OFFICIAL REPORT
AITHISG OIFIGEIL

Education and Skills Committee

Wednesday 24 January 2018

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 24 January 2018

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EDUCATION AND SKILLS COMMITTEE
3rd Meeting 2018, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Johann Lamont (Glasgow) (Lab)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)
Mary Fee (West Scotland) (Lab)
*Ross Greer (West Scotland) (Green)
*Richard Lochhead (Moray) (SNP)
*Ruth Maguire (Cunninghame South) (SNP)
*Gillian Martin (Aberdeenshire East) (SNP)
*Oliver Mundell (Dumfriesshire) (Con)
*Tavish Scott (Shetland Islands) (LD)
*Liz Smith (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Ailsa Heine (Scottish Government)
Lynne McMinn (Disclosure Scotland)
Maree Todd (Minister for Childcare and Early Years)

CLERK TO THE COMMITTEE

Roz Thomson

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education and Skills Committee

Wednesday 24 January 2018

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (James Dornan): Good morning and welcome to the 3rd meeting of the Education and Skills Committee in 2018. I remind everyone to turn their mobile phones and other electronic devices to silent for the duration of the meeting.

We have received apologies from Mary Fee, who is attending another committee meeting this morning.

The first item of business is a decision on whether to take item 8 in private. Do members agree to take the work programme discussion in private?

Members *indicated agreement.*

Subordinate Legislation

Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2018 [Draft]

10:00

The Convener: The committee has three pieces of subordinate legislation to consider today. Two instruments are subject to affirmative procedure and one is subject to negative procedure. Each affirmative instrument will be dealt with in two parts. First, the committee will have the opportunity to ask questions of the minister and her officials and after that there will be debates on the motions, which are published on the agenda. Details of the instruments that are subject to affirmative procedure are included in paper 1.

We start with consideration of the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2018. I welcome to the meeting, for her first appearance before the committee, Maree Todd, who is the Minister for Childcare and Early Years. I also welcome Lynne McMinn, who is the policy manager at Disclosure Scotland, and Ailsa Heine, who is a senior principal legal office in the Scottish Government. I invite the minister to make an opening statement to explain the order.

The Minister for Childcare and Early Years (Maree Todd): Good morning, convener and committee members. I look forward to working with you for many years to come.

Thank you for inviting me to today's meeting and for the opportunity to contribute to the committee's discussion about the draft Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2018. I thank Parliament, the committee, officials and business managers for their support in timetabling Parliament's consideration of the remedial order and the amendment order to follow.

The remedial order will further refine the higher-level disclosure system that applies when someone wants to work or volunteer with children, vulnerable adults or in certain professions, for example, in the financial services. It deals with what the state—that is, Disclosure Scotland—will disclose in response to a higher-level disclosure request, such as an application for a standard or an enhanced disclosure, or a PVG scheme record.

The order builds on the reforms that we made in September 2015 following a United Kingdom Supreme Court ruling in June 2014 that disclosures that were issued under the Police Act 1997 in England and Wales were incompatible

with article 8 of the European convention on human rights on the right to respect for private and family life. Subsequently, a judicial review in the Court of Session challenged the operation of the PVG scheme. In the case of P v the Scottish ministers, Lord Pentland declared that, insofar as they required automatic disclosure of the petitioner's conviction before the children's hearing, the provisions of the PVG act as amended in 2015 unlawfully and unjustifiably interfered with the petitioner's right under article 8 of the European convention on human rights. The effect of the court order, except in relation to the petitioner, was suspended until 17 February 2018 to allow ministers to remedy the legislation.

A 60-day consultation period on the proposed draft remedial order finished on 26 November. Ministers have taken account of the observations that have been received, and published a statement responding to them. The statement was laid in Parliament on 15 December 2017, when we advised that only minor changes would be made to the draft remedial order.

In proposing the order, we recognise that safeguarding must be balanced with appropriate protection of the rights of the individual to a private life, and with allowing people with past criminal backgrounds to move on. We believe that the proposed amendments to the system of higher-level disclosure strike an appropriate balance.

The Convener: Thank you very much, minister. Before I ask whether members have questions, I have one. This is the second remedial order on the same matter. How certain is the Government that the changes will satisfy the court and, at the same time, provide the necessary protection for vulnerable groups?

Maree Todd: We are very comfortable that the order will satisfy the court and that it will strike the correct balance between protection of vulnerable people and the human rights of offenders. Protection of vulnerable people is at the heart of the system of PVG checking. We believe that the order will provide the right balance.

