timeline, we can see how, year on year, it has built up—indeed, since 2007 it has built up very substantially.

Let me take, as a snapshot, what happened in 2011. The draft rationale and course summary for national 4 and national 5 were published in January; the draft course specification for N4 and N5 was published in April; the draft rationale and course summary for the new higher were published in May; the draft rationale and course summary for access unit specifications and the higher specifications were published in August; I launched the curriculum for excellence action plan—an additional package of support—at the Scottish learning festival; the updated version of the national assessment resource was released; the course specification for access, which sets out how access takes place, was published in October; draft unit specifications for N5 were published in November; eight SQA and Education Scotland events attended by more than 1,000 practitioners were held in November and December; and the draft unit specifications for access were published in December.

That is just the official stuff; endless activity is going on in local authorities and schools. Indeed, in a school that I visited on Friday, there was an enormous chart showing all the subjects being taught, the links between them and what had taken place in years 1 and 2. There has been the most extraordinary range of activity. What surprises me is when people say that nothing is

happening. If you go into any school, you will see that the most enormous amount of activity is happening.

Is there room for more? If an individual teacher needs more support, they can get it; they can even get personalised support. For a period in 2010, we devoted the inspectorate's entire resource to school-by-school support; Bill Maxwell devised and implemented that move, which worked very well and boosted the programme very substantially. The inspectorates stand ready to support individual schools and departments. Over and above that, I am in discussion with the EIS about a programme of support that I will announce later this month and which will add national support to the support that individual schools and teachers can get. An awful lot is happening and even at a time when resources are tight I have been absolutely determined to continue to supply as much support as possible.

**Hanzala Malik:** Thank you for that detailed response.

What mechanism will be used for the very few individual schools or, indeed, teachers who feel that they need support? I am pressing you on the point because, despite all the good work that has taken place and although the majority of schools have come on board, a few voices are still raising concerns and are genuinely frightening parents into thinking that there is a very big problem where one might not exist. Given that it is absolutely crucial that whoever needs help actually gets it, what mechanism is in place to ensure that that happens? If a local authority says, "We are up for this and are ready to go", but an individual school or teacher comes to you and says, "I am not really up for this", how will you address that?

**Michael Russell:** It will be done individually through self identification by the teacher and/or department and/or school as well as identification through the work that Bill Maxwell mentioned. There will be personalised and tailored support. Does a teacher need additional continuous professional development in a particular subject? Would they benefit most from an extra day or couple of days outwith the school to develop course materials? Would the school benefit from having subject specialists working with a subject department for a day or two to raise its confidence within the programme?

The possibilities are endless, but you are right about the issue of confidence in the programme. I am very pleased that the national parent forum has been so forthright and look forward to seeing Mr Henry's response. However—and I am sure that you will take this suggestion very positively—I think that it would also be of benefit if your own positive nature were to be reflected in some of your Labour Party colleagues and they came back

to giving strong support for what is a unique programme. The fact that the programme has had support right across the parties has given it great strength and I really regret some of the language that has been used in the past few days, specifically by Mr Henry, because that is not helping.

**Hanzala Malik:** The issue is not really partisanship; it is parents' concerns, which are reflected by teachers and their unions. There are still grey areas on the mechanism for support and I think that, once those become clear for our teaching staff in particular, many of the concerns will evaporate quickly.

**Michael Russell:** The national parents forum has been very helpful on that and has made its views on the matter clear. We should be entirely open and transparent about the fact that no stigma—none whatever—attaches to teachers saying that they need a bit of extra help. They should come and get it, and they should come and get it now.

**Jean Urquhart (Highlands and Islands) (SNP):** Other members have asked some of the questions that I was going to ask, but I want to be absolutely clear about the audit that is happening, because that seems to be new.

We do not always hear from people who think that curriculum for excellence is the best thing since sliced bread. As elected representatives, we tend to hear from people who have concerns about it. How will the audit work in the 31 local authorities that are not postponing? Will it be top-down? There are individual teachers whom you need to take with you—teachers who are not against curriculum for excellence, who want it to work but who have concerns. I guess that I am talking about the perfect teacher who is not convinced that he or she will get there and is concerned for their pupils. How will you get to that teacher?

**Michael Russell:** I am open to hearing from that teacher individually. I hear from teachers individually and, if they say to me that they could do with a bit of extra help on curriculum for excellence, they will get it, with involvement from Education Scotland or within their school.

