EDUCATION COMMITTEE

Wednesday 26 November 2003
(*Morning*)

Session 2

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EDUCATION COMMITTEE
11th Meeting 2003, Session 2

CONVENER

*Robert Brown (Glasgow) (LD)

DEPUTY CONVENER

*Lord James Douglas-Hamilton (Lothians) (Con)

COMMITTEE MEMBERS

Ms Wendy Alexander (Paisley North) (Lab)
*Rhona Brankin (Midlothian) (Lab)
*Ms Rosemary Byrne (South of Scotland) (SSP)
*Fiona Hyslop (Lothians) (SNP)
*Mr Adam Ingram (South of Scotland) (SNP)
*Mr Kenneth Macintosh (Eastwood) (Lab)
*Dr Elaine Murray (Dumfries) (Lab)

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Mr Richard Baker (North East Scotland) (Lab)
Rosie Kane (Glasgow) (SSP)
Bill Aitken (Glasgow) (Con)
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Dr Stuart Aitken (Sense Scotland)
Mark Bevan (Capability Scotland)
Jane Hook (Scottish Society for Autism)
Sophie Pilgrim (Enable)
George Reilly (Dyslexia in Scotland)
Sheila Roberts (Scottish Association for the Teaching of English as an Additional Language)
Chris Smith (Scottish Network for Able Pupils)
Patrick Webb (Social, Emotional and Behavioural Difficulties Association)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Peter McGrath

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 1

Scottish Parliament

Education Committee

Wednesday 26 November 2003

(*Morning*)

[THE CONVENER *opened the meeting at 09:48*]

Education (Additional Support for Learning) (Scotland) Bill: Stage 1

The Convener (Robert Brown): Good morning and welcome to the 11th meeting this session of the Education Committee. We are now in public session, so will people please ensure that their mobile phones are not about to buzz or ring and disturb the proceedings?

We have three panels to give evidence on the Education (Additional Support for Learning) (Scotland) Bill. The committee will now take evidence from members of the first panel, who are Sheila Roberts of the Scottish Association for the Teaching of English as an Additional Language; Patrick Webb, the general secretary of the Social, Emotional and Behavioural Difficulties Association; and Chris Smith, project leader of the Scottish Network for Able Pupils. As always, we invite the witnesses to give us a minute or two of introductory observations in addition to the paperwork that is available to the committee.

Sheila Roberts (Scottish Association for the Teaching of English as an Additional Language): Good morning everyone. I am an ordinary teacher of English as an additional language and I work in East Dunbartonshire as part of the peripatetic team that works with bilingual pupils. I did my specialist training at Moray House after training as an ordinary teacher.

In East Dunbartonshire, the proportion of bilingual pupils in schools ranges from 16 per cent of the school population to the other extreme of 0 per cent. There are approximately 55 different languages used daily by bilingual pupils in East Dunbartonshire schools.

I am here today as the chair of the Scottish Association for the Teaching of English as an Additional Language, which is a voluntary professional organisation of approximately 200 members. We have members in places as far afield as Orkney, the Western Isles, and the Borders, but the majority are in the central belt. Most of them are practising EAL teachers but we also have education officers, psychologists and others as members. We also go beyond the borders of Scotland and have close links with our sister organisations in England.

SATEAL's function is to disseminate information about teaching English as an additional language, based on research findings. We do that by holding conferences and putting out newsletters. We also share good practice and network among ourselves. At times, we also join up with the Scottish Association for the Teaching of English as a Foreign Language and that gives an international aspect to our work. Earlier this month we had a conference in Edinburgh when an American speaker spoke about bilingual education in the United States.

During my evidence, I will refer to SATEAL, but at times I will refer to EAL, or English as an additional language. I might also use the term "bilingual pupils", which tends to be the one that we use. It has a much wider definition than English as an additional language. Bilingual pupils might well have English as their first language, or they might speak several languages.

I checked with the convener at the start of the meeting and, because SATEAL has not made a submission, he gave me permission to give the background on EAL as a professional service—I timed my speech at two and a half minutes.

I checked with a colleague who has worked in the system for 25 years and, until about 25 years ago, someone in the school—the class teacher, the depute head, the head teacher or the head of department—would identify the pupil who could not speak English. My colleague would be notified; she would remove the pupil from the classroom and teach them English using foreign language methodology such as interactive games and teaching grammatical structures in a systematic way.

Approximately 20 years ago, it was observed that those EAL pupils were massively underachieving and not getting good exam results. The outcome of that was that a lot of research was undertaken, which found that those pupils were gaining a surface fluency in English. They could speak with a local accent and discuss such things as football, but they could not access the academic language that was needed for curricular success, so they were not succeeding in exams. That meant that we in EAL had to change our working practice. We had to consider what we could do to give those pupils the language that would help them to access the curriculum.

At times during a pupil's progress through school, we have to reassess the language and, depending on exams and the demands of the curriculum, we may have to intervene and help the pupil. That is how EAL teachers now work—mainly in the classroom, with classroom teachers, helping pupils to access the curriculum.

Nowadays, every education authority in Scotland should recognise the different kinds of EAL pupils that exist. At one extreme, there are pupils who are new to English, who do not have the social language to follow a teacher saying, “Come in and sit down. Open your jotters and turn to page 63.” Such pupils just sit there and do not have a clue what is going on—they have no social language to access it. Then there are the majority of the pupils with whom I work, who can be split into two groups of pupils who are not achieving their full potential. At one end of the spectrum, there are those who are struggling with the functions of English and trying to achieve in the classroom. At the other end, there are those who the class teacher thinks are doing fine but who could—if their work was examined and they were given a bit of help and knowledgeable input—go from credit level 2 to credit level 1 or from general up to credit level. Helping those pupils is my main function as a teacher.

In 13 years as a teacher of English as an additional language, I have had three pupils with special educational needs—two had deafness and one had dyslexia—so dealing with pupils with SEN and bilingualism is not a major part of my work. I have no issue whatever in the peripheral area of English as an additional language and SEN. However, in answer to your questions later, I may put forward a different position for ordinary EAL pupils.

Chris Smith (Scottish Network for Able Pupils): I am a lecturer in inclusion and support for learning at the University of Glasgow. My main remit here is as the project leader of the Scottish Network for Able Pupils.

The Scottish Network for Able Pupils was set up in 1994 with funding from the Scottish Office. Since then, we have continued to enjoy small amounts of funding to keep the organisation going. Our main remit is to support schools and local authorities in educating able pupils. We have a particular interest in the bill because it is the first time that a piece of legislation has encompassed children who have outstanding or exceptional abilities. It is about time that that happened.

We also deal with children with double or dual exceptionality—sometimes treble exceptionality—in the sense that they may also have English as an additional language. They may also have social, emotional and behavioural difficulties, autism or Asperger’s syndrome. So, it is important for us that the bill encompasses all children rather than—as has hitherto been the case—focusing on deficit.

I am not going to say any more just now, as I hope that other points will come out in your questioning.

Patrick Webb (Social, Emotional and Behavioural Difficulties Association): Good morning. I am from the Harmeny Education Trust, which is based just outside Edinburgh. I have the pleasure of representing the Social, Emotional and Behavioural Difficulties Association—SEBDA—which was formerly the Association of Workers for Children with Emotional and Behavioural Difficulties. We became SEBDA recently, after 50 years of work with young people with emotional and behavioural difficulties.

We are concerned with children and young people of all ages, in whatever setting their special need is found. SEBDA is a multiprofessional organisation that fosters a mutual understanding among the different professional groups that is essential to effective work. It supports workers in schools—whether mainstream or special, day or residential, maintained, non-maintained or independent—in social service field or residential units, and in voluntary societies and health settings. We have a membership of approximately 1,000, mostly through a variety of organisations that do not specifically have education as their main brief.

10:00

Young children with emotional and behavioural difficulties are the most numerous in terms of special educational needs, as identified in mainstream schools or other settings. As has just been said, they are not always recognised as having solely emotional and behavioural difficulties; they can have a number of issues around them that produce behavioural difficulties in specific settings—mostly in the classroom.

We have had a good look at the bill. There are specific areas that we would like to address, but we have absolutely no problem with the Executive’s stated aim, which is

> “to ensure all pupils—regardless of their needs—can access the necessary support to achieve their full potential and enjoy a positive, inclusive education.”

That statement is in the summary of the bill on the Executive’s website. I do not think that anyone would question that.

Our concerns are to do with the way in which people will interpret the social, emotional and behavioural difficulties grouping. What services will be available for young people with those difficulties, and what training is necessary—indeed vital—to allow people in mainstream education to have a fair chance of working with those young people rather than moving them to settings such as the Harmeny School? Finally, *The Times Educational Supplement Scotland* of 21 November contained quite a large article about whether the bill has been properly costed regarding the real implications for the young people with whom we will all be dealing. That is the gist of where I am coming from.

The Convener: Thank you very much. It is not our bill but the Executive's. The Executive is responsible for it, but the costing of it is something that this committee and the Finance Committee will be looking at closely. Indeed, that is one of the issues that we are trying to pick up on in taking evidence.

Do you all support the general principles of the bill and the general framework that replaces the record of needs with a new set-up that includes the co-ordinated support plans, or do you have any doubts about the general principles?

Patrick Webb: The Harmeny Education Trust and SEBDA feel that young people with social, emotional and behavioural difficulties were not properly represented in the application of records of needs. Very few of the children at Harmeny School—only two, I think—currently have a record of needs. Anything that will give proper representation for parents and young people and that will bring professionals together to work for those young people—whether it be called a co-ordinated support plan or whatever—will be very welcome indeed. From our point of view, anything that raises the profile of being positive about providing support will be welcomed.

Sheila Roberts: I feel very strongly that bilingual pupils are not part of the bill. The bill has not thought through properly and gives no evidence of having examined properly the needs of bilingual pupils. I fear that, without any change to the bill or an assurance that the code of practice will very much assert what goes on, things will go back to the situation that existed 20 to 25 years ago, with ordinary teachers being given the responsibility of identifying problems although they have received no training. There is no initial teacher training in EAL and there is very little professional development in it. I totally support my classroom colleagues, but they have no knowledge of EAL requirements beyond saying that a child is new to English and needs to be removed from the classroom until they are sorted. They do not know about the child's developing language needs and are happy to have children in their class although they are unaware of their needs. I fear that EAL expertise will be ignored.

The Convener: You are identifying a difference between bilingual pupils and pupils who come to English anew, and you are saying that teachers' awareness of different needs in the classroom is a training issue.

Sheila Roberts: Yes.

Chris Smith: I agree with my colleagues' views on both the issues that have been raised. I agree with Patrick Webb that the interpretation of the bill will be very important. At the moment, although I can read into the bill that more able pupils will be included, if that is not stated explicitly, there may be a doubt as to whether they will be included in practice. My fear is that we will go back to a definition that is based on deficit. That is possible, although I welcome the changes in terminology in the current draft of the bill.

Interpretation of the bill will, therefore, be problematic and, like Sheila Roberts, I think that guidance—I am not so sure about a code of practice—will help people to identify children who have exceptional abilities. That is my key concern. Nevertheless, in principle the bill is welcomed.

The Convener: My next question is probably directed more to Chris Smith and Sheila Roberts. To what extent is there a need for the involvement of agencies outside education in dealing with children in the categories that we are talking about? I can see that that might be necessary in the instance of children with SEBD, but I am not so sure about gifted children and children with other languages.

Sheila Roberts: There is no outside agency for the ordinary EAL pupil.

The Convener: Might social work services be involved in some instances, perhaps?

Sheila Roberts: No. Not in my experience or to my knowledge.

Chris Smith: In instances of double exceptionality, other agencies would probably be involved. Social work services may deal with children who are looked after who are also very able. When other issues come into play, the answer to your question is yes. There may also be a role for organisations that are not traditionally considered outside agencies. For example, there is a child at an independent school who may well sit his A-levels in second year, and in such cases one has to ask about the role of higher education and other educational organisations outwith schools.

Sheila Roberts: Having thought about it, I revise my answer. I work in East Dunbartonshire, which is very much a middle-class area. In inner-city areas or areas with different needs, social work services could well be involved. With those areas in mind, I have no problems with the bill. However, there is no such involvement for the average EAL pupil.

The Convener: The point affects whether a co-ordinated support plan arises. We want to try to develop that.

Lord James Douglas-Hamilton (Lothians) (Con): I have a quick question for Sheila Roberts about the teaching of English as an additional language and bilingualism. That seems to be a big area. If you think that amendments to the bill are necessary, would you write to us on the aspects that you are particularly concerned about? It seems to be a large subject.

Sheila Roberts: Yes, I would be pleased to do that.

Lord James Douglas-Hamilton: I would like to ask about duties. The bill introduces a duty on education authorities to identify and address the additional support needs of all pupils for whom they are responsible and to make adequate and efficient provision for any additional support that is required. Are you content with that new duty?

Chris Smith: I welcome that duty on local authorities. Up to now, the needs of able pupils have tended to be left to one side.

Sheila Roberts: The bill should be about improving educational provision for children. I have noted the definition of special educational needs. How can the bill ensure that the interpretation of special educational needs is adequately and competently decided if the decision is made by someone who has no training?

Lord James Douglas-Hamilton: Arising out of that, do you think that there should be a clearer responsibility, on the part of education authorities, for three or four-year-olds at nursery schools?

Patrick Webb: Given the complex and traumatic histories of the young people with whom I work, it is quite common to see a pattern of need going way back to before they were three or four years of age. It is important that we accept the concept of additional support need, rather than the deficit model—it is not many years since the Riddell committee report discussed children with severe low incidence and complex disabilities, so I am quite pleased to see a positive way of looking at the broader spectrum of needs and young people.

In terms of the children we work with, local health visitors pick up signs and issues very early on. One of the essences of the work is the taking of an holistic approach.

Lord James Douglas-Hamilton: Should there be a clearer duty in the bill in this area for those who are three or four years old?

Patrick Webb: Absolutely.

Sheila Roberts: For EAL pupils coming into nursery with no English language whatsoever, good ordinary nursery provision is all that is needed.