As the question implied, we have had to remedy the legislation once before. Any Parliament would want to anticipate every possible situation when developing law, but that situation arose from a combination of individual circumstances that were extremely unusual. I think that we all agree that it is almost impossible to anticipate every circumstance, and that to use case law to refine primary legislation is therefore an important part of the system.

Liz Smith (Mid Scotland and Fife) (Con): I have just one question, on the technical point that you mentioned about the draft order. There seems to be a slight difference of opinion between the Law Society of Scotland and the Scottish Children's Reporter Administration about the proposed amendments. Has that been addressed?

Ailsa Heine (Scottish Government): I am not sure to what difference of opinion you are referring.

Liz Smith: The consultation response from the Law Society says that it

"agrees with and would support the amendments put forward by the 2018 Proposed Draft Order."

The Scottish Children's Reporter Administration said that

"the proposed remedy may make the situation more complex".

Has that been addressed?

Maree Todd: We have used the judgment that was given in court as the basis of the proposed remedy. The judge proposed certain remedies: we have taken those proposals on board when developing the remedy, so we have been very much guided by the judge in the case that was under review.

Johann Lamont (Glasgow) (Lab): I have dealt with such a case, so I will ask, in general terms, about a scenario that is drawn from direct experience. Imagine a young person is going through a tough time in their life and ends up in a situation in a public place, in which they have a bit of a scrap with someone—not with physical violence, but throwing a jacket down. There is a referral to a children's hearing, which their family welcomes and accepts, because they are concerned that the young person is distressed about things that are going on in their life. I have dealt with a lot of young people who have gone into the hearings system for such reasons. We support the hearings system because it focuses on the needs of the child. There is no proof at court on the matter, but six or seven years later the young person applies to work in a hospital and assault and robbery come up in disclosure. That cannot be right and must be against the purpose of the hearings system.

I note that the Scottish Children's Reporter Administration and the Children and Young People's Commissioner Scotland expressed concern about that question, and that the Government has not enacted provisions in the Children's Hearings (Scotland) Act 2011, which would have addressed the problem. What reassurance can you give about things coming up later in disclosure that are not even spent convictions but are the result of a young person's challenging experience at a particular time? That is the antithesis of the children's hearings system. Do you have a view on that? Liz Smith is right to

highlight that the Scottish Children's Reporter Administration and the Children and Young People's Commissioner Scotland expressed concerns about, if not the order, then the policy around it.

Maree Todd: Our proposed changes seek to strike a balance between proportionality, fairness and public protection.

As I said, at the heart of the issue is the safety of vulnerable groups. We think it important that relevant conviction information be available to employers to help them to make decisions. The order will provide a right to appeal to a sheriff, who would take into account the circumstances of an offence when deciding whether it can be removed from the disclosure. When making that decision, the sheriff would also take into account the type of work or the reason for the application for disclosure. We think that the order will put in place a really robust system that strikes the correct balance between protection of vulnerable groups and the right of individuals—particularly young individuals—to move past offending behaviour.

Johann Lamont: If that troubled young person had gone to court over what they did, the court would have challenged the description of it as assault, robbery or whatever. That young person enters the hearings system to get help and ends up, seven or eight years later, defined in disclosure as being somebody who is unable to do a particular job.

I hear what you say about appealing to a sheriff as redress, but how realistic is that for most people? I am looking for reassurance that you will look at that issue, because I am very troubled by it. I encourage young people to go into the hearings system, on the basis that they will get help and support. The authority of the children's panel means that it can draw resources to a young person. However, if a young person never gets the opportunity to test in court the description of their offence, that can create the impression that something quite different happened. Even if they appeal to the court, the damage is already done. Somebody who has looked at a young person's application will not necessarily tell them that the offence is the reason why they will not employ them.

Ailsa Heine: When someone applies to the sheriff to have a conviction removed, the disclosure will not have been seen by an employer.

Johann Lamont: The young person whom I am talking about knew about the disclosure only when they went for a job and was told why they did not get it—

The Convener: Excuse me—please speak through the chair.

Minister, you have been asked to take away that general issue—not the specific case—and see how it can be dealt with.

Maree Todd: Absolutely. I will look again at the issue. My understanding is that what is on the disclosure does not necessarily prevent the person from getting a job. What it does is give an employer information on which to risk assess the situation. There are protections in place for people—

The Convener: There is a genuine point there, which is that what is on the disclosure will impact on decisions.