The image of a school as some sort of opinion-denying device is not accurate. I go to many schools in which there is genuine debate and dialogue and I do not think that any good school—or any school in Scotland—would willingly suppress the view of any department or individual teacher that had concerns and doubts about curriculum for excellence; nor would any director of education willingly say, "Sorry, that's it. We're just doing it this way," because their reputation is on the line too and they have to get it right.

There is a process that involves and must involve directors of education. Councils run education in Scotland—that is the way that it is at the moment—so directors of education, individual headteachers and individual teachers are involved.

I had a fascinating letter from a school department—I will not name it—that said, “We’ve been to an SQA event, we didnae think much of it, and we think that something should happen.” We have, I hope, been able to provide some additional help and support. Indeed, there was a problem with some of the communication with that department, which has been sorted out.

We are open to having, and are free to have, such discussions. I will also look for other ways to respond. For instance, if the EIS has lists of its members’ concerns, we will address them, because we need to get the implementation of curriculum for excellence right, and we are entirely open to getting it right.

We have replied to individual departments and teachers. If MSPs hear from individual teachers who have concerns about curriculum for excellence, they should let me know and I will be happy to ensure that those concerns are addressed, and addressed positively.

**The Convener:** That is helpful. It is helpful for us to understand that the process by which teachers can express concerns is not a single track—they do not have to go through their head of department, school or local authority—but that other methods of doing that are open to them.

**Michael Russell:** This is a small country with 372 secondary schools. It is not beyond our wit to try to tackle the matter collectively. There are various routes, but we must work together on this. We should not treat headteachers and directors of education as people who are against the interests of Scottish education, because they are not. They are promoters of the good things in Scottish education and are keen to ensure that curriculum for excellence works.

**Joan McAlpine (South Scotland) (SNP):** Bill Maxwell and the cabinet secretary mentioned the role of Her Majesty’s Inspectorate of Education, which has been merged into Education Scotland. Given that Learning and Teaching Scotland had an important role in developing the content of the curriculum for excellence, will you talk a little about how the merger has affected the support that you can give schools?

**Bill Maxwell:** I am happy to do so. The merger—the creation of Education Scotland—has strengthened our ability to have a quick feedback loop from what we see on the ground, because we are out in schools every week of the year to undertake inspections and other evaluation

activities. We can feed that intelligence straight back through to our development arm, to target more of the development work that we undertake and feed into the general support for the programme.

Education Scotland has strengthened the quick feedback loop of seeing what is happening on the ground, knowing where the strengths and weaknesses are and feeding that back into action. That helps us to highlight best practice—a range of good practice is happening in schools across Scotland—and draw on that to help schools that might need a bit of guidance or advice on particular matters. That is a strong mechanism going forward.

**Michael Russell:** I do not think that Education Scotland has a more important task to undertake—Bill Maxwell knows that, and we entirely agree about it. The organisation’s resource needs to be brought to bear to continue to support curriculum for excellence. That is the major part of Education Scotland’s work, but the organisation’s resource also needs to be brought to bear where there is additional need. Bill Maxwell and I meet to discuss those issues regularly.

**The Convener:** I thank the cabinet secretary, Mr Maxwell and Ms Smith for their evidence.

10:56

*Meeting suspended.*

10:58

*On resuming—*

## Subordinate Legislation

### Public Services Reform (Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools) (Scotland) Order 2012 [Draft]

**The Convener:** Welcome back. Item 2 is evidence on a draft order.

I again welcome the cabinet secretary, who has stayed with us. I also welcome Ken Muir, HM chief inspector of education, Education Scotland, and John St Clair, senior principal legal officer, Scottish Government legal directorate. Members have received a cover note that sets out the order's purpose. The item gives members the opportunity to ask any technical questions or to seek clarification on the order. The committee will deal with the motion on the order under item 3.

I invite the cabinet secretary to make opening remarks.

**Michael Russell:** I will provide some brief background information on the need for this affirmative Scottish statutory instrument.

In March 2011, the United Kingdom Government's Home Secretary announced changes to the UK Border Agency's licensing arrangements for any UK education provider that wishes to sponsor a non-European economic area student. The changes required privately funded colleges and English language schools to be subject to a more rigorous inspection of the quality of their educational provision as one element in their application to the UKBA for highly trusted sponsor status. That status entitles such colleges and schools to sponsor, and hence bring to Scotland to study, non-EEA students who have been given tier 4 status on the UKBA's points-based system for student visas.