Lord James Douglas-Hamilton: As you know, at present there is a duty on authorities to carry out compulsory assessments of children who are being considered for a record of needs. Under the bill, there would no longer be a duty to carry out compulsory assessments, but parents could request an authority to carry out a particular assessment when the child was being considered for additional support needs or a co-ordinated support plan. What are your views on the removal of compulsory assessments?

Patrick Webb: As I said earlier, only two of the children at Harmeny have records of needs. Our kids hit the headlines pretty quickly when they need some response from the local authority. The CSP should have some meat put on it. It should ensure that children who come forward in whatever way quickly get the paraphernalia that is to be put round them. In other words, whether or not assessments are made compulsory, and whether or not the record of needs is in place, evidence suggests that authorities respond in their own particular way according to the local situation.

Chris Smith: I welcome the fact that there is no compulsory assessment for gifted, talented and more able children. However, there is a danger in interpreting the measure on requests from parents, because I foresee a large number of requests for specific intelligence quotient tests, which might pose a problem.

Lord James Douglas-Hamilton: Am I right in thinking that Mr Patrick Webb is suggesting that there should be a requirement on local authorities to give due and proper consideration?

Patrick Webb: Absolutely, yes. There is no question in my mind about that.

Lord James Douglas-Hamilton: I have a quick question on pupils who are outwith the public education system. I understand that there are a certain number of pupils who, for a variety of reasons, are not educated in mainstream schools. Do you have any views on pupils who are being home educated, or who are attending independent schools or special schools?

The Convener: Do you mean in terms of the duties on local authorities?

Lord James Douglas-Hamilton: Yes.

Patrick Webb: I looked at the record of needs alert website, which is explicit that the measures in the bill should apply to everybody, regardless of where they are located for education. In particular, many young people with emotional and behavioural difficulties end up working for a couple of hours at home.

Lord James Douglas-Hamilton: At present, education authorities will be able to assist in the identification of needs. Should they be required to assist?

Patrick Webb: Yes. In the foreword to the report on the consultation on the bill, Peter Peacock stated:

> "While the introduction of the concept of 'special educational needs' was a positive move away from the unhelpful labelling of those previously considered to be ineducable,"—

and I stress that that is his word—

> "opinions and perceptions, policies and practice have all moved on in ways which the current system fails to account for."

Indeed, the corollary of saying that the current system is failing to account for some is that the new system should account for all.

The Convener: Can we get Sheila Roberts's view on that?

Sheila Roberts: I am going to repeat the same thing. For me, EAL pupils do not come under that kind of consideration, but if the bill goes ahead as proposed—I have to get out of my mindset that I do not want to be part of it—there should be a requirement for proper assessment of EAL pupils, and it should be done according to the results of on-going research into how best to support EAL pupils' access to the curriculum so that they can gain more success through it.

The Convener: Is there a problem with assessments that is not being picked up just now?

Sheila Roberts: There are no national guidelines for EAL. As far as I am aware, the Scottish Executive is not proposing to have any. It is not putting any money into EAL. We would welcome working on national guidelines. I think that I am right in saying that provision throughout Scotland is dependent on the will of local education authorities. Provision is scattered.

10:15

Ms Rosemary Byrne (South of Scotland) (SSP): I think that Sheila Roberts has answered the question that I am going to put, although she may want to add something. I will direct the question more at Patrick Webb. I am thinking about pupils with social, emotional and behavioural difficulties, and the assessments of their needs. Often, underlying hidden factors—such as Asperger's, autistic spectrum disorders, dyspraxia, attention deficit hyperactivity disorder and so on—combine to create difficulties. Are local authorities prepared to carry out the assessments in the way that the bill lays out, or do we need to reconsider the agencies that should be involved and how they should be involved?

Patrick Webb: Gosh. The answer is no, they are not prepared. There is no real understanding of the sheer numbers that might come forward. With the Riddell report, which proposed the severe low incidence criteria, I remember that there was a grey area about who would be included in mainstream education and therefore who, by definition, would have specialist resources made available to them. The question was never answered at the time.

You are quite right to say that many of the young people with whom we work have other issues, but they present primarily with behaviour that causes problems particularly in the classroom setting. Because there has been no teacher training in that area, we have a work force in mainstream education that is unable to work carefully and precisely enough with those young people, so they stick out more. That produces low morale and problems for particular children within schools. Let us take bullying as an example. I am a parent of a child who went through a period of bullying. I can assure members that the experience is harrowing for families and for schools, because the schools have to work through it and, although there are wonderful campaigns, they are brought into the school rather than the issue being dealt with naturally through training.

That was a roundabout way of answering your question, because I am afraid that there is no specific answer until one gets down to a complex and traumatic individual situation. In other words, individual children count.

Individual children certainly count at Harmeny, but we have a problem. For example, when children come to us, how long should they access and obtain education for? How long should we work with them for, to work through the social difficulties and trust and other issues, especially if there is sexual or physical abuse in the child's history?

I am not sure that I have given you a satisfactory answer, but it is probably the best that I can offer.

Ms Byrne: I will take that a step further and ask whether multi-agency assessment is necessary. The input of clinical psychologists would be crucial in many cases, for example.

Patrick Webb: I do not know whether you remember the song that starts:

> "'Twas on a Monday morning the Gas man came to call".

He damaged a bit of paintwork and the painter came the next day and so on. One of the problems with multi-agency assessment is the number of people who are involved.

There is great value in multi-agency assessment. Recently, we put in a bid to the Executive for a social work grant for working intervention with young children of pre-school age with family and emotional and behavioural difficulties, because we recognised that we needed a multiprofessional team to work with those children. Unfortunately, the bid was unsuccessful, but SEBDA can prove to the committee that multi-agency work is effective. I have copies of our professional journal and newsletter, which I will leave with you. In the latest one, you will see the example of the University of Edinburgh and West Lothian Council collaborating on just such an issue.

Sheila Roberts: On EAL assessment, there is nothing in the bill that ensures that assessments can be made in the first language of the child. There is no provision in the bill for interpreters and there is no provision in the bill, or any evidence, to say that translations will be made available. There are many issues involved in assessing what bilingual pupils need.

Chris Smith: Likewise with more able pupils, there need to be national guidelines on what assessment will be accepted and what will not.

Rhona Brankin (Midlothian) (Lab): Patrick Webb said that far more pupils will come under the definition of additional support needs and will require a co-ordinated support plan than the Executive estimates. Is that what you are saying?

Patrick Webb: It is likely, but I am not sure. I read the article in *The Times Educational Supplement Scotland* on 21 November. I do not have access to the Executive’s figures, but the Executive has not been wonderfully accurate in judging the extent of need, whether in relation to money for Holyrood or money for education. However, I am not sure that the Executive would have access to all the figures, because the reality is—

Rhona Brankin: Do you have access to the figures?

Patrick Webb: Not as an organisation.

Rhona Brankin: So you cannot give us the figures to which you refer in relation to the additional numbers of youngsters with emotional and behavioural difficulties that will be encompassed within the new definition.

Patrick Webb: No, and there is one very good reason for that. Currently, local authorities only present as having emotional and behavioural difficulties those people whom they can provide resources to support. We know—I think that everyone knows, because you need only look in the newspapers to realise it—that a lot more children are presenting with great difficulties. I gave a talk at the Signet library for the John Watson’s Trust and I quoted from an article in the General Teaching Council’s last newsletter for members, which stated that mainstream teachers in secondary and primary are living very difficult lives because of the number of people who are “included” in the classroom for whom they do not have resources or answers.

I cannot quantify the figures for you. I think that 15 per cent was mentioned in *The Times Educational Supplement Scotland* article. If 15 per cent of the population have additional support needs, you are talking about a lot of people.

Rhona Brankin: Yes, but you do not have that evidence from your organisation.

Patrick Webb: No.

Fiona Hyslop (Lothians) (SNP): I will pursue that issue. In your evidence, you are positive about taking a joined-up approach—that is what your organisation wants to happen. You are also quite clear that you expect a large number of children with social, emotional and behavioural difficulties to have a co-ordinated support plan. Our understanding from what you are saying is that currently very few pupils who have social and emotional needs have a record of needs. The Executive is saying that only 50 per cent of those who currently have a record of needs will get a CSP, and it expects that only 0.5 per cent of those who currently do not have a record of needs will get a co-ordinated support plan. You do not have concrete numbers, but you are saying, anecdotally, that teachers are telling you that about 15 per cent of pupils have social and emotional problems. There is a huge difference between that and the Executive’s view that 0.5 per cent of those who currently do not have a record of needs will get a CSP. Your good will towards the bill might be misplaced if you expect that children with social, emotional and behavioural difficulties will get a CSP.

Patrick Webb: Fifteen per cent was the figure for all young people who may have additional support needs, rather than just for those with emotional and behavioural difficulties.

The answer to the member’s question is simple. From any local authority teachers group, it is clear that the number of children whom the local authority recognises as having behavioural difficulties and who are therefore included in the authority’s audit and figures is smaller than the number of young people whom teachers consider to have emotional and behavioural difficulties. Given the good will in the bill, which uses the word “all”, many parents and schools will want to put children forward for co-ordinated support plans, whether or not those are achieved at the end.

Fiona Hyslop: With many parents expecting their children to receive a co-ordinated support plan, do you expect that there will be a big mismatch between parents’ expectations and what happens, given the definition in the bill?

Patrick Webb: As we have all said, when it comes to the nitty-gritty and the particular groups that we are talking about, there is no definition in the bill. We hope genuinely that the people who drafted the bill will be able to provide far more detail in the guidance. The member is asking me to comment on something that is not written into the bill.

Fiona Hyslop: Part of our job is to scope whether you have developed a stance on the issue.

Patrick Webb: That is fair enough. I am putting to the committee the large figure, rather than a misleading small figure. The committee should think in terms of large numbers, instead of redefining the issue in terms of very small numbers. If it does not, the difference between what professionals and parents thought the bill would provide and what it will actually provide will create a huge amount of angst.

Fiona Hyslop: I want to ask about individualised educational programmes.

The Convener: Before we move on to that issue, Elaine Murray would like to ask a further question.

Dr Elaine Murray (Dumfries) (Lab): You said that there may be significant levels of unmet need among young people with emotional and behavioural difficulties. Would another agency be involved in assisting those children? That is likely to determine whether they receive a co-ordinated support plan or an individualised educational programme. I am unsure whether we are talking about people who might be eligible for CSPs or the larger numbers of children who should be identified as having additional support needs and whose needs are currently not being met.

Patrick Webb: The best way forward is probably for me to give the committee a real example. Of the 30 children currently involved with the Harmeny Education Trust, only two have records of needs. All 30 receive multi-agency support. We are a small part of the whole.

Rhona Brankin: The Harmeny School is a small, specialist school that takes youngsters from a variety of school settings.

Patrick Webb: It is the only concrete example that I can provide to answer Dr Elaine Murray's question.

Fiona Hyslop: I have a question for all three witnesses. Do you think that the current individualised educational programmes would be satisfactory as a vehicle for providing the additional support that the pupils with whom you deal need? The IEP will be the vehicle for identifying many pupils' support needs.

Sheila Roberts: I will speak personally, because I do not know the position of SATEAL as a whole. None of the pupils with whom I work on a daily basis has an IEP. It would not be considered at all appropriate that they should. They will succeed with additional input. They do not need an IEP or regular review and planning of the way ahead. They will succeed and get good exam results.

Rhona Brankin: You say that your pupils do not require additional support, compared with other pupils. Do you not welcome the fact that their needs are encompassed within the definition of additional support needs? Pupils either have additional support needs or they do not.

Sheila Roberts: We are discussing the definition of additional support needs. EAL provision in my school exists only because physically I am part of the process and provide additional support. The monolingual children in the school do not need to have me around; I am there for the bilingual children. There are 100-odd bilingual pupils in the school and I work with about 20 of them. I work with those pupils whose language requires some input to help them to succeed more. However, none of them has an IEP. They do not need one. I cannot say what IEPs are for—I have no knowledge of and no training in them.

10:30

The Convener: Earlier, you made the point that your experience was in East Dunbartonshire, which, as you indicated, has a more middle-class population than some other areas. Have your colleagues in the association provided you with information about their experiences in Sighthill, Knightswood or Castlemilk and whether there are different issues?

Sheila Roberts: Some of the schools in East Dunbartonshire have pupils from Sighthill, because there is freedom of movement. None of those pupils, who enter schools very much with beginners' developmental language skills, has an IEP. However, they are going through the school system and, with EAL support, they will succeed. There is no need for them to have an IEP as they have no additional needs.

Rhona Brankin: They have additional support needs, which you are meeting.

Sheila Roberts: Physically, that is true. However, I do not see EAL support as coming under the same umbrella as the support provided by other agencies.

Fiona Hyslop: What view do our other witnesses take of IEPs? How appropriate will those be?

Chris Smith: There is no question but that IEPs can be exceptionally useful for children who have specific abilities in particular subject areas. Their use is limited at the moment, because children who have IEPs tend to be children with a perceived difficulty. That is why I welcome the terminology that is used in the bill, which allows for the use of IEPs. Additional guidance will be needed to locate children within the system, or we may again experience a deficit. IEPs are exceptionally useful.

I want to respond to a point that was made earlier. We may need to address the issue of definitions. Section 2 deals with co-ordinated support plans. It suggests that pupils will receive such a plan if they have needs arising from

> “one or more complex factors”.

It goes on to suggest that

> “a factor is a complex factor if it has or is likely to have a significant adverse effect on the school education of the child or young person.”

I foresee children who do not receive multi-agency support falling into that category, which could be a difficulty. More able pupils—in particular, exceptionally able children—might come within the definition that would allow them to receive a co-ordinated support plan. However, some people have indicated that pupils will be given a plan only if they receive multi-agency support. There may be a contradiction. People may be reading the definition in the bill and thinking that their child will be eligible for a co-ordinated support plan, in which case, many more kids would receive support. However, if multi-agency input is required, fewer children may receive it.

Fiona Hyslop: That is the nub of the issue that we are exploring. As we understand it, both one or more complex factors and multi-agency input are required for a pupil to be eligible for a co-ordinated support plan.

Chris Smith: That is not clear.

Patrick Webb: Fiona Hyslop has identified the nub of the issue. Guidance and information are needed to relate the bill to reality. All of the children with whom I work have an IEP. IEPs are, relatively, in their infancy. There are good IEPs, bad IEPs, IEPs that are appropriate and IEPs that we find less appropriate. However, we are honing the procedure. We are a multiprofessional organisation so, along with IEPs, we put in place care support plans. An IEP with a care support plan is much more useful to the young people with whom we deal than one without.