Maree Todd: Absolutely. I will take that away.

Johann Lamont: I hear what you say, but the reality is that employers are choosing from among a range of people and are making a judgment on someone without having the full information.

There is another issue related to that. Somebody has raised with me the issue of spent convictions. Elsewhere in the United Kingdom, such convictions would be deemed to be spent, but the Scottish Government has not yet caught up with that. Despite correspondence with the cabinet secretary, that has not been resolved. Can you reassure us, in relation to spent convictions and disclosures, that we are on a level playing field with the rest of the UK?

Maree Todd: I will ask my officials to address that particular technical aspect. The legislation is very different in the four nations of the United Kingdom.

Ailsa Heine: The Rehabilitation of Offenders Act 1974 is within devolved competence. There is quite likely to be some divergence between England and Scotland. I think that the English rules on when convictions become spent were changed in 2013. As I understand it, the Scottish Government is looking at the 1974 act. There was a consultation on it and there will be a management of offenders bill at some point in this parliamentary session.

Johann Lamont: It would be of benefit to us if we knew the timetable for that. The issue has been resolved elsewhere in the United Kingdom, but although we have received assurances that it will be resolved in Scotland, that has not yet been done.

10:15

Liz Smith: Convener, the minister has kindly agreed to give clarification on the matter that you raised.

I will pick up on the first issue that Johann Lamont spoke about. Our problem is that one group—the Law Society of Scotland—has given a

distinct legal ruling. The other two groups that have expressed concern to us work with the children's hearing system. The committee wants to be absolutely clear that there is no serious problem. Legal experts have taken a different view from people who deal with children who want help and have asked to be in the hearing system, or have been recommended to do so. We do not want to sign up to something that prevents that help.

Ross Greer (West Scotland) (Green): I do not have a question, but before we proceed, I refer members to the fact that I am member of the PVG scheme and am cleared to work with vulnerable groups on behalf of the Church of Scotland.

Tavish Scott (Shetland Islands) (LD): My question is related to Liz Smith's question about the Scottish Children's Reporter Administration. In its written evidence to the committee, it said that

"the proposed remedy may make the situation more complex and confusing—and less fair as a result—by creating two separate lists of offences with a right to have a Sheriff review of offences from either list".

I want to understand why two lists have been created.

Maree Todd: The two lists of offences were created by an earlier remedy, in 2015. They already exist; we have not created two new lists.

Tavish Scott: Is the Scottish Children's Reporter Administration wrong?

Maree Todd: We are providing a right to appeal for the—

Tavish Scott: I am sorry, but the administration has told us that the proposed remedy creates

"two separate lists of offences with a right to have a Sheriff review offences from either list, instead of two lists where offences on one would remain."

If that is not true, I am happy to be corrected.

Maree Todd: Yes. The right to appeal to a sheriff would now exist for both lists.

Tavish Scott: What is the advantage of the change that is proposed by the Scottish Government?

Maree Todd: The advantage of the change is that it will make the legislation compliant with the ECHR, as directed by the judge in the case of P v the Scottish ministers. The judge who looked at the legislation decided that the remedy that was put in place in 2015 was not compliant with the ECHR and has asked us to repair that.

Tavish Scott: Does the Government accept that we now have a situation in which some people who work with children in children's panels consider the remedy to be less fair—as Johann Lamont and Liz Smith have illustrated. Judges get things wrong now and again. Does the Government have a reflection on the fact that people who have given evidence to the committee are concerned that the remedy is less fair on the children whom we are all trying to help?

Maree Todd: I reiterate that the legislation strikes the appropriate balance in respect of offenders wishing to move beyond situations that happened in childhood or in adulthood—the legislation covers that as well—and people wishing to work with vulnerable people. The protection of vulnerable people is always tricky to navigate: the order strikes the appropriate balance between those two needs.

Gillian Martin (Aberdeenshire East) (SNP): The court said that some circumstances need flexibility. Have you examples of flexibility around the disclosure scheme for people who have been in the children's hearings system. What is meant by "flexibility" and how will that be enacted through the order?

Maree Todd: The sheriff will take into account the circumstances of the original offence when making his decision on whether information goes on a disclosure, and will take into account the reason why the disclosure has been applied for.

