



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EDUCATION AND CULTURE COMMITTEE

Tuesday 8 May 2012

Session 4

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EDUCATION AND CULTURE COMMITTEE

14th 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)

Aileen Campbell (Minister for Children and Young People)

Kit Wyeth (Children's Hearings Scotland)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

Committee Room 1

Scottish Parliament

Education and Culture Committee

Tuesday 8 May 2012

[The Convener *opened the meeting at 10:00*]

Children's Hearings (Scotland) Act 2011 (Secondary Legislation Programme)

The Convener (Stewart Maxwell): Good morning, colleagues, and welcome to the 14th meeting of the Education and Culture Committee in 2012. I remind members and people in the public gallery that all electronic devices, including mobile phones, should be switched off at all times.

We have apologies from Joan McAlpine, but I am glad to say that George Adam is here as her substitute. Liam McArthur has an appointment and so is not here yet, but he hopes to be here before the meeting finishes.

The first item of business is to take evidence on the secondary legislation programme arising from the Children's Hearings (Scotland) Act 2011. The committee has received a letter from the Scottish Government that confirms that full implementation of the act will be rescheduled to the second quarter of next year. Obviously, the committee is keen to establish the reasons for that delay and any impact that it may have.

I welcome to the committee the Minister for Children and Young People, Aileen Campbell; Tom McNamara, who is team leader in the Scottish Government's children's hearings team; and Kit Wyeth, who is head of that team.

Do you wish to make any comments before we ask questions?

Aileen Campbell (Minister for Children and Young People): Yes; I have an opening statement, if you want me to set the scene a wee bit.

The Convener: Please do that. Obviously, the committee has seen your letter, but I am happy for you to make an opening statement.

Aileen Campbell: Thank you very much for inviting me to the meeting. As you said, I am accompanied by Tom McNamara, who is head of the Scottish Government's children's hearings team, and by Kit Wyeth, who is a project manager on secondment to Children's Hearings Scotland. Kit will deal primarily with area support teams and

can assist with any points or details that the committee may want to pursue.

As members will be aware, I announced on Friday 27 April that ministers had decided to delay the implementation of the Children's Hearings (Scotland) Act 2011 until the second quarter of next year on the advice of our key partners—including panel members, the Scottish Children's Reporter Administration, CHS, the Sheriff Court Rules Council and children's hearings training officers—who advised that they did not consider that full reform could be delivered by this September.

It is crucial that all aspects of reform be ready all together. That could not be guaranteed, so ministers decided that it was more important for Scotland's children that we move implementation than it was to try to meet a target date by which not everything would necessarily be properly ready. I realise that that has implications for the committee's planned programme and know that my officials initially briefed you on the original plans for secondary legislation back in February. I thank the committee and the clerks for the co-operative way in which we have worked up to this point, and for their understanding of the delay in implementation. I am keen to build on our good relationship as we reprogramme the secondary legislation work in particular.

Although the planned secondary legislation would have been ready by the original provision dates, I intend to introduce it later this year. As members will recall, we have a significant programme of secondary legislation—there are around 30 sets. In order to meet a go-live date in the second quarter of next year, we are looking to introduce secondary legislation from the end of this year—around November—into early 2013, prior to its going live. However, my officials will work with the clerks to ensure that the timing of our secondary legislation fits in with other committee business.

I am happy to answer any questions. Again, I thank you for your patience and co-operation.

The Convener: Thank you, minister.

Obviously, you will understand—indeed, you have said as much—that what has happened has had an impact on the committee's intended business programme between now and the summer in particular, and there will be a knock-on effect into early 2013. I will start with a general question before I bring in other members of the committee. Are you now confident that the delay will be the sole delay in the programme and that the programme that you have outlined from November onwards will be implemented?

Aileen Campbell: Yes we are, and we will continue to work with partners to ensure that we

get a properly planned sequence of events and that we will be ready for the planned go-live in the second quarter of next year. We need to ensure that we do not rush these things. By and large, the reason for delaying the go-live date was to ensure that things are not rushed and that measures are in place so that we finally get the planned reform ready and off the ground.

Liz Smith (Mid Scotland and Fife) (Con): We are largely in agreement that this is an important stage and that we must ensure that the reformed system is right when it comes on stream. I understand the logic of saying that you want to ensure that all parts of it are coherent. Nonetheless, it is a bit concerning that there are some troubles. Would you be a bit more specific about what the difficulties for the original timescale were?

Aileen Campbell: There were a number of reasons for the delay, some of which I think I outlined in the letter that I sent to the committee.

One of the contributing factors was the need to seek agreement with local authorities and ensure that area support teams are in place.

