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Equalities and Human Rights Committee

Thursday 22 June 2017

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EQUALITIES AND HUMAN RIGHTS COMMITTEE
17th Meeting 2017, Session 5

CONVENER

*Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)

DEPUTY CONVENER

*Alex Cole-Hamilton (Edinburgh Western) (LD)

COMMITTEE MEMBERS

*Jeremy Balfour (Lothian) (Con)

*Mary Fee (West Scotland) (Lab)

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

*David Torrance (Kirkcaldy) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Swinney (Deputy First Minister and Cabinet Secretary for Education and Skills)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Equalities and Human Rights Committee

Thursday 22 June 2017

[The Convener opened the meeting at 09:32]

Bullying and Harassment of Children and Young People in Schools

The Convener (Christina McKelvie): Good morning, and welcome to the 17th meeting in 2017 of the Equalities and Human Rights Committee. I make the usual request for mobile phones to be switched off or set to airplane mode. We have received no apologies. Linda Fabiani will join us in the course of the meeting.

Our first agenda item is our final oral evidence session in our inquiry into the bullying and harassment of children and young people in schools. The purpose of the session is to hear from the Deputy First Minister and Cabinet Secretary for Education and Skills, John Swinney.

We have heard much evidence over the past months on the topic, and we are really keen to hear from the cabinet secretary, whom I welcome to the meeting. I also welcome Fiona Page, the head of the support and wellbeing unit in the Scottish Government's learning directorate, and I welcome back Maggie Fallon, who is a senior education officer with Education Scotland. We are grateful to you for giving us your time.

We have many searching questions on this sensitive topic, and we are keen to hear from you all this morning, especially you, Deputy First Minister. I believe that you have a brief opening statement.

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): Yes, convener. I will make a brief opening statement if I may.

I welcome the opportunity to confirm to the committee the Government's approach to this important issue. I make it absolutely clear that the Government considers bullying of any kind to be completely unacceptable. Wherever it occurs, we have a responsibility to take action to deal with it quickly and effectively. The Government believes that there is no place in Scotland for prejudice or discrimination and that everyone deserves to be treated fairly. We must tackle prejudice and discrimination and promote equality and diversity, and that work must begin early in our school

system. We have made absolutely clear the Government's commitment to improving children's health and wellbeing and their learning opportunities. We want all children and young people to learn the importance of tolerance, respect and good citizenship, to stamp out prejudice in our society and to build the foundations of strong, healthier relationships that are founded on inclusion and equality.

The starting point for developing that is in our schools and early learning settings, which is why anti-bullying policy should be at the heart of the whole-school approach, driven by strong leadership, to create a positive and inclusive learning environment that promotes learning and welcomes and values diversity.

It is vital that all anti-bullying approaches promote effective action wherever bullying occurs, as we must recognise the harm and damage that it causes. That is why this Government is refreshing the national approach to anti-bullying, to highlight the impact of prejudice-based bullying and to identify how all organisations, including schools and youth organisations, can respond appropriately, which is what underpins and informs all our work through the national anti-bullying service, respect me.

I am aware that as part of its inquiry into bullying the committee has taken evidence from a wide range of people and organisations, and I look forward to receiving your conclusions on that work. As you will be aware, I have held back the finalisation and publication of our review of the national approach to anti-bullying until I see the committee's work, on which I will reflect very closely and carefully when it is published.

Evidence tells us that investing time and resources in improving relationships and behaviour in schools leads to improved health and wellbeing; better attainment, inclusion and engagement; and stronger communities and cohesion in the longer term. The committee will be aware that I recently established the lesbian, gay, bisexual, transgender and intersex inclusive education working group, to work with the time for inclusive education campaign to develop an improved approach to inclusion in our schools. Its first meeting took place on 9 May and I look forward to receiving the group's recommendations in due course.

As part of the mental health strategy, the Government has committed to a review of personal and social education, which will consider the role of pastoral guidance in local authority schools and counselling services for children and young people in our schools. The review is currently developing its scope and I am keen for its work to be progressed.

I look forward to working with the committee to identify what more we can do to stop bullying and improve inclusiveness in our schools in Scotland.

The Convener: Thank you. In November, we had a round-table evidence session with young people, who raised concerns about anti-bullying strategies and how they work and talked about their input into such strategies. We were very grateful when you delayed the publication of the strategy to allow the committee to undertake some in-depth work on the issue. We have done that both on and off the record, because for some young people the issues were so sensitive and painful that the work had to be done off the record. We have the permission of some of those young people to refer to their evidence, which is very helpful.

The key element for young people seems to be the impact on them as individuals and on their family and community. One aspect that we will look at in our report is the impact on young people's health and wellbeing, which is, as you know, a key pillar of curriculum for excellence. A young woman told us that she wanted education on not just healthy relationships but healthy friendships, which I know is a key element of the work on the strategy and the work that respect me is doing. Therefore, we would push for an all-Government approach to bullying. It is not just an education issue; it is a public health issue as well, because the impact on young people as they move into adult life seems to be profound.

I suppose that we agree with you, our evidence agrees with you and all the young people to whom we have spoken agree with you that the earlier the intervention, the better. How do we implement that at the earliest stage, even maybe at pre-school and primary school, to ensure that young people have a clear understanding of what bullying is, its impact and where they can go for help? Are teachers equipped to give that help? It is also very important to ensure that young people understand consent, as that was another key element of why people felt bullied.