Gillian Martin: Does that mean that, in a situation such as Johann Lamont described—where the offence has been fairly minor but enough for somebody to be put into the children's hearings system—the sheriff would, in order to help them, judge that the offence will not go into the disclosure in the first place? Would there have to be an appeal to make sure that such offences come off disclosure?

Lynne McMinn (Disclosure Scotland): As the system stands, we basically have three offence lists. There are offences that are deemed to be serious, which we are here today to look at. We have included a new appeal mechanism for those. There are offences in schedule 8B to the Police Act 1997, which are deemed to be serious, but not as serious as those in schedule 8A. Those offences can be appealable to a sheriff as soon as they are spent, and will automatically come off a certificate after seven and a half years if the individual was under 18 at the time of conviction, or after 15 years if the individual was an adult at the time of conviction. There are also a number of very minor offences that as soon as they are spent will never appear on a certificate.

Gillian Martin: So, for seven and a half years, minor offences would be on the certificate, and then would automatically be taken off.

Lynne McMinn: The person can appeal as soon as the offence becomes spent. That might be five years, or however long their rehabilitation period is, for the disposal that they have received.

Gillian Martin: The period would not have to be seven and a half years; the offence could come off disclosure well before that point.

Lynne McMinn: That would be the case only if it is a schedule 8B offence. Any offence that is not in schedule 8A or schedule 8B will just come off as soon as it is spent and would not be disclosed.

Gillian Martin: Thank you for clarifying that.

Oliver Mundell (Dumfriesshire) (Con): What consideration was given to the alternative approach that the children's commissioner set out, which would have moved the onus on to authorities to argue against a presumption that information should automatically be removed after a set period of time?

Maree Todd: At the moment, we have a number of pieces of legislation and reviews going on that all fit together to make a bigger picture. One review is of the minimum age of criminal responsibility. I think that that is where that will be considered. If passed, the piece of legislation on that would lift a number of young children out of the situation in which this would ever apply to them.

Johann Lamont: I have a specific question. The Children's Hearings (Scotland) Act 2011 includes provision in sections 187 and 188 that would allow some offences at a hearing to be recorded as "alternatives to prosecution" rather than as convictions. I think that that would address the concerns that I have raised. Can you explain why those sections have not been commenced?

Maree Todd: I ask Ailsa Heine to answer that.

Ailsa Heine: The provisions in the 2011 act could not be commenced at first because we needed to get a section 104 order under the Scotland Act 1998 so that the Scottish Government would have sufficient powers to implement properly sections 187 and 188 of the 2011 act. The section 104 order was obtained only very shortly before we did the remedial order in 2015, so there was never a chance to commence those sections. We felt that the remedial order made the situation preferable for children who had a hearings conviction.

The powers in sections 187 and 188 of the 2011 act are relatively limited. They would allow us to make children's hearings convictions alternatives to prosecution, but they also provided for a list of offences that were always to be disclosed. There was no other provision. The power was limited to making a list of offences that were always to be disclosed. We were not given any powers to make any provision for some offences to be disclosed for a lesser period of time.

That is the main reason why those provisions have not been commenced. They will not work very well with the provisions of the remedial order, and the Government is doing further work to look at those provisions and the convictions that are obtained through the children's hearings system. A minimum age of criminal responsibility bill is also proposed in this session, so we will consider this further.

Johann Lamont: With respect, the age of criminal responsibility has nothing to do with this; this is about young people in the hearings system. It is seven years since the Parliament clearly thought that it had a remedy for a problem, but you are saying that it was not the right remedy. Seven years later, we do not have a remedy for that problem. That is fundamental.

The Convener: What we want are questions that lead to clarification.

Johann Lamont: It calls into question the effect of the subordinate legislation. We need to test it, and I am concerned that we are in a position where the core problem that we were trying to address in 2011 is still not being addressed.

The Convener: Can I clarify something that Ms McMinn mentioned? Are you suggesting that the flexibility that allowed someone to have a spent conviction written out would not be available if sections 187 and 188 of the Children's Hearings (Scotland) Act 2011 were commenced?

Ailsa Heine: There was a power to set up a list of offences that would always be disclosed. It would be more difficult then to have offences that are disclosed only for a certain period of time. There would obviously be some offences that were not on the list of those that were always to be disclosed, but there was less flexibility around the power. When the power was devised, the case law in relation to disclosures was much less developed. It was devised at a time when all convictions were disclosed. Case law has moved on since that point and the power is no longer sufficient to provide the kind of system that the courts are now looking for in relation to disclosure.