That may be significant for co-ordinated support plans. One aspect of co-ordinated support plans is multi-agency input and the way in which agencies work together. I accept Rhona Brankin’s point that many of the children in our grouping will not have a co-ordinated support plan—I am sorry if I have misinterpreted what she said. However, as far as the wording of the bill is concerned, I cannot think of anything that disrupts a child’s education more in the eyes of a school than disruptive behaviour.

Chris Smith: IEPs tend to focus on individuals: an individual has a problem and receives support. What happens when the teacher in the classroom or the school needs support to cope with such issues? It is not clear how the bill will address that matter. Are we still saying, “There is something wrong with the kid—let’s fix them”?

Fiona Hyslop: We will return to that issue with later panels of witnesses.

Dr Murray: What are the panel’s views on the amount of time that is allowed for transition, especially when a young person is leaving school? Chris Smith referred to the role of higher education in supporting pupils. Some of the other organisations that have given evidence to us believe that even the extension of the period during which the plan is in place to 12 months after a young person has left school does not provide sufficient time to allow that person or agencies adequately to plan for the transition.

Chris Smith: I welcome the fact that the bill provides for a minimum of 12 months. We are talking about a small number of children, but there are issues for some children who have exceptional abilities and are taking a traditional route through academic life by entering higher education. In such cases, it may be necessary to plan much earlier than 12 months before the official leaving age. I agree absolutely with the point that the member makes.

Patrick Webb: Young people who are ready to leave schooling may not be able to be totally independent in society at the age of 16 or 17. By the time they reach that age, considerable input will have been made into developing a route for them to follow.

Because pupils are so diverse, it is difficult to say whether the provisions of the bill will be right for the young people with whom we work. In other words, I return to the concept of the individual and their plan—whether we call it an IEP or someone’s plan for life—and the resources that are available to fund that. I trust that by the time a young person has been through long-term emotional and behavioural difficulty settings, professionals will know where they are going. We are much more inclusive in our thinking and are trying to move children back into the mainstream of education within a stable family setting, if possible, where the normal run of life will take effect. It is hard to think of continuing support when we are seeking inclusive results. However, the way in which the bill is written gives hope that possibilities are available, to click in when needed.

Sheila Roberts: The average EAL pupil does not need any extra input for careers or further education advice. The occasional pupil may need extra support if they are a relative newcomer and do not have the passes in English that they may need for higher education.

Dr Murray: I was thinking of your earlier remarks about the fact that people sometimes need additional support to access academic language and the curriculum. Do you not envisage that that could continue beyond school age, especially if a pupil has come to study in English fairly late?

Sheila Roberts: Yes. I am employed in schools. Further education institutions provide some learning support, but I have not really thought about the issue.

Dr Murray: Do you think that the obligation that the bill places on the successor agencies to provide young people with continuing support or the support that is identified as necessary for them at the time of transition is sufficiently strong?

Sheila Roberts: I take it that you are trying to say that the bill is really forward looking and thinking about the whole—

Dr Murray: No, I am asking whether you think that it is strong enough.

Sheila Roberts: I have not thought about that element. It is a possibility. However, of much more importance to EAL pupils is the general need to gather statistical information to find out what courses they are recommended to take. We hear that pupils are being told, “You are bilingual; you are not good at English. Do not take history or languages. Concentrate on sciences. Go in for engineering or sciences. Do not study languages.” However, we have no statistical information; that is just anecdotal. The Scottish Executive should be collecting statistical information to find out whether people are being directed into certain areas simply because of their bilingualism.

I would welcome a bill that welcomed and celebrated bilingualism as we should welcome and celebrate it if we are to have a multilingual, globalised economy for the 21st century. This bill does not do that, and the provision that is made for EAL is a negative provision. The latest report on the draft bill states:

> “It was never intended that English as an Additional Language should be seen as something not to be valued.”

That is such a negative statement. Bilingualism is a marvellous opportunity. We have bilingual pupils in our society, but because there is no provision for them to learn their second or third language, we do not have a bilingual society. If I may quote—

The Convener: I must stop you there, I am afraid. That is an interesting point, but I do not think that it is particularly germane to the bill and there are other educational provisions on it. We must concentrate on the provisions that are in the bill.

Dr Murray: What do the other witnesses feel about the current duties of the successor agencies to give the support to young people that has been identified at transition? Does the bill have enough teeth?

Patrick Webb: The Executive document “A Guide for Parents: The Additional Support for Learning Bill” states that the bill will

> “provide safeguards for the rights of those with the most complex needs who need help for learning from other agencies.”

I assume—and I hope that my assumption is right—that if nothing else is done, the advice that the committee gives will provide safeguards for people’s rights. We are bound to say that we would like to see anything that provides for the rights of young people being carried through.

Chris Smith: The arrangements are there in the bill, although we may have to wait and see how it pans out before we can say whether the bill has enough teeth. I would have difficulty in making that prediction; however, there is provision. Let us see what happens.

Mr Kenneth Macintosh (Eastwood) (Lab): I have a question for each member of the panel, starting with Chris Smith. There are various mechanisms for resolving disputes, including mediation. A local dispute resolution system will be set up for parents and local authorities, and there will be an appeals tribunal. Do you welcome that system? How many able pupils or families currently experience the kind of breakdown in their relationship with the education authorities that requires such a service?

Chris Smith: I cannot give you numbers, as we have not collected statistics on that. However, over a period of one month, the Scottish Network for Able Pupils will have contact with maybe three or four parents who are in tears because they are not being listened to and do not know what is happening. They are not having their children’s needs recognised, much less met. If co-ordinated support plans were to be available to them—and that is in doubt—a fair number of parents who have children whom they think are more able would take the appeals tribunal route. Such issues are already going through the courts.

Mr Macintosh: The bill is trying to take some of the confrontation out of the system. Do you think that it will succeed? Do you think that mediation and the new system will succeed in doing that?

Chris Smith: The very fact that more able children could be included in the system will take the heat out of the situation, as children's needs will be recognised. I welcome that in the bill because, at the moment, those needs are not being recognised in some cases. The bill will introduce a duty on local authorities to assess and identify all children who have additional support needs. Local authorities are not doing that at the moment. They are not identifying in any systematic way children who have abilities. If we can get them to do that, that will take the heat out of the situation. If that works well—I do not know whether it will; that depends on the guidance that will support the bill—we will have less need for the tribunal system. However, at the moment the system is very adversarial.

10:45

Patrick Webb: I estimate that in 80-plus per cent of the cases of the young people with whom we work there is conflict between agencies, families and schools to varying degrees. Some of that conflict is quite complex and has reached a point at which conflict resolution is a statutory requirement. If there were a mechanism to enable people to talk and come to reasonable decisions step by step—which is what most establishments such as Harmeny School try to operate through their review systems—that would be welcomed on all sides. I see families and parents feeling very much in awe of the number of people who are involved in those sorts of settings. It is a pretty awful situation for them to be in when the reality is that everybody wants an amicable resolution to the problem.

There are still certain issues on which the full power of the law has to be invoked. The statutory requirement has to be there in the background when we are dealing with the traumatic and highly disturbing cases of some young people. However, for the others, we would welcome a reasonable, face-to-face way of sorting things out.

Mr Macintosh: Very few of the pupils at Harmeny School have records of needs and most are not exercising the statutory rights that a record of needs might give them. It is logical to suppose that the bill will give them more rights as well as clarify those rights and the duties on education authorities. Is that how you see it?

Patrick Webb: As long as the children whom I am talking about are included in the bill's criteria.

Mr Macintosh: They will be included within the ASN provisions, although whether they are included in the CSP provisions is a different matter.

Patrick Webb: Yes. I am optimistic. My organisation approaches the bill thinking that people are making an effort to produce something that will be genuinely supportive of all young people, whether they are multilingual or highly able or have other specific, more complex needs. We support the positive nature of the bill. However, we are concerned to ensure that the infrastructure is spelt out sufficiently well in the guidance for us, as practitioners, to see exactly what is possible and where we are going. That is the genuine plea from professionals across the board.

Sheila Roberts: The Executive's report on the consultation notes the suggestion that there are not sufficient interpreters. The bill should provide that any bilingual parents who are involved in an SEN/EAL case have an automatic right to interpreters and translated materials; however, that is not mentioned in the bill.

I would not like to finish today without bringing up the Race Relations (Amendment) Act 2000, which demands of all Government authorities—including committees—a proactive attitude to being anti-racist. Bilingual parents must have that provision.

Mr Macintosh: Indeed. That provision might be elsewhere, rather than in the bill. Is there a background of confrontation or conflict between pupils and families and education authorities over the sort of education that the children are getting?

Sheila Roberts: Not generally. This is just a personal opinion and a sweeping statement, but bilingual parents are often not aware of their rights.

Mr Macintosh: I would like clarification on another point—I am sorry if I am being a bit dense about this. I understand your argument that EAL pupils do not need the bill; however, I do not understand why you think that the bill would affect the advances that you have made in supporting those pupils. The bill seems to give additional rights.

Sheila Roberts: Thank you for asking that. I am worried that the bill puts the onus on the classroom teacher to establish the additional educational needs of the children in their class and to contact support people. However, the ordinary classroom teacher has not had any training in language needs. They will be able to identify someone with beginner needs, but they will not be able to identify pupils who need a little bit of input to access the curriculum.

Mr Macintosh: What is the difference between that and what happens currently? Surely those pupils are identified and people like you are brought in to assist them. The bill would supplement that and create rights for the pupils.

Sheila Roberts: I cannot claim that the situation is perfect, but in the schools in which I work I identify bilingual pupils by going into classes and assessing. I monitor them all the time and go back at exam times, during their third year and into their fourth year, to ensure that their progress is continuing as we hope that it will.

Mr Macintosh: Do you think that the bill would stop that happening?

Sheila Roberts: Yes, I fear that it would.

Chris Smith: You mentioned conflict. I would like to highlight the fact that two areas in the bill could give rise to conflict. The first area is placing requests—especially placing requests to independent schools, if parents were able to make such requests outwith a local authority and mainstream schools to independent schools. The second area is assessment requests from parents, especially with regard to more able pupils. The assessment requests may well come thick and fast and they may be for specific types of assessment.

Mr Macintosh: Yes, you have highlighted the fact that there might be a lot of requests for IQ assessments. The bill also extends parents' rights to make placing requests. Is there currently a conflict among able pupils arising from a demand for placing requests that is not being met? Is that a source of conflict among pupils?

Chris Smith: It has been on occasion. I do not have any statistics, but I am in contact with certain parents who are in conflict with local authorities because they wish their children to be placed in independent schools because—rightly or wrongly—they feel that such schools will better cater for their children's needs.

Patrick Webb: That is certainly the history in social, emotional and behavioural difficulties across Britain—the situation is not unique to Scotland.

Mr Macintosh: Can I ask one final question?

The Convener: I am sorry, but we must move on to the next panel of witnesses as we are tight for time. We have reached the end of our time for this panel and we have three panels to hear from this morning. I know that there is an element of cutting things short—as there always is in these matters—but we had better move on.

I thank the witnesses for their attendance this morning. There have been one or two requests for additional information, with which we hope that you will be able to help us. If, when reflecting on this morning's discussion or as the bill develops, you have any further issues that you want to bring to our attention, we will be keen to hear from you.

Sheila Roberts: Should we write to you, convener?

The Convener: You should write to the clerk. Thank you.

We are pleased to welcome our second panel of witnesses, who are Sophie Pilgrim, the chair of the children's committee of Enable, and Mark Bevan, the development officer of Capability Scotland.

I should have mentioned that we have received apologies from Wendy Alexander, who is not well.

I declare a possible interest, should members or witnesses talk about issues such as legal aid. I am a member of the Law Society of Scotland and have a consultancy with Ross Harper Solicitors.

I ask Sophie Pilgrim to offer a few words of introduction.

Sophie Pilgrim (Enable): I am here on behalf of Enable, which is a very large volunteer organisation for people with learning disabilities. Enable has 500 national members and 4,000 members of branches, of which there are 63 in Scotland.

I feel very privileged to be the chair of the children's committee, because of the great involvement in Enable at all levels of people with learning disabilities. The majority of members of the committee are parents. My son has complex needs. He is in a support class for children with autism, although he does not have autism. He has virtually one-to-one support. The provision is wonderful, but unfortunately next year he will no longer have a place in the class and will need to move to a special school. I hope that it is all right for me to talk from a personal point of view. I will also try to bring members the views of the children's committee of Enable.

I know that we are here to answer questions, but I have come with two big questions. First, what will happen to the distribution of resources for additional support for learning? It has been mentioned that additional millions will be made available. However, the issue that concerns me is the effect that the broadening of the definition of what used to be special needs and is now additional support for learning will have on time—teachers' time, educational psychologists' time and planning time in local authorities.

Secondly, how will children be prioritised? We must prioritise those who are in greatest need. I speak on behalf of children with learning disability, who are learning how to speak, how to feed themselves, how to dress themselves and how to socialise. They are learning the basics of being part of our society. Without those building blocks, they will not be part of our society—they will be institutionalised.

I welcome the broader approach that is being taken. It is fantastic that a great variety of needs will be considered under the bill. However, I hope that that will not result in a loss of resources for children with learning disability.

The Convener: As I have said before, one of the committee's jobs is to explore some of the issues that you have raised and to get a handle on the cost and the various effects of the bill. You have raised some very important questions.

Mark Bevan (Capability Scotland): As the convener said, I work for Capability Scotland in a development capacity. We work with approximately 500 children and young people on a weekly basis, and many more than that on an on-going basis, from Dumfries and Galloway up to the Shetlands and from Dundee to Argyll and Bute. We have a fairly broad spread.

We work with children and young people who have a range of additional support needs, including those with complex physical and medical needs and those with learning difficulties and mental health problems. On a weekly if not daily basis, we work across the range of traditional disciplines—health, education and social work.

I work very much in partnership with parents, children and young people to develop services. I hope that I will be able to represent some of their views this morning.

The Convener: Am I correct in saying that you have both indicated broad support for the principles of the bill?