I have just chucked all of that at you. I hope that you have some answers. Each committee member will go into other details individually.

John Swinney: The fundamental point, which I accept, is that the earlier that intervention takes place, the better. That intervention should not only be reactive and take place when a problem arises; it should be proactive. That is the fundamental ethos that is enshrined in curriculum for excellence and that underpins our approach to the development of education in its broadest sense in our early learning and schools settings.

Curriculum for excellence is founded on and enshrines the values that we want young people to

reflect, which, as I set out in my opening statement, are about tolerance, respect and respecting difference. I come back to my point about the necessity to look at this not just as a reactive measure but as something that we encourage in young people from the earliest possible age. We must encourage young people to behave with respect towards others and, as a consequence, to develop the type of healthy relationships and friendships that will militate against the emergence of bullying.

However, I also live in the real world, and I realise that there will be incidents that will cause individuals great distress. Convener, you highlighted a point that emerged from the evidence from young people and which I think is striking and, indeed, inescapable: bullying has an impact on individual young people. That is what matters, and that is what has to be rectified. We can take all the steps that I have set out with regard to early intervention, prevention and the creation of good practice and good relationships, but where bullying actually happens, we must ensure that young people are alert to the support that is available and know, first, that bullying is wrong and, with that realisation, that they are able to go to someone for help. Again, that comes back to early intervention: young people need to know that it is a bad thing and that they are entitled to get help to address it. That help must be available, invariably, in the early learning or school setting in which the young person operates.

Crucially, we must ensure that those who are likely to be delivering that support to young people are well equipped in that respect. That is where the importance of taking the correct approach in initial teacher education comes in, because we must equip professionals with the capacity to provide the support that young people require.

The Convener: In your opening comments, you mentioned the mental health strategy, which has just been published and contains very welcome elements that target young people on their journey through school. How will the new anti-bullying strategy link up and work together with the mental health strategy? I come back to my point about having, in essence, almost an all-Government approach. How will the two strategies work together to resolve the situation?

John Swinney: A number of elements come together here: the mental health strategy, the anti-bullying strategy, our relationships approach and the approach to personal and social education. The Government must ensure—and I assure the committee that this is uppermost in the minds of ministers as we work across Government on this matter—that the same common themes and attitudes percolate through the different elements. That is an important aspect of ensuring

consistency between the different approaches, which are fundamentally anchored in the foundations of Government policy for young people—in other words, getting it right for every child. That links back to your earlier remark about the impact of bullying being felt by individual young people; with getting it right for every child, we have to focus on addressing issues as they affect every young person and ensure that we have that focus in all of our policy interventions in this respect.

The Convener: Thank you very much.

Mary Fee (West Scotland) (Lab): Good morning, cabinet secretary. In almost every evidence-taking session that we have had on this issue, there has been a focus on the guidance that is available in schools. I have something of a bee in my bonnet about guidance; it is required, necessary and good, but it can sit on a shelf, get taken down once every six months or year and be dusted off, read and then put back on the shelf again, and I do not want that. I understand that changes have been or will be made to the guidance and that it will be regularly refreshed. However, in your answer to the convener, you made a point about the ethos of the curriculum for excellence, and it is my belief that there should be an ethos in schools that is supportive and understanding, tackles bullying and understands how children feel.

Last week, we heard evidence from a school in Kirkcaldy that has developed that very ethos. Its management works with the pupils, there are pupil councils and a pupils' mentor, and pupils support each other. I am conscious that, like the convener, I am flinging a lot at you in my question, but how do you ensure that the guidance in schools is a living document, and how do you support schools to develop the ethos that we heard about last week?

09:45

John Swinney: The answer to that is deeply enshrined in the approach of curriculum for excellence and in the aspiration to have inclusive schools. I have visited Kirkcaldy high school and am familiar with the approach that it takes. From my conversations with the rector and with senior pupils, I understand how that ethos is brought to life within the school—I would say that it can only be brought to life within individual schools.

I will give you an example from the other end of the country. I recently visited Elgin academy, which has developed a model in which the school library is, essentially, a place of inclusion, safety and welcome for anybody who perhaps feels not safe and not included. It is presided over by a very welcoming and supportive librarian, who has led

the process of engaging senior pupils in the school to provide mentoring and nurturing support to more vulnerable younger pupils, so that their journey through the school is a happier one than it would have been without that intervention.

The challenge on this issue is no different from any of the challenges that I face, in that we have 2,500 schools around the country and, fundamentally, this is about getting those values and that practice enshrined within those schools. My observation is that, if we went to any school in the country and asked the headteacher whether they are trying to run an inclusive school, the answer would be yes; but there will be varying degrees of success in that regard. One of the key points—this is at the heart of some of the reforms that I am proposing around education—is to ensure that some of the outstanding practice, such as the practice in Kirkcaldy high school that the committee has heard about, can be more widely understood within the system, so that other schools can aspire to deliver that.

I totally accept the point that Mary Fee makes about not wanting guidance just to sit on a shelf—there is no point in that. Guidance has to be brought to life to ensure that young people experience the type of education system that the guidance aspires to deliver.