George Adam (Paisley) (SNP): I have two questions. First, is it not the case that this has been a challenging policy and that, regardless of party colour, it has been adapted and changed over the period? The fact that you are responding to what has been through the courts seems to be a positive thing, because I know of many solicitors who do not believe that any legislation from this place is of value until they have tested it through the courts. Do you agree that this is the right way forward and that the scheme will constantly be tinkered with as we go along because things will change?

Maree Todd: You are absolutely correct. As a Parliament, we want our legislation to anticipate every possible circumstance, but that is just not

possible in reality. The original legislation, which was introduced by the Labour-Liberal Democrat Administration, including some people who are on this committee, had full parliamentary support. It is not unheard of for case law to refine primary legislation, particularly when we consider the changes that have occurred in the intervening period in terms of our understanding of sexual offending and of human rights. It is therefore perfectly understandable that there has been a reflection and a requirement to refine the original primary legislation, and I agree that it strengthens that legislation.

George Adam: My second question is more technical and functional. If we did not pass this Scottish statutory instrument today, what would happen and what would be the potential fallout?

Maree Todd: I am sure that everyone in this room is aware that the Scottish ministers, because of the Scotland Act 1998, cannot act in a way that is incompatible with the ECHR, so if the orders are not approved, we have to go back to the Court of Session and ask for a continuation of the suspension of the effect of the judgment for a longer period, to allow time to try to pass amending legislation. If that suspension is not continued, our executive agency, Disclosure Scotland, would have to stop completely issuing higher-level disclosures, because ministers cannot act in contravention of the ECHR. We would need to put forward fresh proposals to remedy the legislation, consult on them again and bring them to Parliament again. The higher-level disclosure system could not operate during that time.

Stakeholders are broadly supportive of the disclosure system. Everybody understands that there may be situations where people fall on the wrong side of certain lines, but generally people support the legislation. To give you an indication of the scale of the issue, about 1,000 cases a day go through the disclosure system. Around 1,000 higher-level disclosures are issued every day.

10:30

Liz Smith: Convener, there is a fundamental difference between the committee voting on the order and deciding that it is not right and the committee asking for further clarification on the points that have been raised. Would it be possible to get further clarification?

The Convener: If that was the committee's view, we would have to come back to the matter next Wednesday.

Liz Smith: Personally, I am minded to accept the general principles, but I am uncomfortable that we have not had the clarification that we need.

The Convener: If you are talking about voting for the order, I am sure that we can get clarification from the minister afterwards.

Johann Lamont: It is nothing to do with party politics and is all to do with getting the right legislation. My decision is driven by a specific case. I understand and accept the force of the argument about the consequences of the order not being agreed to. However, I want an absolute commitment to consider the policy question that drove the legislation in 2011, given the consequences for young people who are described as having had a conviction when we all know that they were troubled and had difficulties. That understanding is the very purpose of the hearings system.

I am happy to write to the minister separately on the specific case—there has been previous correspondence with the Scottish Government on the matter. However, I am looking for an absolute commitment from the minister that she will consider the policy, along with a timetable for addressing the issue. That is what the Scottish Children's Reporter and the children's commissioner want. An appeal to the sheriff is not a redress for those young people—it is not appropriate. It is all connected to the policy that drove the act in 2011 and what action is now being taken to address those concerns.

There is a separate issue that I can write to the minister about, which is to do with spent convictions and what has happened elsewhere. I do not want to be seen to be trying to obstruct legislation that will protect people—far from it—but I seek strong reassurances on these issues.

The Convener: Thank you for that. Would that satisfy you, Liz?

Liz Smith: Yes, it would. I, too, do not want to be obstructive, but I have some fundamental concerns. I would like an undertaking from the minister that she will come back and clarify the matter and provide us with the security of that knowledge.

The Convener: If there are no other comments, we move to the formal debate on motion S5M-09985, in the name of Maree Todd. I remind everyone that officials are not permitted to speak in formal debates.

Motion moved,

That the Education and Skills Committee recommends that the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2018 [draft] be approved.—[*Maree Todd*]

Motion agreed to.

The Convener: The committee must report to Parliament on the instrument. Are members content for me to sign off the report?

Members *indicated agreement.*

Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2018 [Draft]

The Convener: I invite the minister to make an opening statement explaining the order.