Sophie Pilgrim: Very much so.

Mark Bevan: We broadly welcome the more inclusive language of the bill. We are slightly concerned about some of the detail, especially in relation to assessment. Presumably you will ask about that.

The Convener: We will explore some of those issues.

11:00

Lord James Douglas-Hamilton: As you know, the bill introduces a duty on education authorities to identify and address the additional support needs of all pupils for whom they have responsibility. They must make adequate and efficient provision for any additional support needs that are identified. Are you content with that new duty?

Sophie Pilgrim: I cannot understand it. It will involve a reduction in provision for children with learning disability. Records of needs started at the age of two, but the bill moves assessment to the age of three. Children will receive co-ordinated support plans so that external agencies can be brought into education. That does not make sense. I do not understand it in terms of thinking about joint planning. I do not see education as an isolated agency.

Lord James Douglas-Hamilton: Do you think that there should be a duty on education authorities to support three and four-year-olds who are attending nursery school?

Sophie Pilgrim: Very much so. I heard what was said earlier about additional support for learning. Children who are bilingual need that support at an early stage.

Mark Bevan: Generally, the expansion of the duty so that education authorities are required to consider the needs of all children is a good thing. However, we are concerned about how it may be implemented in practice. Presumably, members will ask about that.

Lord James Douglas-Hamilton: I want to ask about compulsory assessments of children who are considered for records of needs within the present system. As you know, under the bill, there will no longer be a duty on authorities to carry out compulsory assessments, although parents may request that an authority carry out a particular assessment when a child is being considered for additional support needs provision or a co-ordinated support plan. What are your views on the removal of compulsory assessments?

Sophie Pilgrim: As a parent, I did not think that my son had great support needs. We even visited a mainstream Roman Catholic school that had small classes because we thought that he could enter mainstream education. He is now eight and cannot write a single letter of the alphabet. I was completely unaware of the extent of his needs. As a parent, one is going through an emotional process of coming to terms with the situation. It is easy to go into denial, especially when everyone around you is trying to be reassuring and saying that there is nothing wrong.

Lord James Douglas-Hamilton: If there is no compulsory assessment, should there be a requirement on the education authority to take account of all needs—for example, in the circumstances of your child?

Sophie Pilgrim: That is very important. I will give the committee a practical example. Recently my son was assessed by a clinical neuropsychologist, who after observing him called me in to say that my son was much less able than he had thought. The neuropsychologist demonstrated that my son was unable to draw across a mid-line—he cannot draw a cross. Our community paediatrician did not believe that and thought that my son was acting out of stubbornness. The assessment took place when my son was eight. If someone cannot draw a cross, that affects their learning very significantly. Assessment is the difference between people realising that their child cannot do that and thinking that they will not do it because they are stubborn.

Lord James Douglas-Hamilton: What is your recommendation in this area, given that the Government is trying to remove compulsory assessments?

Sophie Pilgrim: I am not a fan of the record of needs process, because it is cumbersome. I do not really understand the legislative terminology, but multidisciplinary assessment should be readily available to any child who needs it. I cannot give you the right terminology for that, but it needs to be easily accessible when a child is identified as having those needs.

Lord James Douglas-Hamilton: Capability Scotland states in its written representation:

> "Whilst we welcome the duties for information sharing the procedure must start much further in advance … The planning for transition for young people with complex and additional needs must begin at least at the age of 14 and not any later."

What should the duties be in that connection?

Mark Bevan: I will answer that question and the one that you asked Sophie Pilgrim—the questions are related and I will explain why. Our experience of the future needs assessment process as it stands is that those who provide education—ourselves, for example—are well versed in the needs of the children and young people. We are involved as far as we can be in passing on that information to other bodies that will provide support for young people once they leave school, but we have no power to ensure that the people to whom we pass on that information act upon it.

The two questions are related because the best outcomes for children and young people are determined when there is a well-considered assessment of their needs and when that assessment is based upon the experience and knowledge of a range of people, from parents who know the wider implications for the family of the provision that a child receives, to educationists, psychologists, and health and social work professionals.

With the future needs process, we find that while we are perfectly able to pass on information, there is no requirement for it to be acted upon. That is the same for education authorities. We act as an education authority in that respect. The same applies to the development of co-ordinated support plans. Unless there is a requirement for multi-agency assessment to deliver on the requirements for meeting the child's needs to help the child to reach their potential, we will not be able to help children to reach their potential within the education system. The bill as drafted suggests that if a specific assessment is requested by a parent—the example was given of an assessment by a psychologist—the education authority will have to consider that, but parents are not necessarily in a position to know that their child requires a psychological assessment, nor is a teacher.

To answer your question, there needs to be a greater duty to plan in a multidisciplinary way for co-ordinated support plans and for the future needs process. If we do not do that, we will not have learned the lessons that we should have learned from the current needs process.

Lord James Douglas-Hamilton: Could you give the issue some thought and send us a paper on the amendments that would be advisable and helpful to those at the sharp end who have to deal with the problems?

Mark Bevan: Yes.

Lord James Douglas-Hamilton: My final question is in regard to duties for pupils who are outwith the public education system. What about children who, for whatever reason, are being home educated or who attend independent or special schools? I realise that special schools are not outwith the public education system, but independent schools are.

Sophie Pilgrim: That would come under the rights of the child. There could be all kinds of reasons for a child not being within a mainstream school but surely, in terms of a child's needs, assessments should still apply, whatever their circumstances. There are two organisations for children who are educated outside school. Children may be unable to attend school for a number of reasons, for example for medical reasons. There could be a blurred boundary with children who are out of school only because of medical needs. There should be no ambiguity about the fact that all children have the need to be assessed for their learning.

Mark Bevan: I agree with Sophie Pilgrim. The spirit of the bill is about expanding the support to as many children and young people as require it, wherever they are.

Ms Byrne: The questions on assessment that I wanted to ask have been clearly answered. I will pick up quickly on the code of practice, upon which a lot will hinge. What are your views on the consultation on the code of practice, and on proceeding with a bill when we do not have the full code of practice in front of us?

Sophie Pilgrim: I do not know what plan came out of the consultation process for the code of practice, but it is a welcome amendment to the bill. It is hoped that the code will ensure more equitable provision throughout Scotland. The distribution of special schools and support units currently depends entirely on local authorities. People might have an excellent unit very close to them that they are unable to attend because of a local authority boundary. I hope that the code of practice will do something to address such inequities.

Ms Byrne: Will it be important for the code of practice to be produced before the bill is passed, so that people are comfortable with what is being put in place?

Mark Bevan: It is difficult for people to sign up to something when they do not know what it says. Generally, the bill is based on a belief that people work together on an everyday basis to achieve better outcomes for children and young people. I am sure that many people want to do that. However, the reality is that it is difficult to work together and join up the resources of different departments. It is difficult to sign up to a bill that does not detail, in a code of practice, how that will happen.

The Convener: The code of practice will be dealt with after the bill has been passed. Do you support the principle of having more effective and uniform provision throughout Scotland, which is what the code of practice is designed to bring about, and are you prepared to be part of any consultative process on the code?

Mark Bevan: Absolutely. I do not think that anybody could, in good conscience, not be part of that.

Rhona Brankin: What additional support do the children of the families that your organisations represent receive and what changes do you envisage under the bill? Do you think that that provision will change under the bill? If so, why?

Mark Bevan: As I said in my opening statement, we provide a range of support to a range of children and young people. That includes providing occupational therapy, speech and language therapy and physiotherapy to enable children to attend mainstream schools. We also provide classroom support assistants. Sometimes, the aim is to develop skills and knowledge locally; sometimes, it is to do something more permanent than that, which enables children to attend their local schools rather than attend a special school. We also provide all those services within our own schools. We can provide equipment such as standing frames to support a child with a physical support requirement in a classroom, as well as additional skilled and trained classroom support assistants who can support a child with an autistic spectrum disorder in a mainstream or specialist setting. Perhaps that answers the first part of your question, which was about the range of support that we provide.

Rhona Brankin: The second part of my question was about how that provision might change under the terms of the bill.

Mark Bevan: Most of that support is based on assessments by professionals who understand the needs of the individual children. If the requirement for that assessment is removed, schools will lose the ability to plan for the specific support that specific children will require. Our concern is that the level of support that certain children receive may be reduced because of a lack of knowledge and understanding of their specific needs.

Rhona Brankin: Which assessment are you talking about?

Mark Bevan: The current assessment that is based on the record of needs, rather than the co-ordinated support plan.

Rhona Brankin: And, under the bill, a pupil will not be required to have a medical assessment.

Mark Bevan: That is a good example.

Rhona Brankin: I would like to pursue the issue of the number of youngsters who will be defined as requiring a CSP. In your written submission, you say that, rather than the definition that is used in the bill, you would prefer a definition based on

> "the need for aids and services rather than the need for services out with the Education Authority."

How is that different?

11:15

Mark Bevan: We would like the resources to follow the children and plans to be made around individual children, so that the process becomes child focused rather than being based on what resources are available to the education authority at the moment and where things fit. For example, we currently provide support to a local authority and a health authority that have coterminous boundaries. We provide occupational therapy and physiotherapy, which are paid for from voluntary contributions because the children have been assessed as requiring that support within their education setting but the resources are not available. The resources are not always monetary—they can sometimes be people. You will be aware of the national shortages in some of the therapy services, as well as in social work. Those are the concerns that we have.

Rhona Brankin: Are you saying that those children's needs will not be picked up? If a child is assessed as needing occupational therapy, that child will very likely, under the terms of the bill, be entitled to a co-ordinated support plan.

Mark Bevan: If that need were assessed.

Rhona Brankin: Why should it not be? Why is that assessment not taking place, and how will the bill change that?

Mark Bevan: I think that we may be talking at cross-purposes. My understanding is that, under the co-ordinated support plan, an education authority has no duty to perform multidisciplinary assessment, whereas education authorities currently have that duty.

At present, a child may require an assessment to determine whether they need—to go back to the example that I gave—a standing frame to give them the physical support that they require to be present in a classroom. That is assessed and provided for if the resources are available. However, as I said, the resources are not always available and are not always about money; sometimes they are about having people who can do the job.

Under the bill, the education authority may be ignorant of the need to assess the physical support needs of the child—an assessment that could be made only by a medical professional. Because the education authority will not have a duty to perform such an assessment or to require the assessment to be performed by anybody else, the onus will fall on the parent. It is then a question of the parent being able to think and ask questions outside the box, if they are able to understand that their child may benefit from a physical, medical or psychological assessment. The jury is out on that—some parents will and some parents will not; some education authorities will and some education authorities will not; some teachers will and some teachers will not.

Our concern is that, if we do not build from the base of bringing together all the professionals and stakeholders—including parents—to determine the support needs of a child, those support needs may not be planned for or delivered.

The Convener: Is not an awful lot of that to do with the system and community schools having other professionals in place to work together naturally, making such assessments when they are required but not doing so when they are not required? Does that not come from good professional practice on the ground? The issue of a duty is not unimportant but it should not, I hope, be the central issue for bringing about the multidisciplinary stuff that you want to see.

Mark Bevan: I have to disagree with you. As a former practitioner, I have worked alongside other agencies. Where and when that can be done, that is great and the best outcomes are achieved for the children and families or whoever the client group is. However, we cannot assume that multidisciplinary working will take place and that there will follow from that a sharing of the resources and budgets that are required to meet the outcomes.

Ms Byrne: I would like to ask about transitions. Often, adaptations are very necessary for young people moving from primary to secondary school. Those can be adaptations to domestic science laboratories, science labs and facilities across the range of technical and, especially, practical subjects. In my experience, it can take a long time to put such adaptations in place, even with early warning of transfers. Do you think that the bill as it stands will help, or is the situation in this area similar to that which has just been discussed? I am talking about ensuring that everything is accessible and available.

Mark Bevan: Are you asking specifically about the replacement of the future needs process?

Ms Byrne: I am talking about transition from primary to secondary education. When they enter secondary school, young people will need adaptations to be made to various classrooms in order to access the curriculum. In your view, is that issue as problematic as the means of assessment used to consider whether specific items that a young person may need should be acquired?

Mark Bevan: By extension, that is the case.

Fiona Hyslop: I have a cold, so I would be grateful if people could speak a bit more loudly.

You have requested a change to the criteria for co-ordinated support plans. You recommend

> "that the bar for receiving a CSP should be the need for aids and services rather than the need for services out with the Education Authority."

At the same time, you support the proposal that the definition of additional support needs should encompass all those who need services. Basically, you are arguing that everyone should receive a co-ordinated support plan. I do not understand your position—it is inconsistent.

Mark Bevan: The message that I am trying to put across clearly and to which I keep returning is that to get the best for children we need to bring to bear all the expertise and experience that is available to all the individuals and professionals who can speak to a child's needs. We also want to protect children against education authorities being able to say that there is a resource issue and that they will not become involved in an assessment because they know that they may not have the resources to meet a child's needs.

This is a two-sided coin. The other side of the coin is that education authorities may then not be able to require the support of their colleagues in other agencies in meeting their obligation to help children to fulfil their potential. If we set the threshold for a co-ordinated support plan at requiring additional services—we might want to tweak our submission by inserting the phrase "outwith the resources of the school" rather than “outwith the Education Authority”—

we can probably do best justice to children and young people and ensure that the power exists to bring to bear on their needs all the experience that is available.

Fiona Hyslop: I have a question about funding. In your oral evidence and your written submission you have been critical of education authorities putting a cap on aids and services that are provided. Are you more in favour of a model in which funding from central Government follows the child? I refer to the backpacking idea that, instead of managing and providing support from their budgets, local authorities should be given a pot of money that is driven by their applications on behalf of individual children. That is a fundamental difference from the way in which the bill is meant to operate.

Mark Bevan: I would like to consider that proposal but, on the face of it, it sounds very sensible. We know which children have more complex needs and which children have needs that can be identified early. We and others—local authorities—can plan well in advance, because there are many children with conditions that follow a similar pattern and for whom resources will follow the same pattern. Planning around individual children should be possible.

Fiona Hyslop: We know from Audit Scotland’s report on mainstreaming in schools that it is extremely difficult to budget for that. The approach that you have outlined may not be realistic, but it is an issue.