There have also been issues with the section 104 order under the Scotland Act 1998. It is one of the biggest section 104 orders since devolution: it has been a hefty piece of work, but many people have worked hard on it and there has been co-operation across the piece, including from United Kingdom Government officials. The delay now gives us a bit of time to ensure that the order is complete.

The third reason for the delay is the sheriff court rules reforms.

Those were the three large contributing factors to the delay, which now gives us time to ensure that the reforms will be well in place and ready for next year's planned go-live date.

Liz Smith: Were those factors to do with technical issues and the burden of work rather than to do with concerns among stakeholder groups that unforeseen difficulties had arisen?

Aileen Campbell: The reasons that people cited for preferring a delay to the go-live date were largely technical. Nobody was substantially at odds with the agreement that it was right to implement the reforms; it was more about the volume of work.

As I say, the section 104 order was a particularly large piece of work for officials to contend with. Another year of delay means, of course, that we will have to take account of other changes as we complete the order. There was no disagreement with the reforms; it was about the technicalities.

Liz Smith: Can you assure me that the delay is not to do with any disagreement about reforms?

Aileen Campbell: Yes I can. The delay is not about disagreement about the reforms.

Neil Findlay (Lothian) (Lab): You mentioned needing to seek agreement with local authorities, stakeholder concerns and needing more time to get the implementation right. My colleagues and I said the same things about the curriculum for excellence, but the Scottish Government took a completely different approach on that.

Why is the children's hearings system different and why did we not take the same approach with the curriculum for excellence? The same concerns were expressed. Stakeholders were saying no and that we must stop, delay and take time to get it right. You are saying that we must take time to get children's hearings reform right, but we blundered through the curriculum for excellence and are now in another difficult position.

Aileen Campbell: I am here to answer questions about implementation of the Children's Hearings (Scotland) Act 2011. You have made clear in the chamber your points about the curriculum for excellence. There has been widespread agreement about the curriculum for excellence across the parties and it is not necessarily helpful to bring the two issues together.

We are here to talk about ensuring that Scotland's valued children's hearings system is reformed and is the best that it can be. That is why we are ensuring that the reforms are right and that we have the time to get them in place. I made the decision to delay implementation because of the stakeholders' interest in ensuring that the plans are right and not rushed.

Neil Findlay: I know what you want to talk about, minister, but this is about consistency of approach when there are problems and stakeholders raise concerns. You probably made the right decision on the children's hearings reform, but I am interested in consistency and the fact that, when a similar number of concerns is expressed in another area of the department, you take a completely different approach. It seems as though the department has a problem with managing change.

Aileen Campbell: I was invited here to talk about the issues with the reforms to the children's hearings system. I have outlined clearly why I took the decision to delay the go-live date. The comparison that you are trying to eke out with the curriculum for excellence is unhelpful. The Cabinet Secretary for Education and Lifelong Learning has been clear about his determination to work with stakeholders to ensure that the curriculum for excellence works for children and young people

throughout Scotland. It is a bit unhelpful that you are trying to draw parallels. Today, we, as a whole Parliament—across all political differences—are trying to focus on ensuring that the system is right. That is why I am here to answer questions on that topic.

Neil Findlay: Convener, I was under the impression that the committees of this Parliament were one of its major strengths and that, when ministers and others came along, we got answers to questions. It does not seem to be like that today. If the minister wishes to address other issues—

The Convener: Mr Findlay, I ask you to stop there. The minister has made it clear—quite correctly—that she is here to answer questions on the children’s hearings system, the Children’s Hearing (Scotland) Act 2011 and the delay that has been announced. That is the purpose of this evidence session. If you have any questions on that, I would be delighted to hear them.

Neil Findlay: I will pass, because clearly we are not going to get any further on my line of questioning.

Aileen Campbell: The member is always welcome to contact ministers about the curriculum for excellence, on which he has made a number of points in the chamber. I make the point again that this meeting is about making sure that we get the children’s hearings system right for children and young people. The curriculum for excellence has been welcomed widely by members across Parliament—including members of Neil Findlay’s party. However, there are particular points of difference, so I invite him to make those points later, either in writing or in the chamber.

Neil Findlay: The point that I am making—I think that people are aware of it—is that a different approach has been taken to that which has been taken on other major changes in the department. It is about consistency.

The Convener: You have made your view clear, as has the minister.

Neil Bibby (West Scotland) (Lab): I say at the start that if more time is needed to get the reforms right, more time must be taken.