11:00

As part of the March announcement, the UK Border Agency stated that Her Majesty's Inspectorate of Education, which is now part of Education Scotland, would inspect the quality of educational provision in those privately funded colleges and English language schools in Scotland as part of UKBA's revised accreditation and licensing processes. Other educational inspectorates were identified to carry out such inspections in other parts of the UK. I should point out that the Home Office's decision to identify HMIE was taken without any consultation

whatsoever with the Scottish ministers, Scottish Government officials or, indeed, HM inspectors.

Whether Education Scotland carries out the inspections of independent further education colleges and English language schools in Scotland is wholly at the discretion of the Scottish ministers, those private establishments having no entitlement to be inspected. It is right and proper that our own inspectors from Education Scotland carry out the inspections, and they have indicated to me their willingness to do so. Our inspectors carry high national and international credibility, have experience of college inspections and know the Scottish scene well.

Private further education colleges and English language schools in Scotland are willing to be inspected by Education Scotland for commercial reasons and are prepared to pay for the costs of the service. The service is not available to them, however, because Education Scotland is not resourced to offer it to them free of charge. More significantly, section 72 of the Education (Scotland) Act 1980 precludes the Scottish ministers from charging for any inspections carried out under section 66(1) of the Act. It is my view that that restriction on charging is an

"administrative inconvenience"

and an

"obstacle to efficiency, productivity and profitability",

as outlined in section 17(2)(b) and (d) of the Public Services Reform (Scotland) Act 2010, and hence a "burden", as defined by section 17 of that act.

The order's removal of the burden will remove an administrative inconvenience and allow Education Scotland to charge independent further education colleges and English language schools for inspection, which would not otherwise take place.

Other benefits will also accrue from the removal of the burden. If Education Scotland carries out those inspections, the charges payable in respect to the inspections will be retained in the Scottish economy, which would not be the case under provision by an alternative, non-Scottish provider.

Secondly, there is a risk that, if the independent further education colleges and English language schools were not able to access their preferred route of inspection by Education Scotland, they could cut back on their business, with resultant job losses for the specialist staff they employ and a significant loss to the wider economy through removal of students' purchasing power. Alternatively, they might cease operations in Scotland altogether, with the same results.

Thirdly, the inspection programme will provide parity between independent further education

colleges and English language schools and publicly funded colleges. The independent further education colleges and English language schools concerned will, for the first time, be subject to the same measures of quality as publicly funded colleges.

Finally, the inspection process, the resultant published inspection report and any further activity carried out by Education Scotland in on-going support and development will help to drive up the quality of the learning and teaching in independent further education colleges and English language schools, and assist those that are currently high-quality providers to be fully recognised as part of a high-quality Scottish education system.

**The Convener:** Thank you very much, cabinet secretary.

Before I bring in Liz Smith, I will ask a question myself. You mentioned that the order will remove an administrative block to charging—which is welcome—but my question is about capacity. We have just spent approximately an hour on Education Scotland's extra support and its additional work on curriculum for excellence. What capacity does it have to carry out additional inspections?

**Michael Russell:** It has the capacity to do so and the resource will help it to support that capacity. I am confident that it can undertake this work. There are 23 colleges in Scotland seeking highly trusted sponsor status and they will require inspection. The intention is that they will be inspected this year and that that will be the round of inspections. Bill Maxwell assures me that that is within the organisation's capability, given that the process will involve the same staff as those involved in inspecting the college sector. Perhaps Ken Muir would like to say something about that.

**Ken Muir (Education Scotland):** We have considered the resource required. If the order is agreed to, we plan to begin the inspections before the summer. Most of the English language schools in Scotland operate during the summer holidays, which is convenient in terms of timescale. We would dovetail those inspections with the period before we start our reviews of the publicly funded colleges, either in the autumn or at the beginning of 2013.

**Michael Russell:** It will give the inspectorate something to do during the holidays.

**The Convener:** I am sure that it is delighted about that, minister.

**Liz Smith:** Do you envisage that the college in question will be asked to pay the fee for the inspection? Will there be any occasion on which a college abroad that has sent a student across

under, say, the Comenius project is asked to pay part of the cost?