I recognise the importance of ensuring that young people are included and feel safe and involved in their school. As the convener said, it is important that every young person feels like that—nobody should not feel like that. However, it is also critically important from the point of view of attainment, because young people are unlikely to attain their full potential if they are not happy, safe and included in their schools.

I have no reason to counter the sentiment that was expressed in the question, but our challenge is to ensure that that is replicated in operational practice in schools around the country.

Mary Fee: I know from speaking to teachers that, in every school, there are teachers who are keen and enthusiastic and who want to work in a more inclusive manner and work with pupils, but there are other teachers who are very traditional and do not want to move away from a rigid set of guidelines.

One of the other things that we heard about when we took evidence was the amount of training that is given to teachers when they are doing their teacher training on the signs that they should look out for to help them to recognise bullying and on how they can tackle it. Is it now time to change the way in which we teach new teachers about how to recognise bullying and strategies for handling it?

John Swinney: Yes. It is important that initial teacher education reflects the values and

aspirations that were set out in your question. As I am sure Mary Fee will recognise, Scottish education has changed significantly. Across the education system, I frequently see the type of inclusive, nurturing environment that I am outlining. Some very good work has been done to ensure that support is available in schools to overcome the challenges that young people face and so help them to feel more included in individual schools.

There is a necessity to ensure that initial teacher education equips teachers with those capacities, but it is also important to recognise the change and the need for further change in our school system to ensure that those values are reflected in the experience of young people.

The Convener: One of the aspects of teacher training that the committee is looking at is the continuing professional development of already-trained teachers. I come from a professional social work background and there was a certain amount of CPD that was compulsory. Would you go to those lengths to ensure that teachers get CPD sessions and turn up to attend them? We have heard evidence that training is available, but that some teachers do not take it. That has been evident where we have seen poor practice. There is a clear connection between continuous professional development and its uptake, so would the Government go so far as to make CPD compulsory?

John Swinney: In the proposals on education governance that I set out to Parliament last Thursday there is a heavy emphasis on CPD and the enhancement of learning and teaching in the education system. That is the purpose behind the regional collaboratives that I have proposed. I want to ensure that the quality interventions to enhance learning and teaching, and to enhance the quality of our schools, are available systemically in Scottish education. I am sympathetic to the approach that you suggest, convener.

As the committee will be aware, in the guidance that was issued to the education system in August 2016 by the chief inspector of education, of the eight curriculum areas in curriculum for excellence we identified literacy, numeracy and health and wellbeing as the most important—if I can put it like that. The purpose of that was to make clear the importance of focusing on enhancing health and wellbeing—along with literacy and numeracy—to ensure that young people have the strongest and most secure foundations possible to meet their aspirations.

Annie Wells (Glasgow) (Con): When we take into consideration bullying based on prejudice related to things such as race and religion, how will the national strategy be localised where that is

needed, for example in places such as Glasgow, which has 50 per cent of Scotland's Muslim population?

John Swinney: I return to the reforms that I set out last Thursday and the similar point that I made to Mary Fee, which is that fundamentally the proposals are about what goes on in individual schools. The profile of a school in the centre of Glasgow will be very different from the profile of a school in Ms Ross's constituency. We must ensure that the approach is tailored to meet the needs of young people in different circumstances. However, regardless of whether bullying is due to relationship issues in a school in rural Scotland, or due to racial prejudice in a school in central Glasgow, it is totally unacceptable.

The anti-bullying strategy will establish the principles and values and set out that, whatever shape or form bullying takes and wherever it happens, it is not on. Therefore, we have to ensure that schools tailor their individual responses to meet the requirements in different localities. That is why I want headteachers to be able to lead that process in their schools as effectively as possible.

Annie Wells: Last week, the headteacher of Kirkcaldy high school told us that he had replaced three quarters of the teaching staff, which had helped to create an inclusive school. He had to do that to get it right. How do we ensure that we have the right teachers in the right jobs so that we have inclusive schools and we can take steps forward?

John Swinney: We need to have good leadership that makes it clear that the creation of inclusive schools matters. Certainly, that leadership exists in Government and I know that it exists in local authorities, but we have to ensure that it exists throughout our school system. Some of the issues that we have talked about in initial teacher education are significant in helping to get the new teaching population off on the right footing.

The issues that the convener raised with me about continuing professional development are also important to help us to ensure that, to go back to Mary Fee's point, the guidance is not something abstract that is in a filing cabinet but part of the living and breathing values of a school, and that teachers identify how they can contribute towards that environment as a consequence of the delivery of their professional practice.

Gail Ross (Caithness, Sutherland and Ross) (SNP): Good morning, panel, and thank you for your time.

Cabinet secretary, you talked about the updated guidance for personal and social education in schools, which is absolutely welcome and important. I want to go back to Annie Wells's point

about faith-based bullying. We know that a lot of bullying and prejudice in society as a whole come from fear, because people are perceived as different and there is a lack of understanding of their beliefs and culture. What are we doing to ensure that different religions are not just supported but taught about so that pupils understand those different beliefs?