Mark Bevan: It is difficult to budget for some children, but not for all. For example, when children with cerebral palsy are four, five or six years old we can predict clearly what their needs will be. That might be more difficult for children with autistic spectrum disorders.

Fiona Hyslop: The individual education plan will be the vehicle for supporting children who have additional support needs but who might not have a CSP. Do you think that that arrangement will be satisfactory?

Sophie Pilgrim: My son’s IEP consists of one sheet of paper, on which are listed five items about the nature of his needs. It contains targets—for example, the ability to count 10 owls, take away three and say how many are left. Such targets are helpful and practical, because they enable a parent to give specific help to support their child’s learning. However, an IEP is very different from an assessment that looks at a child’s abilities and difficulties—I have talked about the neuropsychologist who assessed my son as unable to draw across a mid-line. An IEP is not a smaller version of an assessment; it has an entirely different purpose.

Fiona Hyslop: Are you strongly in favour of the assessment having some kind of status?

Sophie Pilgrim: When a parent who believes that their child could attend mainstream school is told about a major decision that affects their child in the form of, for example, a nicely written letter that says that their child is excluded from attending a mainstream school and which quotes from the sections of the education legislation that allow the education authority to make such a decision, the least that the parent can expect is a full written explanation of the decision. I am in that situation; I believe that my son could be in mainstream school and that I should receive at least a full version of the decision, written by people who have the right qualifications, that tells me why the law allows the local authority to decide that my son cannot attend school with the children who live around us.

The Convener: Does Mark Bevan want to add anything to that?

Mark Bevan: I agree with Sophie Pilgrim. We see the record and the CSP as more strategic and multi-agency than the IEP, which is much more about individual learning targets and what goes on in the classroom.

The Convener: That is helpful.

Dr Murray: The questions about the transition have been fairly well covered, but what are the panel’s views on the balance between the rights of the child and the rights of parents, given that what the parents want might not necessarily be in the child’s best interests? Also, do you have concerns about a local authority defining a young person as incapable in relation to the rights of individuals with additional needs?

Sophie Pilgrim: Let me answer your second question. People say, for example, that it will be less stigmatising for children if we change the terminology from “special needs” to “additional support for learning”, but to me that is not what is stigmatising. What is stigmatising is the experience of being with one’s child in a supermarket and seeing the expressions of hostility on other children’s faces because they can tell from the way that the child moves that he or she has learning disabilities—parents become so used to such public reaction when they are out with their child that they do not react emotionally. We live in a non-inclusive society and parents of children with complex needs experience that every day.

I am sure that being treated as incapable would affect children who might have valid additional support needs but who are not at the complex end of the spectrum, but that is not the issue. My real concern is that the bill will take resources away from children with learning disabilities, because I do not see how teachers, educational psychologists and planners will be able to do what they have been doing for those children while taking on board the other, valid needs that the bill will require them to consider.

Mark Bevan: This area is not one on which we concentrated in our submission—only so much can be written in four pages—but, as a campaigning organisation, Capability Scotland is concerned to ensure that children's rights are not abused specifically or generally. It seems pretty incredible to me that children with complex needs, disabilities or additional support needs are considered incapable of being involved in such complicated decisions when the United Nations has clearly given a direction on the rights of the child and the Children (Scotland) Act 1995 clearly says that we must consult children on any issue that affects their lives. The bill contradicts widely accepted legislation.

Dr Murray: There has also been concern that almost the reverse of Sophie Pilgrim's position might happen: in some cases, parents might request that a child who has complex needs be placed in a special school when that might act against the child's right to be placed in an inclusive setting.

11:30

Sophie Pilgrim: As a parent, I find it difficult to answer that point. If a child has complex needs, their education affects all areas of the parent's life. For example, it affects where they decide to live. We have moved house twice to be near provision. Lots of parents do that: they examine what authorities provide, because their prime consideration is the educational needs of their child. It is difficult to be told that my interests might not be the same as those of my child. That might be true, but it would not be possible for me to stand back and say, "I am not actually acting in my child's best interests."

Mr Macintosh: I will ask the same question on tribunals and mediation as I asked the previous panel of witnesses. Do you welcome the setting up of a tribunal system, a dispute resolution system at local authority level and a mediation service as a way of taking some of the conflict out of the system? Would that approach help to reduce and resolve conflict? Would it empower parents and families in their dealings with local authorities?

Sophie Pilgrim: There are two different views on the matter, and my personal view is different from that of the Enable committee. The Enable committee's view is that it is positive to have mediation that supports the parent as long as it is ensured that the service is independent and free of charge. However, my view is that mediation is the only measure in the bill that is additional for children with complex needs. Is it really so great for us to be given the opportunity to go to mediation and tribunals? I do not want to get into disputes, but any parent of a child with complex needs starts off in dispute and goes on in dispute. The sting in the system—appeals landing with the Scottish Executive, when previously they went to Her Majesty's Inspectorate of Education—is what pushed forward change for children with learning disabilities, but the bill has taken that out of the system. I do not want to go to appeal or mediation; I want really good resources for my son. He has very good provision at the moment, and I wish that there was more provision of that kind so that he could stay with that level of provision. That is what I want, but it will not be possible.

Mark Bevan: We will always have a slightly adversarial system, because there are lots of different points of view and passions run high around such subjects. It is therefore positive that there is a system for trying to work through some of the issues. We are concerned—and our concern goes right back to the joint assessment—about whether the tribunal's decision will be binding on the education authority only. A range of agencies may be needed to come together to support a child, but if the tribunal's decision binds only the education authority, the measure will be pretty limited.

Mr Macintosh: I will pick up something that Mark Bevan said earlier, which was about changing the criteria for a co-ordinated support plan. The Capability Scotland submission says:

> "The CSP is the only resourced part of the legislation that can act as a guarantee on the provision of aids and services."

That repeats the interpretation of the record of needs as a vehicle for resources rather than a vehicle for providing support.

To turn things the other way round, given that there will always be battles over resources but that there needs to be fairness in their allocation, as Sophie Pilgrim said earlier, do you think that the CSP is the right tool or device for differentiating between those who have complex and severe needs, and therefore a greater need for resource, and those who need some resource, but not at the same level?

Mark Bevan: That is a really complicated question. If one starts from the principles of discrimination and the provisions of the Disability Discrimination Act 1995, it is clear that anybody who provides any service at all needs to make reasonable adjustments. If the purpose of education is to help children to reach their potential, then it is easy to see that there will be a requirement to make reasonable adjustments of some description to enable all children to reach their educational potential. That needs to be enforceable, although it probably does not matter much whether that is achieved through the co-ordinated support plan or the old record of needs.

The decision about the resources that a child needs to reach their potential is made by those who are able to make it. Typically, that will mean people from a range of agencies. The decision about whether to provide those resources should fit in with other legislative requirements and with principles and values, rather than with the question whether a particular education department's budget is £50,000 short.

Mr Macintosh: The CSP is not supposed to be a resource vehicle at all, yet you are interpreting it as such. If you interpret it as a resource vehicle—and many parents do so—do you think that it is a fair means of distributing resources?

Mark Bevan: It would be a fair way of distributing resources if the assessment is made by those who are able to make it.

Mr Adam Ingram (South of Scotland) (SNP): I wish to ask about the transition from the old legislation to the new and about a problem that may arise with regard to the parents of children who have records of needs now, but who will not be eligible for a co-ordinated support plan. It has been suggested that the estimate of

"around 300 appeals per annum"

that features in the financial memorandum is a gross underestimate, considering the fact that the children of 8,000 families will not have a co-ordinated support plan despite the fact that those children have a record of needs at present. They could snarl up the appeals process. Does some transitional arrangement have to be made as the new legislation replaces the old?

Sophie Pilgrim: I do not understand why there will be fewer co-ordinated support plans than there are records of needs. I do not understand why children who had records of need in the past should not have a regular written assessment that is reviewed. This is not a direct answer to your question, but I think that the transition will be very problematic. People will feel that their children have been put in unsuitable provision and left there because there is no process for monitoring what happens to those children. If a child has special needs, their abilities can change dramatically and quickly.

I cannot understand the logic of changing the system in a way that means that there are fewer co-ordinated support plans for children than there were records of need. To me, the logic should be that a lot more children will have co-ordinated support plans, which should encompass more. Otherwise, what will happen to all the children with English as an additional language or to the children on whose behalf representations were made earlier this morning? How will they be included under the new system? Are the authorities even going to be aware of the level of need in schools if there is no assessment of those children and if, as Patrick Webb mentioned earlier, figures on children with SEBD are not available because authorities do not collect those figures, as they do not do the assessment?

The Convener: There are issues to do with definitions changing with the transition to the new legislation. What are Mark Bevan's views?

Mark Bevan: I will make a general point about that. Over the past 18 months or so, some colleagues and I have worked a lot with parents in Scotland and further afield on the issue of diagnosis. That might appear to be a tangential point, but it is not. Diagnosis tends not to happen at a fixed point in time. People do not have an appointment with the doctor on Friday and come away from that knowing what their child's medical conditions are. A broader time frame is involved, and diagnosis tends to be quite complicated.

A number of parents have told us that they find some comfort from the bit of paper that they get that says what is going on with the child, what their medical condition is and how it might affect them as they continue to develop. Further information might suggest what support their child may require. That might determine where a parent chooses to live, as they will know about particular provision in particular areas. The removal of the record of needs will be viewed as something of a loss by parents who, typically, fought fairly hard to get one for their child. It is very likely, if not certain, that parents will fight against that. It seems sensible to run the two systems in tandem for those parents who want it, at least for the period of time during which the current records of needs system will continue. It would be easy to give parents that option.

The Convener: Thank you very much. We have three panels appear before us this morning, and I am conscious that we are a little tight for time. The committee is very grateful for your participation today. If there are any issues that you wish to raise with us following this morning's exchange, please feel free to write to the clerk. I think that there was one issue that one of you was going to get back to us on, so I would be grateful if you could help us in that way, too.

11:41

Meeting suspended.

11:48

On resuming—

The Convener: Our final panel this morning consists of Dr Stuart Aitken, principal officer of Sense Scotland; George Reilly, chief executive of Dyslexia in Scotland; and Jane Hook, the vice-chair of the board of directors of the Scottish Society for Autism. I welcome them to the committee and ask them to kick off with introductory comments. Would you like to start, Jane?

Jane Hook (Scottish Society for Autism): Yes, thank you, Robert. I was chair of the Scottish Society for Autism for four years and I am a vice-chair at the moment. I have a 17-year-old daughter who has autism and a severe learning disability. However, I represent a group of people with autistic spectrum disorder, ranging from children like my daughter who have placid autism, to others who have much more severe and challenging behaviour and no speech and language at all. There are also those who are very academically able but socially inept, in the Asperger's line. The disability is interesting and complex.

George Reilly (Dyslexia in Scotland): Dyslexia in Scotland has 600 subscribing members throughout the country, local branches and a number of affiliated organisations. Among other things, we operate a national helpline, which, in the year to December 2002, received 6,300 calls for advice and information about dyslexia. Approximately 50 per cent of calls are from the parents of children who are seven or eight years old, as that is the point at which parents get into conflict with the authorities.

Dr Stuart Aitken (Sense Scotland): I will set out our general position, which addresses a number of the concerns and questions that were raised with the previous panels. Sense Scotland works with people who have complex support needs caused by deafblindness, sensory impairment and physical, learning and communication needs. You will see from our submission that we welcome some aspects of the bill, have reservations about others and have concerns about several.

We welcome the role of designated co-ordinator, who will be the lead person to bring together services in day-to-day implementation. It will be helpful to have someone to do that. We also welcome minimum standards through a code of practice to ensure that there is a quality process. We need a code that is fresh and invigorating for the new bill.

We have reservations. The bill goes some way towards ensuring that all agencies have to share information, which is welcome, but it does not go far enough in ensuring that provision will be made. The duty to request information about post-school services at least 12 months before the young person leaves school is an advance on the position in the consultation, but there is no duty to ensure that resources and provision are in place before the young person leaves school.

The proposals on mediation and dispute resolution are welcome but, together with appeals and tribunals, the system will prove to be complex and time consuming, not only for parents, but for authorities' staff and other agencies. Much was said about parent involvement, participation and empowerment in the consultation running up to the bill. If we can get those processes right, there will be less need for formal processes. Supporters for children, young people and their parents were promised in the consultation, but the arrangements do not appear to be defined in the bill.

We are concerned about the removal of arrangements for under-threes. In addition, the bill does not require education authorities to do anything that

"is not practicable at a reasonable cost."

We would like "reasonable" to be clarified either in the bill or in the code of practice.

We are concerned about how the education authority can influence the actions of other agencies. Various sections seem to allow other agencies to refuse to comply with education authority requests. The co-ordinator role is restricted to the CSP, but access to co-ordination for children with additional support needs would strengthen commitments by the authority and other agencies.

There will be confusion over the criteria for opening the CSP, to which reference has already been made. The confusion starts right at the outset, in section 2(1). The CSP will add to a number of separate plans for children. We are concerned about the complexity that that might introduce.

Only parents will be able to request specialist assessments, yet most support needs will need to be identified and assessed at school level. We would like other professionals to be able to request assessments.

There is a problem with the term "additional support needs tribunals", because the tribunals can consider only those issues relating to the CSP, not to all additional support needs. Someone will have a CSP only if they are in receipt of non-education services, but the tribunal's power does not extend to non-education services. Many issues will not come anywhere near the tribunal.

Other recent Scottish legislation has given a sense of empowerment by placing the person at the centre of considerations. The bill does not always reflect that tone. In relation to decision making, we would like to see more consistency with key legislation, such as the Children (Scotland) Act 1995, which Mark Bevan mentioned, and the Adults with Incapacity (Scotland) Act 2000. For instance, in the 2000 act, capacity is not an all-or-nothing concept, but something that varies with changes in a person's condition and with decisions that have to be made. If need be, the bill could use the phrase "incapable in relation to specific decisions" for young people to whom the 2000 act would apply.

The Convener: By way of introduction, I ask for your views on the general principles of the bill, although I know you have touched on them. Leaving aside the details of the plans, I want to ask about the move from the record of needs to the CSP and a broader duty on authorities to deal with people who have additional learning support needs. Do you support the general mechanism or do you have major doubts about the structure and principles of the bill?