Has the delay been in any way necessitated by the prolonged and—as some people have described it—“frivolous” suspension of the national convener of Children’s Hearings Scotland, Bernadette Monaghan, and the reluctance of the Scottish Government to take action to speed up resolution of that issue?

Aileen Campbell: A number of factors contributed to our delaying the go-live date. Those factors largely concerned the area support teams, the section 104 order, and the sheriff court rules.

The issue that Neil Bibby has described regarding the national convener was a personal employment matter that was handled by the Children’s Hearings Scotland board. Because it was handled by the board and was a sensitive employment issue, there was no locus for the Government to comment publicly on it. I understand that there were frustrations and concerns about the suspension, but it was a matter for the board to deal with, which it did in a wholly appropriate way. It sought personnel advice and dealt with the matter in the best way it could.

I met the board and Bernadette Monaghan after she was reinstated as national convener. They made it clear that they are determined to make sure that we get the reforms right. The board contacted me to express concerns about the proposed go-live date in September. It is working hard to ensure that the reforms are fully implemented and will work in the best interests of children and young people.

Neil Bibby: Are you satisfied with the current situation in Children’s Hearings Scotland? In particular, are you satisfied with the roles of the national convener and national chairman of Children’s Hearings Scotland in the debacle over the suspension of the national convener?

Aileen Campbell: The board took the decision to suspend the national convener, worked through the process, and sought the advice of personnel experts. As I said, I met the board and Bernadette Monaghan after she was reinstated and they made it clear to me that they wanted to move forward, and to ensure that the reforms are put in place, and that the work they need to do is carried out.

The Government seconded Kit Wyeth to Children’s Hearings Scotland in order to make sure that momentum was not lost. The suspension of the national convener posed some questions, in that there are things that must be signed off and which can be signed off only by the national convener, as is laid out in legislation. Momentum was maintained by the secondment of Kit Wyeth. Again, I say that the board and Bernadette Monaghan want to move forward to make sure that they get the reforms right.

10:15

Neil Bibby: You said that momentum has not been lost by the Scottish Government stepping in during that period. If not, why has the timetable slipped?

Aileen Campbell: I said in the letter that there are technical issues—which I spoke about with Liz Smith—around the area support teams, the section 104 order and the sheriff court rules that are contributing to the delay. The issue about the

national convener that you have talked about was not a critical factor in the delay in implementation. As I said, local authorities have worked through their differences and have resolved to ensure that the reforms are taken forward in a way that is wholly appropriate, given that they are dealing with very vulnerable children and young people. They have been determined to work together to ensure that we can get to the new go-live date next year.

Neil Bibby: Were ministers overoptimistic about the viability of the original timetable? Was the process rushed and unrealistic?

Aileen Campbell: There would have been discussion with stakeholders and the players in the system; everyone was comfortable with that date at the time. However, there have been technical issues around the area support teams, the section 104 order and the sheriff court rules that have meant that we have needed to delay the go-live date. I imagine that that causes you some frustration, given the committee's timetable, but as Neil Bibby has said, we must ensure that the reforms are right and not rushed.

Clare Adamson (Central Scotland) (SNP): I welcome the approach that the Government is taking to ensure that we reach the correct conclusion. The delay is to be welcomed, as was the delay in implementation of the curriculum for excellence, which was an eight-year project. I realise that the timescale for this is much shorter, so I welcome the caution that is being exercised. Is the Government in a position to offer additional support between now and the implementation date to ensure that the new councils and the national convener have the support that they need to get the local area support teams in place as quickly as possible?

Aileen Campbell: Yes. We take full cognisance of the fact that there will be a change in the political landscape following last week's elections. During the suspension of the national convener, Kit Wyeth has been working hard with local authorities to ensure that they are fully aware of their role in ensuring that the reforms work as well as possible. He might like to say a little more about the work that he has been doing with local authorities.

Kit Wyeth (Children's Hearings Scotland): I have been very lucky to have had working with me David Hume, who used to be the chief executive of Scottish Borders Council and is very familiar with the local authority landscape. We have spoken to all 32 local authorities and continue to discuss the area support team proposals with them. The discussions have, so far, been very positive. As the minister has said, all the local authorities are keen to continue to play a role in supporting the children's hearings system, so we

hope to get area support teams agreed as soon as possible.

Liz Smith: When we took our initial evidence on the children's hearings process, concern was expressed—of which the minister will be aware—about the area support teams in terms of both their basic philosophy and how they would fit together. Can you be a bit more specific about the problems with the area support teams? You said that there has been an administrative issue. Is it just taking a bit longer to get all the stakeholders together?