John Swinney: Religious and moral education is a taught subject in the curriculum, so there is a recognition of the necessity of educating young people about the breadth of religious practice and involvement to give an understanding of those different characteristics. That is one element of the approach that we have to take to ensure that young people are equipped with that knowledge. They must also be able to set that knowledge in the context of their wider educational experience, which has to be in an inclusive environment where we are respectful of difference and diversity in the education system. It is very important that that understanding is set within the context of how we behave towards each other, which should be in a fashion that is respectful, rather than intolerant, of difference.

Gail Ross: Prejudice among kids is displayed not just in a school setting. I realise that we are talking about education, but is there anything that schools can do to work with the wider community to promote inclusiveness?

John Swinney: Yes, a lot can be done on that. All the learning and evidence tells us that much can be achieved in our schools but not everything can. Therefore, the relationships between schools and communities are important, and how those relationships are struck and structured is critical. The ethos that we try to encourage in our schools is for them to be involved in the communities of which they are a part.

10:00

In my constituency—I have seen this for myself—school pupils are actively involved in the delivery of services and activities in care homes for the elderly. Those young people are experiencing what it is like to work with and support vulnerable elderly people in care homes. From what I saw, they are providing a great deal of joy to elderly members of our society. That is just one example of how schools can make a profound contribution to our communities. Such experience can also be of profound benefit to the young people themselves.

That work is part of the process of reinforcing the ethos of a respectful and inclusive society in which people are respectful not just to elderly members of the community, but to a variety of groups in our society. There are many ways in

which our schools can reach out beyond their boundaries to be actively involved in communities and to create the right ethos that supports that.

Gail Ross: I have a very rural constituency, which does not have the rich mixture of faiths that constituencies in the central belt, such as Annie Wells's, and elsewhere have. A few days ago, I spoke to a representative of Interfaith Scotland, who told me that it can be quite challenging for teachers in rural schools. How can someone gain an understanding of another faith just by sitting in a classroom if they have never met a person of that faith? How can we make that learning experience more interactive?

John Swinney: I will make two points in response to that question. First, Scotland is changing as a country before our eyes. When I look at the population mix in my son's class—his primary school is in Blairgowrie in rural Scotland—I see that a significant proportion of the children are from families who have come to Scotland very recently; many of them are from eastern Europe. Those families are now very much part of our community. The class has a very diverse population base, even though it is in rural Scotland. That illustrates why the approach that we take must reach all parts of the country. There will be different types of diversity in different parts of Scotland; the character of that diversity will vary.

Secondly, we must ensure that young people have the knowledge and experience of different religious practice to equip them to handle diversity as effectively as possible. Religious and moral education is an important part of schooling, but it is also important that schools ensure that young people gain a sufficient breadth of experience and appreciation of diversity to enable them to understand the differences that exist between different denominations and different religious traditions. That way, they will be able to live out the values of respect that we all want to be lived out in our schools.

Gail Ross: I have one more question. It will probably be quite a difficult one to answer, but I feel that I would be letting down the young person concerned if I did not ask it.

On Tuesday, we took some quite harrowing evidence from a young disabled woman who was in a wheelchair. She told us about several extremely distressing episodes in her school, which were perpetrated not by the pupils but, unfortunately, by the teachers. To put it nicely, the teachers were either unsympathetic towards her or dismissive of her problems and issues. To put it bluntly, the teachers added to her distress by making her feel worthless and making her feel that she deserved to be treated in the way that she was. She took the matter to the local authority

and, unfortunately, what she said was dismissed at that level, too.

We talk about how we punish children for treating other children in that way at school. How do we deal with teachers who act in such a way?

John Swinney: I have not been sighted on the case that has been raised, but I return to the fundamental point that I made in my opening remarks, in response to the convener: there is no circumstance in which bullying is acceptable, and there is no circumstance in which bullying that is perpetrated by one individual is any less significant or less concerning than that which is perpetrated by any other. Bullying is not acceptable; whether we are talking about the way in which bullying has been perpetrated, or the way in which it has not been properly investigated or held to account, it is completely at odds with the aspirations of our approach.

If there are specific details, I am very happy to pursue them to identify and satisfy myself that everything that needs to be done about those concerns is being properly addressed. I am happy to do that, if the committee wishes to bring that case to me.

We have to make sure that implicit in the professional standards that we expect from teachers is that they should properly and fully respect and implement the guidance that we set out. Those issues of professional practice can be addressed as part of the approach that we take. At the heart of the issue is children's rights. It is critical in our society that the rights of children are respected; one of the most important rights is children's ability to express their concerns and to have them addressed. As a society, we must be prepared to do exactly that, without fear or favour.

Jeremy Balfour (Lothian) (Con): Good morning, cabinet secretary, and thank you for coming.

Before this committee inquiry, I had not appreciated—perhaps slightly naively—where we are in Scotland on this. We have learned that all five protected characteristics have some form of bullying in some of our schools. As the convener said, some of the stories that we have heard over the past few months have been quite harrowing.

I caveat my questions by saying that I was a local councillor and I appreciate that you have to deal with the Convention of Scottish Local Authorities; I will come on to that. I am totally convinced that you and your Government are completely committed to the anti-bullying strategy. How do we implement your fine and good words, which I take to be absolutely genuine, and get them down to the P2 or S4 classroom across Scotland? For me, there is a disjoint between what

comes from Government and local authorities and what happens on the ground in a school.