Dr Aitken: The principles have been set out several times. We welcome the principle that the needs of all children should be addressed, but we doubt that the bill will introduce a less bureaucratic and more integrated process. At present, it is hard to see how the focus on outcomes for the child will come about, as we have only a vague idea of what the IEPs and other planning frameworks will look like. Partnership with parents is another key principle, but we are not sure that the bill addresses that matter very well. If we got that part right, there might be less need for additional safeguards such as mediation. We hope that the bill will make a difference for children. We welcome some parts of the bill, but not all of it.

George Reilly: I agree more or less with Stuart Aitken. We support the broad principle of extending to more children, as necessary, co-ordination for their needs. Our greatest concern is about children who have only educational needs—they will be excluded totally from access to a tribunal and, I think, to mediation. We are totally opposed to that.

The Convener: Your concerns are about the rights of such children.

George Reilly: Yes.

Jane Hook: The issue is interesting. I deal with a large number of parents of children who have records of needs. Those parents know that the system is not perfect, but they feel that they have rights under it and they are extremely distressed because their children will not have access to a co-ordinated support plan. However, I also deal with a large number of parents whose children, at present, cannot access a record of needs because, although they are academically able and manage in a classroom setting, they have Asperger's syndrome. Such children do not get a record of needs, but they will have access to a co-ordinated support plan. There is a conflict: one group of people will be pleased because they will have access to co-ordinated support plans, but another group will be extremely distressed because they will feel that their rights are being taken away.

The Convener: Given your wide experience in the matter, is the issue about the reality of people's rights or the perception that something will be lost? I do not suggest that such a perception would not have to be dealt with.

Jane Hook: You are correct that the issue is about perception, but it is also about mistrust. Many parents had to put up a fight for records of needs. One of the major issues on the record of needs—over which the main battles have been fought—is the placement that is required for a child. Parents of children who have autistic spectrum disorder often end up in conflict with the local authority over placement requests.

The Convener: As Stuart Aitken mentioned, under section 3(2), the education authority will not be required to carry out a duty under section 3(1)(b) if it

"is not practicable at a reasonable cost."

The resources issue is the other side of the coin. What are your views on either the phraseology or the principle of that exemption for local authorities? Reasonableness is not an uncommon legal concept. Is the provision reasonable?

Dr Aitken: My understanding is that the term "reasonable" is used widely in legislation and that it is well tested. However, we would like clarification, preferably in the code of practice, of how the phrase will be translated into practice, perhaps with some examples, as in the Disability Rights Commission's code of practice. It would be good to see examples of what was expected to be reasonable and what was expected not to be reasonable or practicable. The DDA and reasonable adjustments have created part of a framework, but that probably does not go far enough to show how everything will fit together with all the other agencies' inputs.

The Convener: That is helpful to know.

12:00

George Reilly: I mentioned receiving 6,300 calls, of which approximately 3,000 are from the parents of seven or eight-year-old children. In general, they call our office because they are already in conflict with a local education authority, or at least a school, about the lack of provision for their children. If a child has educational needs only, they will not be entitled to a co-ordinated support plan.

The Convener: That does not quite answer the question that I asked. I asked whether the phraseology for giving the local authority an exemption from its duty—whether fulfilling that duty

> "is not practicable at a reasonable cost"—

is reasonable. That point must be met.

George Reilly: I do not know how a sentence that uses words such as "practicable" and "reasonable" would be rephrased, but I can easily foresee local authorities using such a measure to make even less provision for dyslexic children than they do at the moment. In the vernacular, that could be a means of copping out.

Jane Hook: Many parents are extremely worried about that issue, because they have always felt that assessments with records of needs revolved around a local authority's ability to provide and not necessarily around the child's needs. In other words, a resource issue was set against the child's extra need. It is interesting that the bill represents the first time that that has been written down. Parents find that subject difficult. The resource problem is not always financial. When the autistic spectrum disorder is involved, the resource issue relates to people's knowledge, training and understanding of ASD and its complexity. That is still greatly missing.

Lord James Douglas-Hamilton: I have asked other experts several questions about duties and I will ask each witness who is present questions that arise from their representations on duties.

Sense Scotland's submission says:

> "The duty to request information about post-school services at least 12 months before the young person leaves school is an advance but it does not go far enough … Arrangements for post-school provision are restricted mainly to information exchange."

Would you like the relevant duties to be clarified and strengthened?

Dr Aitken: Yes. I will give an example. Before leaving school, deafblind children may require a long lead-up to identify resources and services and to visit resources and services, because they cannot read about them. A long lead-up is required to obtain an understanding from the staff who work with those young people about what will be required in the new setting and to allow children to show that they understand that new setting. That takes time.

Just having the information that services X, Y and Z are available is not enough. A long lead time is needed to identify communication resources, particular styles, staff induction and other matters. For some people, 12 months will be enough, but for many who have the most complex support needs, that will not be enough. We would like to have greater clarification that such a provision is needs led instead of a blanket statement that the period is 12 months.

Lord James Douglas-Hamilton: Page 2 of your submission says:

> "Requirements on the education authority or other agencies, to meet children's support needs, are weakened by the opt-out clauses".

Moreover, you point out:

> "The Bill does not require education authorities to do anything that 'is not practicable at a reasonable cost'."

Dr Aitken: I will clarify our reference to the opt-out sections. We found it difficult to track through the bill what the education authority could say that it could do practicably and within reasonable cost. The bill also says that other agencies do not need to comply with requests from education authorities. There is no vehicle through which the education authority or the family could get the other agencies to put in that level of support. There are many examples, such as the involvement of speech and language therapy, in respect of which the authority may be able to say that a request does not meet with their statutory framework in other areas.

Lord James Douglas-Hamilton: Concern is also expressed that authorities are not required to do anything that is not practicable at reasonable cost—we have already touched on that point. Might you be prepared to consider the framework of the bill and let us know in due course whether it could be amended in a way that would be helpful to you and to those whom you serve?

Dr Aitken: Yes.

Lord James Douglas-Hamilton: Dyslexia in Scotland's submission expresses concern that

> "children and young persons who may have educational support needs only, do not appear to have been addressed."

It also states:

> "Provided that the outcome of the impartial review will be legally binding on the education authority then our concerns will be substantially allayed."

Should the duty be strengthened in legislative terms?

George Reilly: I wrote that after reading the policy memorandum, which refers to secondary legislation that would enable independent review of the authority's position. What concerns us most is the provision in section 6 of the bill, under which, although a parent may request an assessment to be carried out, the authority can reply, "We have examined the situation and see no need to take the matter any further." We would like the legislation to strengthen the parents' right to force the authority to take the necessary steps.

The information that we receive from calls to our helpline shows that parents are the first to appreciate that their child is not making progress, usually in primary 2 or primary 3, and that something is wrong. If the school authorities take no action, there is conflict in the trenches from that point on.

Lord James Douglas-Hamilton: Am I right in thinking that there are a large number of forms of dyslexia, which can be severe or minor depending on the circumstances of each child?

George Reilly: Yes. It is more or less carved in stone that 4 per cent of the population are severely affected by dyslexia and a further 6 per cent are affected on the mild-to-moderate spectrum. That means that a substantial proportion of the school-age population is affected.

Lord James Douglas-Hamilton: May I respectfully ask you to consider the drafting of the bill and to let us know in due course if you have particular recommendations about how it could be improved in a way that would be helpful to those who have dyslexia?

George Reilly: Yes. We will do that.

The Convener: The issue behind that question is the dispute resolution process, which is referred to in paragraph 53 of the policy memorandum. Does a lot turn on the detail of that or are you looking to have that process changed so that it involves a tribunal and becomes a more legally enforceable arrangement?

George Reilly: We see many means by which a local authority can decide to take no further action in connection with a child who has—I will widen the range slightly, if the committee does not mind—dyslexia, dyspraxia, dysgraphia or dyscalculia. Those are all hidden, specific learning difficulties, which are difficult for parents to prove. The parents often have to arrange a private psychological assessment, which costs up to £300, in order to say to their education authority, “Please look—my child has educational needs.” There must be a way of preventing that from happening. A lot of people cannot afford that sort of money.

Lord James Douglas-Hamilton: I will ask Jane Hook one or two questions on autism. I know that the National Autistic Society is not your organisation, but do you have contact with it?

Jane Hook: Yes. We work closely with it.

Lord James Douglas-Hamilton: It has sent in representations.

Jane Hook: Yes—I believe that it has sent a written submission.

Lord James Douglas-Hamilton: Have you seen its submission?

Jane Hook: No, I have not.

Lord James Douglas-Hamilton: I will put to you one or two points that the society made. It expressed concern that it will be harder for children with autistic spectrum disorder to qualify for a CSP and that, although many of its children have had to fight to get a record of needs, children who currently have a record of needs might not qualify for a CSP, which could leave them worse off. It says that some children with autistic spectrum disorder might not qualify for a CSP because they might not be in contact with other agencies for support. Is that fair comment?

Jane Hook: Yes, it is. My daughter has a severe learning disability and we have only now managed to get other agencies such as social work services involved—I forced them to start on her future needs at 14. I contacted social work services to say that I needed someone. We had contact, but because there were not enough resources to provide for her identified needs, we received no services. Therefore, we were once again left without services. That happens to many people. For people with autistic spectrum disorder, it is not necessary for contacts to be made with any other agency.

Lord James Douglas-Hamilton: A moment ago, I mentioned the other issue about which the National Autistic Society expressed great concern. The society believes that

> “authorities should have a statutory duty to begin transition planning at 14”

with adequate resources to see such planning through. It goes on to say that six months is too short a period for adequate multi-agency planning for children with additional support needs and it would like the period to be extended to at least two years before the child leaves school. Does that fit in with your thinking? The society’s theme is that information should go from appropriate agencies to appropriate agencies.

Jane Hook: That is utterly essential. Many young people with autistic spectrum disorder will require a high level of support throughout their adult lives, which must be identified fairly early on with different agencies. Parents might not even have any contact with those agencies. I am dealing with a case in which the child is 18 and should have left school in the summer. Her exact needs have been identified for four years and she is being kept on at a specialist school until Christmas. However, there is no place for her after Christmas and her needs have not yet been properly met. She also needs a transition period. It should be understood that routine and structure are extremely important for people with autistic spectrum disorder and that a person cannot simply be moved from an area of life such as school straight into an adult service. There must be a lead-up.

The Convener: I would like to move on a little, if I may, unless Lord James Douglas-Hamilton has another question.

Lord James Douglas-Hamilton: Would the Scottish Society for Autism consider what we have discussed with the National Autistic Society and send in representations to strengthen the case?

Jane Hook: Certainly.

Lord James Douglas-Hamilton: I have a final question for all three witnesses. Should education authorities have a responsibility to consider the circumstances of three-year-olds and four-year-olds at nurseries?

Jane Hook: The fact that authorities will not deal with children under three is fairly poor and is in conflict with the Public Health Institute for Scotland's needs assessment report on autism, which clearly says that early diagnosis and early intervention are essential for autistic spectrum disorder. Diagnosis and intervention can now be carried out for children at any age from 18 months upwards. Full assessment should be done—it is vital that such children are assessed very early. I think that a disservice is being done to many people with autistic spectrum disorder.

George Reilly: From our point of view, I do not see such a responsibility as essential. Some people think that dyslexia can be assessed and ascertained at such an early age, but the vast majority of people in the field would prefer to wait until the child is a little older and at school. A child's lack of progress really starts to manifest itself when he or she is around six, seven or eight.

Dr Aitken: We echo what has been said about the need to tighten up the provision for pre-school three-year-olds and four-year-olds. It does not seem to make sense that suddenly everything will plug into place once a child arrives at school—we know that that does not happen. Much can be done in the way of interaction and communication to ease the transition into school. Like Jane Hook, we have concerns about the reduced provision for under-threes, especially as, under the current record-of-needs legislation, there is provision for two-year-olds.

12:15

Ms Byrne: I would like to return to assessment. I am aware of how crucial early assessment of autistic spectrum disorder is for putting in place the right kind of programme as early as possible. Do you feel that the bill will provide appropriate assessment for the school-age population? Is the multi-agency aspect in the bill appropriate, given that the experts in autistic spectrum disorder are often clinical psychologists and speech and language therapists and that they should be involved in the assessment from time to time?

With regard to dyslexia, George Reilly acknowledged that there is a huge issue for parents around identification of the specific difficulty that a young person has. I wonder whether the additional support needs in the bill will be identified and met or whether we will still have to deal with the problem that has always existed in relation to dyslexia, which is that although everything falls into place where good practice is followed in schools, a child's dyslexia can be missed where good practice is not followed; it can be assumed that the child is not trying hard enough or is not concentrating.

Jane Hook: It would be good to have a multi-disciplinary team with sufficient knowledge, particularly in relation to early diagnosis of autistic spectrum disorder.

Often, however, children with Asperger's syndrome can float through primary school because they are quite alright academically and have a structured routine in which they stay in one class with the same people, but find that everything falls apart at secondary school. At that stage, another multidisciplinary team would be required. Once again, however, that will revolve around knowledge and training.

Ms Byrne: What do you mean by "sufficient knowledge"?

Jane Hook: The Public Health Institute's needs assessment has highlighted the lack of knowledge and understanding of autistic spectrum disorder. Earlier, a gentleman talked about emotional and behavioural difficulties. The children of many of the families with whom I deal have been identified in the first instance as having emotional and behavioural difficulties. The parents are given an extremely hard time subsequently and are often asked to go to parenting classes and so on, which is fairly insulting. Only after someone who has knowledge of autistic spectrum disorder has examined their child do they discover that the child has Asperger's syndrome.

The Convener: Would any of the other witnesses like to comment on that?

Dr Aitken: On assessment in general, I take a slightly different position from others on whether compulsory assessment is necessarily a bad thing. In many instances, psychological assessments have been carried out by people who were not psychologists but on whose views the psychologists depended. We need to be clear that assessment has a purpose; however, at the moment, the bill does not make that clear. It looks as if the assessment is required in order to make a request for a medical examination and further assessment by a psychologist.

Successful models exist of team involvement in assessment of children in various disability clusters, if I can use that phrase as shorthand. In general, those models involve psychological or medical examination only where those are needed. It is important that there exists provision for requests to be made. The last thing we want is for there to be refusals but no recourse to do anything after that.