Kit Wyeth: You have hit the nail on the head. It is taking longer than we originally envisaged to get the area support team structure agreed. Each local authority has its own perspective and we have had to work with them to ensure that what they are being asked to provide to support the area support teams is manageable and affordable. We are getting to that point now, but those negotiations and discussions have necessarily taken some time. It should also be recognised that colleagues in local authorities who lead on the discussions have all been involved in the elections as well, so their time has been split between a number of priorities.

Liz Smith: You mentioned finance. Is there substantial concern in local authorities about whether enough finance is available to resource the area support teams?

Kit Wyeth: There is no such substantial concern. The vast majority of councils are now comfortable with the level of support that we are asking them to provide and feel that they can afford it. It is now a case of ironing out the details. We are putting in place partnership agreements between CHS and the local authorities that set out what the two parties will bring to support the children's panels. We must work out the details of the partnership agreements to ensure that they are acceptable to both sides and that they will provide the support that panels need.

The Convener: Liz Smith just asked for detail on the first problem that you identified, which was to do with the area support teams. You also mentioned two other problems, on which I will ask the same question as Liz Smith asked. Will you provide more detail on the problem with the section 104 order? You said that it is technical and that it has been a large piece of work. Similarly, what is the problem with the sheriff court rules reforms?

Aileen Campbell: As I said to Liz Smith, the section 104 order is the biggest one since devolution. Given that the UK Government is making legislative changes in areas such as welfare reform, we will need to be fully aware of those as we seek to make go-live achievable in the year that remains.

In addition, we need to rely on other Administrations ensuring that they are fairly comfortable with what is proposed. It is a case of ensuring that everyone is comfortable with the process of the section 104 order. We need to ensure that the section 104 order that we present to the Houses of Parliament is complete and that there is agreement on it.

The Convener: You mentioned other legislatures. You are referring not just to the UK Parliament, but to the National Assembly for Wales and the Northern Ireland Assembly. Is there a difficulty there?

Aileen Campbell: I would not necessarily say that there is a difficulty, other than that it is a large section 104 order, with which we need to ensure that everyone is comfortable. It is less a case of there being a difficulty with it and more a case of our needing to ensure that the i's are dotted and the t's are crossed, and that all are fully comfortable that their part of the parcel is complete.

The Convener: Are we saying just that it is a complex piece of work that is taking longer than was originally anticipated?

Aileen Campbell: The work is complex, and the fact that there is now an extra year before the go-live date means that we need to ensure that we keep tabs on other legislative changes to ensure that, when the go-live date comes around next year, all the relevant factors are part of the complete section 104 order.

The Convener: What is the problem with the changes in the court rules?

Aileen Campbell: That, too, is a complicated issue. We should pay tribute to the large amount of work that people have put in to getting as far as they have done with the sheriff court rules reforms, but a lot of complicated and detailed work remains to be done. There is a time factor involved with the sheriff court rules.

The Convener: Okay. Do members have any other questions?

Neil Findlay: You said that it is "a complicated issue": will you describe some of the complications? It is not good enough just to say, "It's complicated and it's not for your simple minds to work it out." I am not saying that that is what you said, but—

The Convener: The minister did not say that.

Neil Findlay: I know. I appreciate that things may be complex and that there may be legal implications, but could you give us an example?

Aileen Campbell: You will know that the system deals with very vulnerable children, so a lot of the decisions that need to be taken are time-

critical. That means that detailed rules and procedures need to be put in place for the interaction between social workers, panel members and the courts in order to ensure that that happens. That cannot be a rushed job; the detail needs to be worked out properly and people need to be confident about it so that, when go-live takes place, there are rules and structures to ensure that such interaction takes place seamlessly.

Jean Urquhart (Highlands and Islands) (SNP): My question is not about the speed of the process. What will our local area support team look like? Will it be made up mostly of council officials or officers?

Kit Wyeth: The area support teams will be populated largely by volunteers. The present system's children's panel advisory committee is a mixture of volunteers and local authority appointees, who oversee and run the children's hearing system at local level. To a large extent, the area support teams will mirror that function—they will be made up largely of volunteers, but they will also include local authority appointees and will be supported by a local authority clerk, who will provide secretarial and administrative support. The main work of overseeing the work of the panel will be done by volunteers.

The Convener: Thank you very much for your attendance, minister. I am sure that the committee appreciates you coming to discuss the matter at short notice.

10:24

Meeting suspended.

Petition

10:25

On resuming—

Finance (No 4) Bill 2012

The Convener: Our next item of business is consideration of a legislative consent memorandum on the Finance (No 4) Bill 2012. Members have a paper from the clerk that sets out the background to the LCM process and explains that the committee is to report its views on the LCM to Parliament.