The lack of recording has surprised me. We have heard evidence that headteachers or teachers are scared to record incidents of bullying, because they do not want their school to be known for bullying, whether it is racial, sexual or whatever. How do we get round that issue? Can we add to school inspections that a robust account has to be given of whether the school has had bullying in the past five years? I appreciate that that is a big question.

John Swinney: The answer fundamentally lies in leadership, and it goes back to Mary Fee's point about guidance. It is all very well having guidance documents, but if they are not living, breathing parts of the system, they are not much use. It is all about leadership; I demonstrate the leadership that the Government takes on the issue, and I am certain that the 32 local authority leaders and directors of education will support that direction, because there is no way that any of them will take a different view from me about the unacceptability of bullying in our schools. I am certain that the success of our measures will depend significantly on how we deploy that leadership and ensure that it is felt in schools around Scotland.

Ultimately, all aspects of our school practice rely on the strength of the work that is undertaken in schools and the strength of the leadership there. By leadership, I mean not just headteachers but what happens in individual classrooms; after all, as Mr Balfour is right to point out, a classroom approach has to be taken here. The leadership in our system is crucial to the success of our approach to education—that is my principal answer to the question of how we ensure that this percolates through the system.

The issue of recording is very specific and material, and I am considering it. Obviously I will listen carefully to what the committee says; indeed, I did not go to publication of the strategy because I wanted to hear the committee's views on this question. Given that these issues transcend party-political considerations, I am interested in finding out what those views are. In fact, Mr Balfour's question highlights some of the dilemmas here. No school will want to acquire a reputation as one with a bullying problem; equally, though, a school will want to be able to take the necessary action to tackle the issue, and that is what matters.

As for inspections, I would expect bullying issues to be considered as part of an inspection. When inspectors go into school, they have open discussions with young people; indeed, inspectors put a very significant emphasis on the quality of those discussions and the need for privacy in that respect. I certainly know from my experience of

going into schools and talking to pupils and teachers that, if I have those discussions in a private space, they can tell me how it is, and inspectors will do exactly the same thing into the bargain. Those issues will be very much central to the approach to inspection by Her Majesty's Inspectorate of Education.

Jeremy Balfour: My second question, too, is a very big one, so I suppose that I will just throw it out there. One of the concerns that I and perhaps other committee members have is that, although good work is being done by the respect me service, the Scottish Government, the Convention of Scottish Local Authorities and Education Scotland, all of it needs to be linked so that we do not end up with lots of people doing a bit of work in their own wee area and we miss putting in place the kind of big, strategic role that then percolates down. I am not saying that we should get rid of any of the organisations—they all have a role to play—but I have a slight fear with regard to ensuring that the left hand is talking to the right hand.

John Swinney: I acknowledge the importance of having a focused approach to delivering this work in Scotland, but to be frank, that is no different from the approach that we need for a myriad other issues in our education system where we need cohesive action in order to deliver.

For those reasons, I have come to the conclusion that we need a much more focused approach in general to deliver improvement in education and to strengthen performance in our schools. That is why I have made the proposals on regional collaboratives that I set out last Thursday; the fact is that we need more cohesion in this work. Indeed, the reforms that I announced last week are important, because they will give us the mechanisms and approaches that will give us more confidence that the improvements in practice that we have talked about will be deployed across the board in our education system.

Jeremy Balfour: Thank you.

Alex Cole-Hamilton (Edinburgh Western) (LD): Good morning cabinet secretary, and good morning to the panel. It is good to see you all again. Thank you for coming to see us.

I would like to cover a couple of areas. There has been a bit of discussion today about the need to create an understanding in children of what healthy relationships look like, as a means of preventing bullying and fostering a culture of respect and resilience in schools. That struck me because, for two years, I served on the ministerial task force on child sexual exploitation and the same approach was adopted there. An understanding of what healthy relationships look

like is a means of stopping exploitative relationships, and bullying is a form of exploitation.

10:15

I was the youngest member of the task force; age presented a barrier in the sense that we had a belief about what is happening in schools that was often wide of the mark. The arena in which there is child sexual exploitation can also be where bullying can take place, particularly through abuse in online forums. What steps have you taken to enlist young people and to mine them for intelligence about where the newest fora are in which bullying might take place, or the means by which it might take place? We might remember how things were when we were at school, but that is very different to the theatres in which bullying might happen nowadays.

John Swinney: Things have certainly changed significantly since I was at school—there is a world of difference.

There is an important issue about engagement of young people in policy formulation. We are making a positive journey towards changing that in the Government. I will give an example. I was at the Education and Skills Committee a while ago to talk about senior phase qualifications, and I was talking at length about the assessment of qualifications group. Ross Greer asked me whether there were any young people on the group. I had a moment when I thought, "I know what answer is going to have to be given here and it's not going to sound very good." That answer was, "None", which is ridiculous. That was a moment when the blunt reality hit a Government minister: we were sitting there talking about qualifications, and although I did not know how old the youngest person in the room was, I would have been surprised if any one was younger than 30. I am amending that situation.

That was the bad example. The better examples are around engagement with organisations such as Young Scot. It is just one organisation, but it has good mechanisms and a relaxed and participative way of establishing what issues we need to confront with young people, and draw on their experience of, in shaping policy. During the governance review, I enlisted the help of Young Scot and Children in Scotland to undertake dialogue with young people. We are doing that increasingly in the Government.