The Convener: George Reilly expressed some views on that earlier; I do not know whether he wants to add anything now.

George Reilly: No.

Rhona Brankin: I want to ask Mr Reilly about children with dyslexia-related difficulties. You are concerned that, under the new legislation, a large number of youngsters will not have access to a co-ordinated support plan. The bill introduces a new duty on education authorities to identify and address additional support needs for all pupils. How many youngsters currently have a record of needs but will not qualify for a co-ordinated support plan? Is the new duty inadequate for those who will not qualify?

George Reilly: I am not a lawyer, but I do not agree that there is a new duty. I am reasonably familiar with the Education (Scotland) Act 1980 and the Education Act 1981, in which the word that is used is "shall". We know the difference between "a local authority shall" and "a local authority may". I studied that legislation because I once went to the secretary of state myself, on appeal. I have great difficulty in seeing how the "new duty" is actually new. I do not see that it is any different.

Rhona Brankin: You said that 10 per cent of the pupil population may have some form of dyslexia-related difficulty, in the widest sense. You are not for one minute suggesting that they should all have a co-ordinated support plan—or are you?

George Reilly: No, I am not saying that. I do not think that any parent with a child who has whatever difficulty actually wants a co-ordinated support plan or a record of needs. Many parents are as a last resort driven towards a record of needs in order to get resources for their child. There could already be many dyslexic children in public sector schools who are being provided with the resources that they need, with the result that the parents are content. All that we are opposed to in the wording of the bill is the fact that only a child who has support needs over and above his or her educational needs will be entitled to a co-ordinated support plan—that being the very nature of the requirement for co-ordination of the various types of support required. Many dyslexic children will have other support needs and will therefore be eligible to be considered for a co-ordinated support plan, but many will have no other needs at all; we feel that it is wrong that they should not be eligible.

Rhona Brankin: Do you have any idea of numbers?

George Reilly: No. However, we could use the standard distribution curve. How many school-age children are there?

Rhona Brankin: I am still trying to understand this: you are saying that 10 per cent have some kind of need because they are on the dyslexic continuum, but you are saying that not all would require a co-ordinated support plan.

George Reilly: That is right.

Rhona Brankin: Do you know how many children have a record of needs?

George Reilly: No—I do not have access to that information.

Rhona Brankin: Obviously, the Executive has had to make judgments about the impact of the bill. If you are saying that the bill as it stands would reduce the rights of children with dyslexic difficulties, it would be useful if you could quantify that.

George Reilly: I do not know whether it would be possible to quantify it other than through the Scottish Executive, which has access to information that we could not possibly acquire.

The population of Scotland is about five million, with approximately four million adults. The school-age population has to be in the order of 700,000. If 10 per cent of that population has dyslexia to some degree, we are saying that there are approximately 70,000 dyslexic children in Scotland's schools. Some will have additional support needs over and above the educational support needs and some will not. Why should those who have such needs have a legal route to follow to ensure that they get the necessary provision, whereas those who have only educational support needs have no access to that route?

Rhona Brankin: So—fewer youngsters who currently have records of needs will have co-ordinated support plans; your concern is about what you perceive as being the legal rights of those youngsters.

George Reilly: Yes. The legal rights of those children are being denied them if they have no ultimate recourse to the law to ensure that their educational needs are met.

Jane Hook: To work out what additional support children need, we have to have a diagnosis and we have to realise that there is a problem. How is a teacher trained to pick up problems when he or she is on his or her own in a classroom full of children, three or four of whom are at the back and are nice and quiet? The great worry is that with the presumption of mainstreaming—with which many of us agree—there will be children going into primary school who have not had additional needs identified; it could be years before such needs are identified, but those children will need additional support.

Different levels of support will be required. When wee Willie is running around flapping and biting everybody in sight, we will know automatically that there is a severe problem, perhaps with autistic spectrum disorder. However, with the young man who is doing extremely well with all his bits and pieces but is coming in every day from the playground black and blue, we will not know. We have to work out what level of support people will require. You asked about numbers: we do not know the numbers, because we do not have a proper system of diagnosis and until we have proper diagnosis, we cannot give you the proper percentages.

Rhona Brankin: The bill does not change the diagnosis.

Jane Hook: I think it does, because at the moment the children who get records of needs are those who have severe and readily identifiable needs. The bill should access other children who have needs that are not necessarily so severe. Children who are being picked up right away as having severe problems should be getting help automatically without their having to fight for a co-ordinated support plan. Other children who get no support and no help should have access to extra support, because they are missing out completely on their education because they are getting nothing extra.

Rhona Brankin: Do you not think that the duty on education authorities is strong enough to cover that?

Jane Hook: Of course there is a duty, but who is going to define what the duty really is? There might be a duty, but needs might not be identified.

The Convener: There are a lot of issues around definitions, the code of practice, what happens in the classrooms and the documents.

Jane Hook: An issue that members have not mentioned to us, but which was raised with witnesses earlier, is home education and independent schools. Many families end up home educating, because their children are excluded from school or suffer extreme bullying. In that area, we believe that there should be immense support and help.

On independent schools—not special schools, because we know that they should give special help—such as the one in Jordanhill, where I live, I know of several young people who have been identified as having autistic spectrum disorder only once they have left that school system. They have come out of an independent school with good academic qualifications, but cannot access employment or anything else because their additional needs were not identified. Something needs to be done in independent schools, too.

12:30

The Convener: We need to focus on that area.

Dr Aitken: May I try to help, or at least point to areas in which your question might be answered? I work with the communication aids for language and learning centre—CALL centre—which is based at the University of Edinburgh; we work with schools throughout Scotland. On reporting of dyslexia figures, children who have records of needs and who have dyslexia would be contained in the figures on specific learning difficulties and on mild to moderate learning difficulties. If we compare those figures with the number of children who need special arrangements for examination and testing through the Scottish Qualifications Authority and then scale up the figures, we get ballpark figures for the number of children who have records and have dyslexia, and for the number of children who have dyslexia but do not have records. That gives us a comparison.

What definitions should the bill use? The issue comes down to section 2(1)(c)(i) and the question of the involvement of agencies. The definition refers to “the education authority”, as distinct from a local authority. A single education authority might have multiple involvements of different staff, including support for learning staff, teachers of the hearing impaired, teachers of the visually impaired, class teachers and others. One reading of the bill is that a co-ordinated support plan can be provided where there are additional aids and services, as Mark Bevan mentioned. However, if other agencies’ involvement is required, not so many children will have a CSP.

We work with children who are deafblind; there are cases in which a child who attends a local authority school has a visual and a hearing impairment and does not require other-agency involvement. Under one reading of the legislation, such a child would not require a co-ordinated support plan. At present, such a child would have a record of needs, so there is a question about whether the CSP will deliver for children who do not meet the new criteria. It depends on our reading of the bill. Section 2(1)(c)(i) could be clarified. In order to address specific points, we will have to see what the code of practice says, but we do not have that yet.

The Convener: The issue is also linked to people’s rights, to whether or not they have CSPs and to what the alternative dispute resolution process will involve. I am conscious that we should move on, but those are important issues.

Dr Murray: We have covered a lot of issues in a fair amount of detail. From Jane Hook's remarks, it seems that your concerns are not about the bill's principles but about the fact that there might not be enough resources, not just in relation to the finances that are identified in the financial memorandum, but in relation to the human resources that would provide the identification and support that are required. Do your concerns lie more in the bill's resourcing than in its founding principles?

Dr Aitken: Again, your question houses several sub-issues. If the planning framework is to be done through an IEP, we need to know exactly what an IEP will look like. If an IEP is seen as purely educational provision we will lose out but, if we call it an individual support programme or plan, we will be able to start to draw in not just education, but social work and other agency involvement. However, that would deal only with part of the issue, because there is then the question of how to decide on the IEPs.

At present, practice throughout Scotland is very different—provision depends on where one goes. The system works best where the various people who work with the children design and do the IEPs, which might involve a social worker deciding that a social activity scheme was needed in the summer and that, to get there, the resources that were used by the child in the school during term time would need to be available in the summer. The issue comes down to how we decide and define IEPs and ISPs. We must ensure that multi-agency involvement does not mean collation of agencies, but integration of approaches. We want to be in the position in which the child leads that process.

Dr Murray: With the ISP, we would be talking about the same sort of people as with the CSP, because it would involve other agencies outside education—

Dr Aitken: I am sorry to interrupt. In a sense, that is true, but I do not think that that is how things could be. My view is that the Scottish Executive's thinking on that is not where it should be yet. The CSP would provide the planning framework and it would identify the IEP issues as part of the outcomes but, at this stage, the CSP would not address what we might call individual support objectives, and it does not require the multiple agencies that are involved to come together to identify common objectives. Instead, there will be a set of discrete objectives. That is what we are concerned about. The detail is problematic and I cannot see how the matter can be covered in the bill; it needs to be reflected in the code of practice.

The Convener: Jane Hook might want to comment on that.

Jane Hook: Dr Murray is quite right to say that parents obviously worry about financial resources. However, with autistic spectrum disorder, the main worry constantly comes back to knowledge, understanding and appropriate training. That applies to all the disciplines, not just to education. We are talking about social work and everyone who deals with the child; even normal general practitioners require to know and to understand how to deal with the condition. Many of our children must access specialist dental facilities because they cannot go to a normal dentist. That is the sort of resource that I am talking about. Knowledge is very important.

The Convener: Do you have views on that, George?

George Reilly: No. Jane Hook and Stuart Aitken have said it all.

Mr Macintosh: I want to ask about tribunals and about mediation and appeals—I will start with Jane Hook. Will parents welcome the mechanism for resolving difficulties—I mean both the local authority dispute resolution system and the appeals tribunal, which obviously takes parents away from the sheriff court system? I invite you to expand on the need for advocacy services; we have not discussed that this morning, although many organisations mentioned it in their submissions. As legal aid will not be available, advocacy might be the key issue for families that are in dispute.

Jane Hook: It would be very good if families could get round to mediation and have mediation that worked. However, from experience I fear that when a family gets to the stage at which it involves someone from outside in mediation, it has come to a crossroads. The next stage would be a tribunal; at the moment, the next stage is the sheriff court.

Many parents are worried that although it seems that there will be teeth before it and teeth after it, the tribunal will have no real teeth. There will be no legal aid or any of the bits and pieces that go along with that. That is where conflict could arise.

Mr Macintosh: At the moment, there is a local authority system only for placement requests; there is no such system for resolving disputes about resources or about the way in which the education service is providing a service for pupils.

Jane Hook: No, there is not, but we have been involved in a lot of mediation. The Scottish Society for Autism has had quite a lot of success with local authorities, because we have knowledge and understanding. We have gone into schools and have been able to help and we have moved parents forward on mediation. If we do not get things right at that stage—if the issue cannot be sorted through mediation—there will be serious conflict.

Mr Macintosh: What about advocacy?

Jane Hook: Advocacy is extremely important, for the families and for the individual. You touched earlier on the fact that there could be conflict between parent and child, and that often happens. There also needs to be advocacy from people who have knowledge and understanding. Quite often, parents have to temper their aspirations for their child's needs, and that can be hard.

The Convener: Is sufficient trained advocacy of that kind available?

Jane Hook: No, it is not.

The Convener: So there is a resource deficiency in that area at the moment.

Jane Hook: There is very little fully trained advocacy at the moment.

Mr Macintosh: You mentioned earlier that one of the most common disputes is over placing requests. The bill will extend the ability of all families with a child with ASN to have a placing request, whereas that was previously limited to those with a record of needs. Surely that must be a welcome step forward.

Jane Hook: I hope that it is a step forward. There should not be conflict over placing requests, because local authorities should be able to provide most of the services themselves and have the correct and appropriate training. They should be getting into the specialist arena only for children who have complex difficulties. I am afraid that children with such complex needs nearly always tend to have autistic spectrum disorder.

Mr Macintosh: George Reilly answered a question from the convener about local authority dispute resolution procedures and mediation. Given the number of phone calls that you get about disputes, what do you think of the new procedure?

George Reilly: As long as the mediation or dispute resolution involves people—either the mediator or the arbiter—who know something about hidden specific learning difficulties such as dyslexia, it could be a useful tool. However, we should bear in mind what I said earlier; by the time all those parents telephone us, they are already in conflict. I am not quite certain how that can be stopped at an early stage while there is an apparent reluctance on the part of authorities to diagnose a pupil as being dyslexic. It is that apparent reluctance and the perceived lack of provision for the child that start the parents down the path of wanting a record of needs, because it is the only thing that they can do.

I would like to say something about advocacy, because that is something that we are very conscious of. It has been known for a long time that dyslexia, as they used to say, runs in families, and in the past couple of years scientists have even isolated the gene. We are often faced with a situation in which a parent telephones us to ask about dyslexia in connection with their child and, as we are talking to them, it emerges that the parent, too, has difficulty with written language and therefore has difficulty in being an advocate for his or her child. Advocacy services could be very useful to us.

The Convener: That is a helpful point in relation to the wider background to the matter.

Mr Macintosh: I would like to ask Dr Aitken two specific questions. He came up with a neat phrase about the tribunal when he said that it is a bit of an oddity, because you can get access to it if you have a CSP and you get a CSP only if you receive non-education services, but the tribunal's remit does not extend to non-education services.

Dr Aitken: That is the essence of the problem.

Mr Macintosh: How might we resolve that? In your introductory remarks, you also talked about your concern that appeals would be complex and time consuming. That assumes that, instead of resolving disputes and reducing confrontation, the new process will encourage more dispute and confrontation, which is slightly worrying.

Dr Aitken: I shall do my best to answer that, although you may have to refresh my memory on the second part of your question.

First of all, mediation appeals and dispute resolution tribunals represent a failure. We need to ask why we get to that point. About five years ago, Sense Scotland did something interesting. We asked parents what they thought happened when things went well and what happened when things went badly. Throughout the responses ran the thread that it is about getting basic, human, interpersonal skills right. It is about getting things right in the classroom and about parents being asked about meetings in advance—perhaps being asked first, before anyone else, what date would suit them for the review meeting. It is about being told the name of a contact person and when they will get back to you. Those are all very simple things. If those things are got right, it is possible to avoid the whole area of mediation. My first point is to say that the code of practice should reflect those things.