Maree Todd: The amendment order is needed so that the self-disclosure requirements placed on an individual are aligned with the reforms in state disclosure that we discussed earlier. The amendment order makes changes to the rehabilitation of offenders legislation to achieve that.

The reforms in the amendment order mean that an individual will be protected from having to self-disclose a spent conviction that has met certain criteria for an offence that is included in schedule A1 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 during the period of an appeal to a sheriff for removal of the conviction from a higher-level disclosure. Those criteria are that the individual's conviction is spent and either seven years and six months has passed from the date of conviction if the individual was under 18 at the date of conviction or 15 years has passed from the date of conviction if the individual was aged 18 or over at the date of conviction.

The reforms also mean that the individual cannot be prejudiced by failure to disclose a spent conviction for a schedule A1 offence during that appeal process if a prospective employer learns about the offence by other means.

Finally, the amendment order provides that, once the appeal process to the sheriff is concluded, and if the sheriff finds that the state should disclose the spent conviction appealed, a prospective employer will be able to take account of the conviction and the person will have to self-disclose the conviction if asked.

I am happy to answer the committee's questions.

The Convener: Thank you. Item 5 is the formal debate on motion S5M-09984, in the name of the minister. Again, I remind everyone that officials are not permitted to contribute to the formal debate.

Motion moved,

That the Education and Skills Committee recommends that the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2018 [draft] be approved.—[*Maree Todd*]

Motion agreed to.

The Convener: Are members content for me to sign off the report on behalf of the committee?

Members *indicated agreement.*

The Convener: I thank the minister and her officials for attending the committee.

10:36

Meeting suspended.

10:39

On resuming—

Teachers' Pension Scheme (Scotland) (No 2) Amendment Regulations 2017 (SSI 2017/454)

The Convener: The final piece of subordinate legislation that the committee must consider today is a negative instrument. Details of the instrument are provided in paper 2. Do members agree to make no comment on the instrument?

Members *indicated agreement.*

Review of Responses

10:39

The Convener: The final item of business is consideration of responses to the committee's report on school infrastructure, which was published in October 2017. The responses to our report are included in paper 3.

Before I ask for any comments from colleagues, I would like to say that our inquiry built on the work of Professor Cole and his inquiry into the school closures in Edinburgh. I believe that our work added value including by raising the profile of Professor Cole's important findings. It is vital that education authorities undertook work to reassure us that the school estate is safe and ensure that new schools are built to an appropriate standard.

We have received responses from a number of organisations, including the Scottish Government.

I have one suggested follow-up action. Members may have seen in their press cuttings over the weekend that a number of schools in Fife lack adequate sprinkler systems. One of the themes in the Cole report was inadequate fire-stopping. It might be worth while writing to the Scottish Government and asking for its response to the media reports. In addition, members will be aware that the committee agreed to revisit all of its report recommendations annually, so work on the issue will be monitored on an on-going basis.

Apart from keeping a watching brief in that way, do members have any specific comments or suggestions for further action?

Liz Smith: We should copy that letter to the Scottish Government to David Stewart, who has proposed a member's bill on the question of sprinklers.

The Convener: That is a sensible suggestion.

Johann Lamont: I would like to raise a point now because I am not quite sure where else it fits in. It is to do with the process of dealing with witnesses. I think that we had very good witnesses in this regard.

I am sure that people share my concern about the freedom of information request that was published on 10 January, which shows that the Scottish Government has been actively seeking meetings with witnesses on the named person legislation, often in the week before the witnesses are due to come in to give evidence. There is a whole series of emails to a whole range of organisations that were due to give evidence to this committee, seeking meetings in the week before their attendance at the committee explicitly to discuss their evidence to the committee, which I think is quite different from the Scottish Government routinely looking to meet stakeholders.

Would it be worth writing to John Swinney, asking him to respond to the suggestion that arises from the information that the FOI request has obtained, which is that the Scottish Government has actively tried to engage with those giving evidence ahead of their evidence to this committee, in the gap between their written evidence being received and their giving oral evidence? I know that Oliver Mundell has pursued this issue before. I think that it is very serious, but I am prepared to ask John Swinney for an initial response to what is being done in his name.

The Convener: We are just about to discuss our work programme. If we think that that is an item to be discussed, we could do so in the work programme in the private session. However, you have got your point out there.

That brings us to the end of the public part of the meeting.

10:43

Meeting continued in private until 11:31.

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