The First Minister convened a meeting of the Cabinet with representatives of the Children's Parliament and the Scottish Youth Parliament. It was held around the Cabinet table. That might have been viewed as a rather daunting experience for the young people, but it was actually the other

way round; it was more daunting for the ministers who were involved.

We have to capture the sentiment that lies at the heart of Mr Cole-Hamilton's question. If we do not, we will not capture the reality of what young people are experiencing.

When I look at how my working life has changed in the past five years because of digital technology, and look at how young people's lives are being formed by digital technology, I see a need for us to better understand all those issues and to make sure that our approaches and guidance tackle them adequately. I assure the committee that we are now much more mindful of and active about how we enlist the input of young people.

Alex Cole-Hamilton: That is gratifying to hear. I thank the cabinet secretary for his answer. It speaks to the rights that children should enjoy under article 12 of the United Nations Convention on the Rights of the Child to have their voices heard in decisions that affect them.

It is a slippery fish—I am sure that Governments of all hues struggle with how best to engage young people in decisions that affect them. The criticism that was fairly levelled at the process for recruiting the new Children and Young People's Commissioner Scotland is something that we should reflect on: there was no panel session in which children could be part of the interview process. That said, the Government engages very well with children and young people in other areas.

Is there a better mechanism, policy or process that we could adopt at every level of government in Scotland, in Parliament or across directorates, that could nail that down? Is there something that we are not doing that would ensure that we do not have gaps such as the one in the process of recruiting the children's commissioner?

John Swinney: It would be wrong for me to transgress into that issue because the children's commissioner is a parliamentary appointment. The Government is not involved in that recruitment process.

For the Government's part, the examples that I cited in my earlier answer are an indication that we acknowledge that our existing practice in interacting and engaging with young people has not been good enough. A standard Government consultation in the glossy documents that we produce will not engage young people at all, but the interactive sessions that Young Scot and other organisations facilitate for us give us very rich evidence in the issues that we need to address. That practice is now becoming much more commonplace within Government, and our sharing of good professional practice within the civil service is designed to make sure that it is more

widely used as an habitual part of our approach. That work should not be the end of the journey; there will be other aspects that we need to consider in order to make sure that we get the approach right.

Alex Cole-Hamilton: I have one final point to make. At this point, I remind my colleagues of my entry in the register of interests on my having formerly been convener of the Scottish Alliance for Children's Rights. The cabinet secretary mentioned in a previous answer that children should have the right to raise their concerns and to have them addressed, whatever they may be. That, again, speaks to article 12, and several others, of the UNCRC.

The only mechanism that we have to recognise the UNCRC in Scots law is in part 1 of the Children and Young People (Scotland) Act 2014, which really only puts a duty on ministers to raise awareness of the UNCRC. There are elements of Scottish society that believe that that is not enough and that it denies children access to justice in respect of violations of their rights and when they encounter problems. Does the cabinet secretary see us changing that any time soon? It is three years since the 2014 act came into force. Is it enough, or do we need to consider enhancing it in forthcoming legislation on children and young people, perhaps by bringing it into line with legislation in Wales or other European countries, and perhaps even to the extent of full incorporation of the UNCRC?

John Swinney: I will make two points in response to that question. The first is that within the Government we have an on-going process of assessing our position in relation to the UNCRC. That is a very detailed and comprehensive exercise—we have to consider the issues that are raised by the UNCRC. I suppose that the answer to Mr Cole-Hamilton's question is that it is a work in progress. There will continue to be issues that we have to address, and we will advise Parliament about any changes that we intend to make to policy in that respect.

My second point is that there is the facility for a children's rights impact assessment on all new policies. That is a really important part of the process. Institutionally, it gives a role and structure to the type of dialogue with young people that I was talking about that might be facilitated by Young Scot, to ensure that we are looking at the issues that matter from the position and perspective of young people and reflecting that in our approach to the delivery of policy.

Alex Cole-Hamilton: Thank you. I have no further questions.

The Convener: I want to pick up on Alex Cole-Hamilton's question. Last week, Hannah Brisbane

and Susie McGuinness, who are youth advocates at Girlguiding Scotland, gave evidence to the committee about how the law is implemented in schools. They gave some horrifying accounts of sexual assault and issues around consent, which are affecting not just upper-school pupils but younger pupils—in many cases, young women from the age of 12. It seems that schools do not understand what is criminal behaviour.

In one example that we heard about, a young woman was sexually assaulted, the assault was videoed and the video was passed about. It is not just Facebook now—that is old hat to kids; things are now streamed through Snapchat, and stuff like that. It seems that adults questioned whether the young woman had given consent. She was under 16, so as far as I am concerned there is no issue about consent: she could not give consent. However, there seems to be evidence from such cases that teachers and other adults in the system do not understand that what has happened is criminal behaviour and that they have a responsibility to deal with the matter under child protection and criminal law procedures.

I do not think that your strategy will go into such detail, but are you minded to consider the matter so that we can seriously impress on adults that when a matter is a criminal or child protection issue they have a duty of care and a responsibility?

John Swinney: I cannot conceive of circumstances in which it would be justifiable for such issues not to be reported to the police. It is not for a teacher or for me to determine what is criminal; that is a matter for the police and the procurator fiscal.