**Ken Muir:** That would be for the college with which such a college abroad is associated to decide. Our request in asking colleges to complete the application form is for them to make the application themselves.

**Liz Smith:** So it will be the Scottish college that pays.

**Ken Muir:** Yes.

**Liz Smith:** Thank you.

**Michael Russell:** The fee will be between £6,000 and £12,000, depending on student numbers.

**Liam McArthur:** I should probably declare an interest as a former employee of an English language school.

Absent from your remarks, cabinet secretary, was any suggestion of whether you believe the proposal is a good thing. You have been critical of the process, but I note from the briefing note that has been provided that you reference the kite mark and the economic importance of the institutions, so I presume that you do not have a difficulty with what is proposed.

**Michael Russell:** I do not have a difficulty. There is another way of driving up quality, which is to restrict the use of the word "college". I have appealed to successive UK Governments to allow that to take place—it is not within our devolved competence—and they have refused to do so. There is tight regulation of the use of the word "university", but there is no corresponding tight regulation of the use of the word "college".

Having said that, I am by no means against the proposal. I think that it will assist in driving up quality, and I have the highest regard for the inspectorate, so I think that the inspections will be worth doing. I just do not think that we could undertake them without charging.

**Liam McArthur:** You set out clearly what is an administrative block to being able to deliver the inspections and cover the costs. I note that paragraph 29 of the explanatory document states:

"No private interests are affected because whether to inspect independent further education colleges including English language schools was always at the discretion of Scottish Ministers and in practice was never done."

I am struggling to understand why that is the case.

**Michael Russell:** I really could not say, except that I suspect that it might well have been one of those issues in which we thought that there was another way of driving up quality. Our policy focus has been to restrict the use of the word "college". However, now that inspections are to be done as

part of the immigration regulations from the UK Government, it is perfectly reasonable to do them.

**Hanzala Malik:** The serious challenges created by the economic situation have affected our colleges and universities in Scotland. It is important to have the kite mark and inspections because we rely on overseas students to support us to recoup some of those losses. I welcome the proposal, but I wonder whether the charges will affect the colleges in particular. The fees sound quite high. Have you held a consultation with the colleges to find out their views on the charges?

**Ken Muir:** They are set on a full recovery cost basis. We have worked closely with the other inspectorate bodies in the UK to ensure that we are not out of kilter with their charges. In fact, Education Scotland's charges are slightly lower than those of the other scrutiny bodies that have educational oversight in other parts of the UK.

The charges are certainly higher than what some of the colleges have been used to paying for kite marking but, as the cabinet secretary said, we are keen to ensure that the standards that we apply to publicly funded colleges are also applied to private colleges and English language schools so that we maintain high standards across the wider college system.

**Michael Russell:** I know that Mr Malik is aware—because we discussed them in the past in another life—of the reputational issues that are involved. In India last year, it was represented to me on a number of occasions, sometimes quite forcibly, that some young people have fallen into the hands of unscrupulous entrepreneurs, and I heard about their experiences. That is why I believe that use of the word “college” is important and should be restricted.

The proposal will help to set to rest the minds of parents and others who send their young people to Scotland, because the private colleges will have the imprimatur of Her Majesty's Inspectorate of Education through Education Scotland.

**Hanzala Malik:** I agree with you on that element of the process. However, colleges and universities face a number of challenges in relation to resources, international competition and issues to do with immigration, which are outwith our control. I am really just pleading the case for being careful about the level of charge that we make for the service, because we do not want to hurt institutions unduly.

**Michael Russell:** Publicly funded colleges and universities are not affected by the order. Indeed, publicly funded universities are content with the situation, and for publicly funded colleges the inspection process is a well-recognised aspect for which they do not and will not pay.

The order will affect private enterprises, which I think would and should expect to pay for the validation that they will receive—and for the assistance that they will receive, because an inspection is a supportive process, whereby the college is given information that is of use to it. *[Interruption.]* My colleague from the legal directorate wants me to say that the consultation elicited no criticism of the level of fees. I am grateful to him.

**Liam McArthur:** My question is prompted by Mr Muir's response to Hanzala Malik. Will inspections be fairly standard and uniform in scope? Will the package that is on offer from Education Scotland be pretty much the same across the board, or will it be up to colleges to tailor it to specific aspects of what they do?