If we go down the mediation route, there will be problems in the practicalities and complexities of that route. Some of the smaller local authorities, such as in Clackmannanshire and in Dumfries and Galloway, might have to try to find a legal representative and two lay members for a tribunal and, at the same time, provide independent mediation services and possibly an advocacy service.

12:45

We know that the patient health advocacy service has difficulties recruiting people, as does the children’s hearings system. If tiers of complexity are to be added into the system, not only will there be the practical difficulties of finding and resourcing the right people, parents will be faced with the question, “Which stage do I go to now?” One continuous resolution process would be much easier to manage. That said, I am not sure exactly how it would look.

We encountered the dispute resolution process only on publication of the bill; it was not included in the consultation phase. I return to the issue of supporters. Early in the process, they were identified but they seem to have been lost in the bill. I would like to see the return of that measure. Supporters could play a strengthened role and that would help the process of advocacy.

The Convener: That is quite a helpful point on which to end. Did you want to raise a particular point, Adam?

Mr Ingram: I would have liked to have developed the point that Stuart Aitken made about assessment. Perhaps I can pursue it outwith the meeting.

The Convener: Surely. That is helpful. We have heard some interesting and helpful suggestions from the witnesses today. If, on reflection, you have other areas that you want to let us know about, please feel free to do so. You are the experts in your areas and have the coalface or chalkface experience of those areas. We are keen to hear your input on the practical issues that we face. We are struggling with a lot of difficult and different issues. We are anxious to ensure that we get them right at stage 1 and stage 2. I thank you for your attendance this morning and for the input that you and the previous witnesses have made.

Education (Additional Support for Learning) (Scotland) Bill: Witnesses

12:47

The Convener: We will move on quickly to the last two items, the first of which is the matter of additional witnesses. Members will recall that this item was left until the period for submissions was over. We have a paper from the clerks that gives us suggestions for additional witnesses. Do members have thoughts on the programme as it stands?

We tried to make sensible suggestions for additional witnesses to be heard. Fiona Hyslop had to leave early as she does not feel well but, before she left, she made a point about ensuring that we take a full view of what happens in mainstream schools as well as in the places that we visited to see good practice. She suggested that we find out about the position of the average teacher in that sort of ball game. I am not sure how to fit in that suggestion, but it is a valid thought—one that I also thought about. Do members have comments on the paper?

Dr Murray: I had not picked up on the point that I want to make until today, partly because I did not get the papers until Monday night, due to a postal delay or for some other reason. I notice that the witnesses are grouped to home in on particular areas of questioning. We did not do that today; we went all round the houses in much the same way as we have done with previous witnesses. Should we not be trying to structure our questioning to the expertise of the witnesses who are in front of us?

The Convener: That is a valid point. We need to ensure that we have killed off points. That suggestion fits with one that Rhona Brankin made in a private conversation before the meeting about how we assess the evidence and begin to home in on things. The clerks are doing a little bit of work to try to help in that connection. It is particularly important that we have all the issues tied up at the point that we take evidence from the minister.

Ms Byrne: I would like to hear from a witness who represents clinical psychologists. In the evidence that we have received, we have heard that clinical psychologists are very much involved in the assessment and identification of young people, especially those who have social, emotional and behavioural difficulties or autistic spectrum disorder. It would be useful to take evidence from a representative of clinical psychologists.

The Convener: Do you mean as opposed to educational psychologists?

Ms Byrne: We have heard from educational psychologists although, as an extra, I would be interested to hear further from the organisation that is mentioned in the paper.

The Convener: I am not sure that I follow your thinking. I bow to your professional expertise, but would clinical psychologists have things to say to us about the bill that educational psychologists do not have to say?

Ms Byrne: Yes—they have expertise in the identification of children who have social, emotional and behavioural difficulties or autistic spectrum disorder. They also have expertise in multi-agency working because they work alongside professionals in other agencies and schools.

The Convener: Do educational psychologists not have the front role in assessment?

Ms Byrne: Of course, but clinical psychologists also have expertise in the area. We have heard in evidence that there is a lack of information about the assessment of young people who have autistic spectrum disorder. Clinical psychologists are crucial to that process.

The Convener: An issue to do with assessment is coming through fairly strongly. We have also touched on the issue of shortages, which is perhaps more for the minister than for professionals.

Rhona Brankin: I am interested in teasing out more information about the number of pupils who have emotional and behavioural difficulties. Perhaps we should try to take evidence from an academic who works in the field and who has done research about the number of youngsters involved. The person should be familiar with examples of good practice. That might allow us to begin to quantify the matter. Some local authorities have already taken an inclusive approach to meeting pupils’ needs that encompasses children with emotional and behavioural difficulties or youngsters who have English as a second language. It would be useful to get an idea of the numbers involved, especially the number of children who have emotional and behavioural difficulties.

The Convener: That reminds me of the observations that the three professors from whom we heard made about the pre-legislative period. Fiona Hyslop was keen to have them back, but I am not sure how readily we can fit that into the programme.

Ms Byrne: I suggest that we take evidence from Paul Hamill or someone from his faculty at the University of Strathclyde. A team there is carrying out research in local authorities on the issue that Rhona Brankin raised. It would be appropriate to take evidence from a member of that team, because it has done a lot of research in the area.

Rhona Brankin: Many people are doing research on the issue. We should try to find out who has done the most relevant research.

The Convener: Do members have any other observations on witnesses?

Mr Ingram: We would benefit from a bit more focus on the identifying and assessment process. That process is a key issue, because many disputes arise from it and the problem of the allocation and distribution of resources flows from it. To my mind, that process will be the nub of the system that the bill will introduce. If the new system is seen to be transparent on that process, we can move things on.

The Convener: Which witnesses do you think we should hear from?

Mr Ingram: I simply throw in the comment that that issue would benefit from more focus and scrutiny. We would have to think about which witnesses to pull in. It has been suggested today that the new legislation will be little different from the existing legislation on the issue of identification and assessment. Can we get an independent view on that matter?

Lord James Douglas-Hamilton: The subject is so important that I hope that we have time to do justice to it and to hear the witnesses rather than being forced into a strict timetable laid down by the Executive. We have a four-year session and it will not make a tremendous difference overall if the bill is enacted a month later, but it will make a great deal of difference to those at the sharp end if we go the extra mile to make sure that all those who could give relevant evidence have that opportunity.

The Convener: I do not think that the Executive is forcing us into a straitjacket, but we are under the Parliamentary Bureau’s instructions on the timing of the stage 1 report. We can ask for more time if we need it.

Lord James Douglas-Hamilton: We can go back to the bureau. I remember that, when I was a member of it, there were occasions when conveners asked for a month extra if they felt that they needed more time to do justice to a report.

The Convener: The issue is what other witnesses we want, whether we can fit them in and whether we do not need to see the ones who have been suggested because we have already dealt with the issues. We have to keep an overall view of the situation. I take Adam Ingram’s point about assessment, but I do not know how to reflect that issue through oral evidence from witnesses, unless we ask the ministers about it when we take evidence from them at the end of stage 1.

What about the suggested witnesses for the panels on 3, 10 and 17 December? It is suggested that we discuss parental and children's rights on 3 December. We have not yet heard from witnesses who can give us detailed information about the current system of appeals and disputes. The people from RONA have considerable knowledge of that important issue.

The theme of children's rights might have to be pushed a little, but, having made the point, I am not sure how much detail we need to go into. We have not given as much attention to mediation, appeals and tribunals as we should have done; that needs to be followed up a bit more.

The Equal Opportunities Committee is pursuing some of the equal opportunities issues, so we do not want to duplicate that work to any extent. However, Careers Scotland, Skill Scotland and the Beattie implementation team are the important panels and we cannot leave them out.

The only area that we might argue about concerns children's rights. As I say, the point has already been taken on board, but I would be unhappy to leave out the important organisations that are mentioned in the clerks' paper. Do members agree that we should include those panels?

Members *indicated agreement.*

The Convener: In which case, where is our scope for adding people? We have two full panels of witnesses on 3 December and it takes longer to hear from witnesses when the panels are larger. I do not think that we can add any witnesses to that meeting, especially as it, too, will be tight for time.

Martin Verity (Clerk): It is also tight for giving notice.

The Convener: So are members happy that there are no amendments to the panels for 3 December? Are people happy with the scope of the organisations that we will hear from?

Members *indicated agreement*.

The Convener: We have therefore approved the suggested witnesses for 3 December.

It is conceivable that we could add witnesses to the list for 10 December. We have heard from three panels today, albeit with a little bit of time pressure, so we could add another panel of witnesses to the list for 10 December if we thought that that was appropriate. We might be tight on time but there is the question of academic research into numbers, which Rhona Brankin mentioned. Is there general support for the suggestion of hearing from clinical psychologists?

Rhona Brankin: Would that be an addition to the evidence that we have already heard from representatives from the national health service?

The Convener: I believe that it would. Rosemary Byrne's suggestion is to hear from people at the professional end, such as those who provide the services.

Mr Macintosh: I am certainly not against the suggestion; we could squeeze them in, or perhaps we could ask them to write to us.

The Convener: The alternative is that we ask for written evidence on the issue. I am inclined to go in that direction.

Ms Byrne: If we receive a written submission and then feel that we want to pursue the issue, we could consider the matter further.

The Convener: Would you like to talk to the clerk about that? Given that you raised the issue and have expertise on it, you can clarify what we are looking for.

Ms Byrne: Yes.

The Convener: That brings us back to the ESBD people. Again, the timing is tight.

13:00

Lord James Douglas-Hamilton: If there is a third panel, could the three professors be slotted in?

The Convener: I do not think that we necessarily want to have the three professors back, but the idea of homing in on the academic stuff in certain areas is important. That might or might not consist of hearing from one of the people from whom we have already taken evidence. I think that the issue that is important to the committee is the point about numbers.

Rhona Brankin: It is. The issue is about how need is quantified.

The Convener: I am not sure whether I have got a feel for how the assessment happens in practice. It is clear that there is no disagreement on the simplification of the procedure and the fact that there will not be psychologists for everybody. The difficulty is how we ensure that whoever leads in dealing with the provision knows whom to ask, whom to involve and so on.

Ms Byrne: That is a problematic area.

The Convener: Who would give us information about that? The issue is a tricky one. We might need to get more from the professionals. I do not know whether teachers will be able to give us that information in relation to special needs. I do not think that we have had any witnesses specifically on special needs teaching.

Ms Byrne: It would be very useful to hear from, for example, a principal teacher who is running a special educational needs department or someone who co-ordinates special educational needs in a mainstream school. We should speak to someone who is in charge and who has an overview of everything that is going on. That might be a depute head teacher or an assistant head teacher.

The Convener: We have visited schools with special needs provision. I would like to avoid the better-practice end of the spectrum and examine mainstream provision. I would like to investigate what happens in a typical school, where resource and staffing implications are perhaps a bit more difficult.

Ms Byrne: A learning support co-ordinator in a mainstream school would be most helpful.

The Convener: A typical middle-sized or large secondary school will have a head of special needs education.

Ms Byrne: Yes. Those people have a big overview.

The Convener: Have they? I do not know. Would somebody like that be appropriate?

Ms Byrne: Yes.

The Convener: Rhona Brankin is looking quizzical.

Rhona Brankin: I do not think that it will take us any further to receive evidence from somewhere where good practice is not involved. I am not sure what you mean by that.

The Convener: The issue is not so much about good practice. We have visited some well-resourced schools where provision has moved on and there is a definite orientation towards having more children with special or additional support needs than in the average school. I am thinking more of those more average schools, if you like, where there is special needs support, perhaps involving teachers and a head of department, but without the better resourcing that is perhaps to be found elsewhere. We should investigate the practical issues. We can find out more about guidance and assessment.

Rhona Brankin: Are you referring to a school that currently does not have an integrated support team approach? Do you want to ask people from such schools about the impact of moving to the new system?

The Convener: The issue is not so much the impact as how the assessment procedure works and the resources that will be given across the board. We want to get a slightly better feel for that.

Rhona Brankin: Principal teachers would not necessarily have a handle on the detailed resourcing issues. We have had evidence from head teachers and from the Convention of Scottish Local Authorities.

Ms Byrne: A learning support co-ordinator would be able to give a really good overview, because they co-ordinate support for learning in a school. In many schools, that will also include support for pupils with social, emotional and behavioural difficulties. Learning support co-ordinators would give the committee a good overview.

The Convener: That is the direction that I am heading in.

Ms Byrne: The learning support co-ordinator might be a depute head; in some cases, he or she is the head teacher or an assistant head teacher.

Rhona Brankin: Yes. He or she will be a senior manager.

The Convener: Can we move in that direction and add an academic to our witnesses on 10 December? That might mean that there is a rather disparate panel, unless we organise the evidence session in a slightly different way. If the clerk thinks that he can manage to set things up for us in that time scale, we would like to have that arrangement. Does Rhona Brankin have particular ideas on that?

Rhona Brankin: I will think about it.

The Convener: Yes. You can give Martin Verity your thoughts on the matter.

We will take evidence on the numbers and on ESBD issues. We will also take evidence from a learning support co-ordinator—perhaps a depute head or someone of that sort—who can feed in their views on assessment and on the resource issues. Does that deal with the concerns that members have expressed about the gaps in the evidence that we have received so far? That plan would have the advantage of keeping us on schedule, which is helpful.

I think that we will need to have a fairly long session with the ministers on 17 December. Both ministers want to come and a lot of issues have been raised in the evidence that we have received. A two-hour session or something of that sort will be required. We must be prepared to have a fairly long morning to get all the information that we need to get from the ministers. We will need to start the meeting reasonably early if we can.

Are members happy about what we have decided on the witnesses?

Members *indicated agreement*.

Work Programme

13:05

The Convener: I am conscious of the time. We ran on rather longer than I had hoped on the previous item. Martin Verity tells me that consideration of the work programme could wait for a week, which might fit in with the fact that next week we are taking evidence from two panels of witnesses rather than three. Are members happy to take the item next week?

Members *indicated agreement*.

The Convener: Moreover, the committee will be slightly larger if illness has not struck to the extent that it has this morning.

Meeting closed at 13:06.

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