I will explore the example that you have given, but I think that all the issues that it raises should be adequately covered by the knowledge and expertise about child protection that we expect in every school. I do not think that what you have raised are in any way specialist issues—they are absolutely mainstream issues to do with child protection.

The idea that somehow there is no proper route whereby such matters can be considered is one that I reject completely; the procedures are crystal clear and the child protection regime is crystal clear. Mr McDonald and I invited Catherine Dyer—the former Crown Agent—to review our child protection regime. She has given us strong reassurance about the strength of the arrangements. Obviously, we must ensure that they remain strong.

Our arrangements are strong, clear and robust, and the police and the Crown Office and Procurator Fiscal Service have roles in pursuing issues of a criminal nature in general, and sexual

assault in particular. Those are huge priorities for Police Scotland and for the Lord Advocate and the Crown. I cannot see any aspect of that area of policy in which there is not crystal-clear direction about what should be done in circumstances such as the convener has described.

The Convener: Thank you for that clarification.

David Torrance (Kirkcaldy) (SNP): We have heard about the role that headteachers and staff play in the education environment. What role do outside agencies from the third sector play? Some high schools have full-time counsellors, who do successful work on pupils' mental health and wellbeing. How can we expand the approach across the education system?

John Swinney: There is certainly the opportunity for third sector organisations to participate in our schools, and there are many good programmes whereby schools have reached out to such organisations to establish partnerships to enable such participation.

The reforms that I have put in place around pupil equity funding are opening up the possibility of more flexibility being deployed by headteachers and staff to enlist third sector organisations to contribute to the life of schools. The proposals that I announced to Parliament last Thursday, including the emphasis on the headteachers charter and the creation of more flexibility for headteachers, will create further opportunities for that.

10:30

There are many good existing examples of how such services can be enlisted into schools, and the policy reforms that I have proposed are designed to further that. The review of PSE that is being undertaken will have an effect, which may assist us in the further development of policy.

The Convener: We have a supplementary question from Mary Fee.

Mary Fee: It is a kind of supplementary to your question, convener.

The Convener: Go for it.

Mary Fee: The convener has touched on a couple of the issues that I wanted to explore in relation to the recording and sharing of information on sexual assaults. To be frank, I found some of the evidence that we heard last week from Girlguiding Scotland quite horrifying—the idea that things like that have been going on in our schools, it would appear, almost on a weekly basis. One of the young women told us that, when she went to her school to report something, she was told, “Boys will be boys,” and it would not be recorded.

The recording of incidents is of crucial importance. In my view, every single incident, no

matter how small, should be reported. I can understand it from a school's perspective. The staff may take the view that, if they record all of it, their school will be viewed in a particular light. How do we move away from that? How can we ensure that, if a school reports something and perhaps asks for help in dealing with it, acknowledging that it has an issue, a light may be shone on that school not to say that it is doing something wrong but to say that it is doing something right—given that it has recognised a problem and is going to deal with it? How do we support schools to ensure that things are properly recorded?

John Swinney: That is one of the many \$64 million questions with which I wrestle. It captures the dilemma. As I told Parliament last week, I do not control the media. Obviously, the circumstances that Mary Fee narrates could be ill construed. They could be construed as, "Look at how robust this school is at tackling bullying," or they could be portrayed as, "Look at the awful record of bullying that exists in that school." We all live in the real world, and we know that it is much more likely to be, "Look at the awful record of bullying in that school." That is an example of the sorts of dilemmas that we have to wrestle with in relation to recording, and my comments in response to Mr Balfour's question were designed to address some of those dilemmas.

The question of reporting follows on from the circumstances that the convener raised with me and the example that you cite, Ms Fee, from the guides. If an incident is of the substance that has been raised with me this morning, there are no circumstances where it should not be reported. The child protection arrangements and our criminal framework as a society are crystal clear that such issues should be reported to the proper authorities.

That is different from the question whether we should be recording every incident that might be construed as bullying. We have to work through all the issues about what that says about reputation and what it do for bureaucracy. I am trying to strip bureaucracy out of our schools. How is that affected? I also want to ensure that young people feel safe and that they have the opportunity to have their concerns addressed whenever they arise.

There are dilemmas in this area but, fundamentally, if there is an incident of this nature, it must be reported properly.

Gail Ross: We have received a number of recommendations for the strategy from the Coalition for Racial Equality and Rights. I wanted to get on the record one of its recommendations in particular. We heard quite a lot from asylum seekers and refugees in our inquiry into

destitution, asylum and insecure immigration status in Scotland. CRER mentioned asylum seekers, refugees and Gypsy Travellers in one of its recommendations and asked for

"The addition of a line such as 'Some bullying behaviour against these groups may be of a racist nature, which can have equality law and hate crime implications.'",

although it said that

"Care should be taken to ensure clarity that only some incidents would be racist".

I simply want reassurance that you will look at those recommendations.

John Swinney: I am very happy to do so. As I have already indicated to the committee, I have deliberately held off from finalising the strategy so that I can hear the committee's views. Obviously, its reflections will be important in helping me to come to the conclusions that I have to come to. It is important that we very clearly and broadly have low levels of tolerance of anything that might resemble prejudice-based bullying and that we construct the strategy on that basis.