**Ken Muir:** We have met principals and senior managers from some of the colleges—indeed, we invited them to an event in December, at which we explained the quality framework that we plan to use. The quality framework is relatively standard but, consistent with the approach that we took to the new school inspection framework, we will offer the opportunity to tailor the inspection to take account of the type and size of the college or English language school. As you know, English language schools are significantly different from private colleges in many regards.

At the beginning of an inspection and in the documentation that we put out in advance of the inspection, we will try to elicit information about differences, which we will feed into the inspection process. Our ultimate intention is to provide the college with a report that states unequivocally the quality of the education that it provides. It is then for the college to use the report as it sees fit. All colleges have said that they would use the report as part of the evidence that they take to the UK Border Agency when they apply for a highly trusted sponsor licence.

**Liam McArthur:** Does that mean that you will at least keep a watching brief on how a college uses its report? You will provide the kite mark, so in a sense there is potentially a reputational risk for you.

**Ken Muir:** I suppose that we are entering into a bit of a commercial enterprise. Given that colleges will pay for the privilege of inviting us to inspect them, it will be for them to do what they want with the report that we produce. A report will clearly indicate that we carried out inspections, and a college will be able to use it as it tries to attract students from other countries. It is entirely up to colleges to use reports as they see fit.

**Liam McArthur:** History is littered with examples of false claims being made, quotations being taken out of context and all the rest of it. In

the general framework of the assurances that you are looking for, will you keep an eye on how your reports are used? I accept that colleges will pay for reports and that how they use reports will be up to them—but within certain parameters, I assume.

**Ken Muir:** We have offered English language schools and private colleges on-going support from Education Scotland, just as we offer such support to publicly funded colleges and schools. We will be in a position to see what colleges have used. We have not explored the issue with colleges, but your question prompts such exploration.

**Michael Russell:** The UKBA expects a four-year cycle of inspection. However, as Ken Muir said, there is an offer of continuous engagement—which is much closer to the model that we usually operate in Scotland—to ensure that we are aware of what is taking place.

I would not expect anyone who had been inspected, whether they had paid for it or not, to fail to draw attention to the availability and accessibility on the web of an inspection report that they were quoting. Anyone who tried to approach a report in the manner of a theatre review and take out only the bits they enjoyed would have to say that other bits were available.

Education Scotland has developed and continues to develop the format of inspections, including published inspections, to make them as helpful as possible. I encourage any members who have not engaged with the organisation to talk to Bill Maxwell, Ken Muir and their colleagues about how the process works, because it is constantly developing and evolving. In particular, the modern model of small school inspection is widely regarded as a tremendous success.

11:15

**The Convener:** Now that we have received the Scottish Government's briefing, I move to the formal consideration of the motion to approve the draft order. Scottish Government officials may not participate and the debate must last no longer than 90 minutes.

I invite the cabinet secretary to speak to and move motion S4M-02167.

**Michael Russell:** The committee will be relieved to learn that I do not have another speech to make.

I move,

That the Education and Culture Committee recommends that the Public Services (Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools) (Scotland) Order 2012 [draft] be approved.

*Motion agreed to.*

**The Convener:** I thank the cabinet secretary and his officials for their attendance. There will be a brief suspension.

11:16

*Meeting suspended.*

11:18

*On resuming—*

### **Repayment of Student Loans (Scotland) Amendment Regulations 2012 (SSI 2012/22)**

**The Convener:** The next item of business is consideration of a negative instrument. No motion to annul has been lodged on these amendment regulations and the Subordinate Legislation Committee determined that it did not wish to draw the Parliament's attention to them. If there are no comments, does the committee agree to make no recommendation to the Parliament on these amendment regulations?

**Members** *indicated agreement.*

### **Public Records (Scotland) Act 2011 (Commencement No 1) Order 2012 (SSI 2012/21)**

### **Children's Hearings (Scotland) Act 2011 (Commencement No 4) Order 2012 (SSI 2012/23)**

### **Public Records (Scotland) Act 2011 (Commencement No 2) Amendment Order 2012 (SSI 2012/42)**

**The Convener:** The next item is consideration of instruments that are not subject to any parliamentary procedure. Does the committee agree to make no recommendation to the Parliament on these orders?

**Members** *indicated agreement.*

**The Convener:** As the committee agreed to hold the next item in private, we now move into private session.

11:19

*Meeting continued in private until 11:30.*



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