



The Scottish Parliament
Pàrlamaid na h-Alba

EDUCATION AND CULTURE COMMITTEE

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Dear Angela,

The Committee recently agreed its approach to scrutinising the Education (Scotland) Bill at Stage one. As part of its approach, it agreed that I should invite your response to some factual questions on the Bill. Your response to these questions will help to inform the evidence session we will hold with Scottish Government officials on 28 April.

In relation to the provisions on attainment—

- Under section 4, education authorities are to report individually to Scottish Ministers, and Scottish Ministers are to report to the Scottish Parliament. Will the Scottish Ministers' report include an analysis that will allow readers to understand the progress being made across Scotland by local authorities?
- Please confirm whether any analysis is available of the success of the Standards in Scotland's Schools etc. Act 2000 in improving attainment over the period.

In relation to the provisions on Gaelic—

- Part 2 creates a process whereby parents can request that an education authority assess the need for Gaelic medium primary education (GMPE). How do education authorities currently assess likely demand, as this could provide us with an indication of the Bill's possible impact?
- Are education authorities currently able to carry out pro-actively an assessment of need, or is legislation required to permit such activity?
- Applicants at 5(2) are required to provide evidence of demand for GMPE, how is it envisaged they will be able to ascertain that information? Similar information re 5(3) would also be helpful.

- In relation to section 7(3), will education authorities be able to take into account any information received, or only that which is provided under section 5?
- Education authorities are to designate an area in which the need for GMPE is to be assessed. Could the entire area of the education authority be so designated, or is it designed to be on a school by school or area by area basis?
- In relation to section 7(6)(a), is the number of parents expected to be five regardless of the size of the local authority and the number of parents therein?
- In what circumstances could an authority find there is no “need” for GMPE and the conditions in 7(6) are not met given the requirements set out in section 7(3)(b)?
- In relation to section 7(6)(b), will any guidance be provided to help local authorities determine what would be “reasonable”?
- In what circumstances would a local authority take the action set out in section 8(2)(b) or (c), given it will already have determined (under section 7(5)(b)) that there is no potential need for GMPE?
- Section 8(3) requires notification to be made to all parents of children mentioned in an application under sections 5(2) & (3). What other involvement will those parents have in the assessment process, for example will they receive notification and be asked for supplementary information? Is it also intended that section 8(4) will override any data protection restrictions?
- Given the young ages of the children what period does the Scottish Government consider to be Reasonable under 8(6)?
- Will the applicants have any rights to be involved in the full assessment process before a final decision is made?
- Under section 10(2)(d) local authorities are to seek the views of certain bodies on certain information. Could these bodies also provide their views on whether the education authority should provide GMPE?
- [is there a typo in 10(7)(b)?]
- Will any guidance be provided to local authorities on the weight they should attach to the various factors they must consider under section 10(7)?
- Will there be an appeals process when a local authority determines that it need not provide GMPE?
- Within what time-limit is it anticipated an authority must commence the full assessment, noting the requirement under 11(5) to conclude within 10 weeks of commencement?
- In relation to section 13, education authorities that already provide GME or GLE must ‘promote and support’ that provision. How can an education authority provide GME or GLE but not support it?
- Is it the case that some local authorities could be considered to have promoted GME (by publicising the new assessment procedure) but not actually provide any GME?
- Please clarify:
 - the meaning of the term ‘Gaelic units’, as used in the Financial Memorandum;

- what the figures in paragraph 29 of the Policy Memorandum, provided in the context of the discussion of the “decline” of the Gaelic language, refer to.

In relation to the provisions on section 70 complaints—

- Paragraph 74 of the Policy Memorandum sets out possible new deadlines for investigating and deciding on complaints. What data are available on the time currently taken for dealing with complaints?
- Are there any types of complaint that currently or in the future take a particularly long time to resolve?
- Other than simply reducing the time to deal with a complaint, what other measures will be taken to improve the process?

In relation to the provisions on kinship care—

- The Scottish Government doesn't have any information on the numbers of children affected by the unintentional exclusion from early learning and childcare provisions. However, do you know the total number who could possibly have been affected i.e. who have or have had a guardian appointed under the 1995 Act?

In relation to the provisions on ASL—

- Paragraph 48 of the policy memorandum states that “a child can bring a disability discrimination claim to the ASNTS” (but not appeal). Is that the case for all disabled children over 12?
- According to paragraph 49 of the policy memorandum, the majority of rights are to be extended to children aged 12 and over who have capacity and who may have additional support needs. However, parents' rights will remain. How will both parents and children having rights work in practice?

In relation to the provisions on school meals—

- What evidence is there of “confusion or misinterpretation” on the part of those using existing legislation?

Given the tight timescale for stage 1 and the early attendance of officials before the Committee a response by 23 April would be helpful.

Yours sincerely,

STEWART MAXWELL MSP
CONVENER