The Convener: The clerks have reminded me that we need to ensure that we have comments on two issues, the first of which is resourcing, whether within schools or for teachers to attend continuing professional development. One issue that the committee has looked at is that, if we engage in early intervention, which means early spend, that will save a lot of money later in the system.

Let us take the example of the young woman we spoke to on Tuesday, the impact that there has been on her young life—she is 22 now—and the services and interventions that she has needed in order to cope with the outcome. One issue that we are considering is the economic impact of preventative spend and early spend. Will that reckon in your deliberations? In social work, it used to be said that, if we spent a pound on a child at an early stage, that would save £9 in the system at a later stage. I would not like to put a money tag on the issue, because I do not think that we should, but the reality is that you do not have endless resources. How can we channel those resources much better at an earlier stage in order to save money at a later stage?

John Swinney: The committee will not be surprised to hear that it will be impossible to get the old finance minister out of me. I totally accept the premise of the question, which is a hallmark of the Government's approach to early intervention. That is good and the right thing to do. To take the young lady's circumstances that the convener narrated, no young person should experience that difficulty, and the earlier we can address such issues, intervene and resolve them, the better. The person's quality of life will then be better.

None of us wants to see such difficulties being perpetuated. It is clear that the quicker we address such issues, the more we will minimise the risk of long-term problems, particularly mental health problems, for young people. Such intervention is very valuable.

The whole focus of Government policy, whether on health or offending in the judicial system, is on undertaking early intervention to avoid more expensive and pressing demands arising in later years, which will make the public services unsustainable. At every level—whether we are talking about doing the right thing to enable an individual to have a better quality of life or saving long-term costs to the taxpayer—the arguments for early intervention are compelling.

How do we do that? We are taking steps through pupil equity funding, for example. We are putting resources directly into schools, some of which have been used by schools to establish the very interventions that the convener has talked about. That is about creating more effective pastoral care. In their judgment—there is sound educational rationale for this—if they can sort out some of the personal and pastoral care issues for young people more effectively, the learning potential of those individuals will be enhanced and that will help us to close the poverty-related attainment gap. That might feel like a circuitous route, but improving educational performance by tackling an underlying problem that is a challenge to a young person is a route that is well evidenced.

The Convener: There is an organisation in my constituency called Wholistic Life, which is doing fantastic work in Larkhall academy, and the headteacher has used the pupil equity fund money for that. I was in the school last week, and the impact on the young people cannot be measured, because it is staring you in the face. It has made such a difference to pupils who were struggling last year but are not struggling as much this year.

John Swinney: That is where we rely on the professional judgment of our educational professionals. We have to give them the space and time to work out what interventions will matter. In some circumstances, interventions of that nature—I am not surprised to hear of the route that Larkhall academy has taken—will be the best way, in the judgment of those professionals, of properly addressing some of the underlying issues that are impediments to the learning capability of young people.

The Convener: I whole-heartedly agree.

I have one last question, and we are grateful for your patience with us this morning, cabinet secretary. Last week, I was in Dublin doing some work on gender budgeting, which is another aspect of the work that the committee will look at. I

managed to meet an organisation called BeLonG To, which delivers inclusive education, especially for LGBTI young people in the school education system in Ireland. It takes a whole-school approach and has a fantastic school resource pack with a rapid impact assessment that not only the teachers but the kids do. It would be interesting to compare what the teachers say about their school with what the young people say about it. The organisation uses all of that to deliver an inclusive education.

One of the tensions that we had at the beginning of our inquiry was about faith-based education and the impact of moral education on young people who are struggling with their sexuality. I would hold up BeLonG To and the schools approach as a good example, and I wonder whether you would look to that example as a way to move forward. I know that we have the working group, which is gratefully received, and I know from talking to young people who are involved in the working group that they believe that it will deliver results, but how can Government draw on the best examples, such as the one in Ireland, so that we are not reinventing the wheel but can identify best practice and use it to move forward more quickly?

John Swinney: The committee will be aware of the establishment of the LGBTI inclusive education working group. I have deliberately appointed a broad membership to that group to ensure that we can have all those issues considered in a dispassionate way, and I am engaging heavily on that question. It is important to look at best practice in other jurisdictions and to learn lessons to address the issues that we need to address here. We need to find a way that allows all of us to be comfortable with the approaches that are taken, and one of my objectives is to ensure that we use the process in such a fashion as to address issues for all, so that we can take an approach to inclusive education that will address the need of young people in the LGBTI community and properly include their perspectives.

The Convener: We have not exhausted our topics, but we have exhausted our time. We have gathered a huge amount of evidence and we will now deliberate on how we can put that evidence into a report that will be useful for all of us so that we can move forward. We are grateful for your time this morning, cabinet secretary, and for that of your officials. Thank you for allowing us the time to conduct this inquiry. I think that it will make life a lot better for everyone in education, especially the young people to whom we have been speaking.

John Swinney: For my part, convener, I have appreciated the opportunity to have the committee's perspective on those issues. It is an example of how Government can benefit from a

committee's clear deliberations on hard issues, and I look forward to receiving the committee's input. As I said in my statement, I will not finalise the approach that we will take until such time as I have considered the committee's report.

10:44

Meeting continued in private until 11:23.

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