For members' information, Liam McArthur, who is not here, asked me to point out that he is content with the LCM. There are no other comments, so are members content with the terms of the LCM and happy for the committee to report accordingly?

Members *indicated agreement.*

Kinship Carers (PE1420)

10:26

The Convener: Our third item of business is consideration of petition PE1420, by Teresa McNally, on behalf of Clacks kinship carers, which calls on the Scottish Parliament to recognise the real value of kinship carers and give them parity across Scotland with foster carers. Members have a paper from the clerk, which points out that the committee has already considered many of the issues that are raised in the petition, and that we are scheduled to take further oral evidence on kinship carers from the Convention of Scottish Local Authorities and the Scottish Government in September.

The Public Petitions Committee specifically asked us to consider inviting the petitioner to provide evidence at that meeting. However, an alternative approach would be to ensure that we reflect the evidence that the petitioner has already submitted in our questioning of COSLA and the Scottish Government. Again for information, I inform members that Liam McArthur e-mailed me to say that he feels that we should not invite the petitioner to give evidence on kinship carers with the minister and COSLA, but should instead ask her for further points that she would want us to raise in that session.

Do members have any comments? Is the committee happy with Liam McArthur's suggestion?

Jean Urquhart: That sounds practical.

Liz Smith: I am happy with that.

The Convener: We will leave the petition open and ask Ms McNally to submit any further questions, points or evidence that she wishes to provide in advance of our meeting with COSLA and the Scottish Government. That meeting is scheduled for September, so she will have plenty of time to submit evidence.

Marco Biagi (Edinburgh Central) (SNP): Are we still to understand that the forthcoming children's services bill will cover kinship care? I believe that we previously put off a formal inquiry on that basis.

The Convener: It is still the understanding that we will look at the matter in that context. I have no further information on that at the moment.

Draft Annual Report

10:28

The Convener: Our final item of business today is consideration of our draft annual report for the parliamentary year 9 May 2011 to 8 May 2012. Do members have any comments on the draft report?

Clare Adamson: On the one-off evidence sessions, I wonder whether it would be useful to include a little more information on the evidence session—

The Convener: I am sorry. Which evidence session do you mean?

Clare Adamson: Paragraph 8 is very broad brush. It merely lists the meetings on, for example, broadcasting and early years. Should we include more information on those sessions, which were tightly focused?

The Convener: We could do that. I do not mind either way. If the committee is happy, I am happy to expand on them. The report is a factual report on the committee's activities and is neutral in tone, so there is no problem with that.

I have a question for the clerk. I should probably have asked it before the meeting started. The evidence that we took this morning on children's hearings is not mentioned in the draft report, but it covers the period up to 8 May, which is today. Should that be included?

Terry Shevlin (Clerk): The draft report does not include absolutely everything that the committee has done. It could mention today's evidence, if the committee wants to include that.

10:30

The Convener: The report refers to a number of petitions, so we should include the petition that we have just discussed.

Terry Shevlin: Okay.

The Convener: Those are my only comments. Once those changes have been made, we will ensure that the report is circulated electronically to members for final sign-off. As I have said, it is just a straightforward annual report.

Neil Findlay: I—and, I believe, Liam McArthur—have been contacted by a number of constituents about the glow schools information technology network, the contract for which is due to end in September. I know that the procurement process for a new system is under way, but genuine concerns have been expressed about the system's ability to be live and active by September, about the fall-back position and so on, so I wonder whether we could get someone in to

give us a basic update on where we are with glow and on whether the new system will go live in time.

The Convener: Despite his not being here, Liam McArthur seems to be featuring rather a lot at this morning's meeting. I should say that Liam and I have had a conversation about this issue and, as I said to him, although I have no problem with trying to find out what is going on with glow and although I understand the concerns that he, Neil Findlay and perhaps other committee members share—I see Liz Smith indicating that she, too, shares them—my concern is that, as we are in the middle of a procurement process, anyone from whom we heard evidence would simply answer, "We're in the middle of a procurement process" to our questions. I am not entirely sure that that would be advantageous.

I suggest that, instead, we first write to the Government for an update and then decide whether we should hear someone at a meeting. In saying that, I am not trying to delay consideration of the matter; I am saying just that if we are happy with the response we can leave it at that.

Neil Findlay: It might be better to get a written response first instead of getting someone along to tell us something that could be set out in a letter.

The Convener: That is what I am concerned about.

Neil Findlay: I am okay with that suggestion, convener.

The Convener: Are members generally content with that?

Members indicated agreement.

The Convener: In that case, I thank members and close the meeting.

Meeting closed at 10:31.

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