

EDUCATION COMMITTEE

Wednesday 17 December 2003
(*Morning*)

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2003.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Wednesday 17 December 2003

	Col.
EDUCATION (ADDITIONAL SUPPORT FOR LEARNING) (SCOTLAND) BILL: STAGE 1	535

EDUCATION COMMITTEE 14th 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)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)

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:

Mike Gibson (Scottish Executive Education Department)

Julie-Anne Jamieson (Careers Scotland)

Peter Peacock (Minister for Education and Young People)

Euan Robson (Deputy Minister for Education and Young People)

Mhairi Snowden (Skill Scotland)

Melanie Weldon (Scottish Executive Enterprise, Transport and Lifelong Learning Department)

Wendy Wilkinson (Scottish Executive Education Department)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 2

Scottish Parliament

Education Committee

Wednesday 17 December 2003

(Morning)

[THE CONVENER *opened the meeting at 09:59*]

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

The Convener (Robert Brown): Good morning and welcome to the meeting. I ask everyone to turn off their mobile phones and their beepers of whatever sort.

We have quite a heavy agenda this morning, as we continue to take evidence on the Education (Additional Support for Learning) (Scotland) Bill. Later, we will hear from ministers and Executive officials, but first we have a panel that consists of Mhairi Snowden, who is the policy and information officer at Skill Scotland; Julie-Anne Jamieson, who is the development manager for inclusion and employability at Careers Scotland; and Melanie Weldon, who is head of the Beattie implementation team in the Scottish Executive. We are glad to welcome those three ladies to the committee. As always, we will give the witnesses a few minutes' kick-off to supplement the paperwork that we have received.

Melanie Weldon (Scottish Executive Enterprise, Transport and Lifelong Learning Department): I am the head of the Beattie implementation team in the transitions-to-work division, which is part of the Enterprise, Transport and Lifelong Learning Department. As my job title suggests, I am responsible for implementing the Beattie committee's report. The transitions-to-work division has the lead policy interest in the so-called NEET group, which comprises the group of 16 to 19-year-olds who are not in education, employment or training. We are also responsible for the new futures fund, which is intended to enhance the employability of the people who are most distant from the labour market.

The Beattie committee was concerned primarily with the transition to learning post-school, and with improving participation and progression of young people to enhance their employability. Its specific concern was young people who require additional support—typically, they are young people whom services might not have served well or who might have fallen through a gap in provision. The Beattie

committee identified several risk factors that are associated with poor transitions, such as poor motivation, poor attainment, lack of qualifications, and whether a young person had been in care or was affected by barriers such as homelessness, mental health problems, learning disabilities and drug problems.

After the Beattie committee reported in 1999, a national action group was established to oversee implementation of its recommendations. The committee made many recommendations, but the national action group selected key priorities, which included provision of key-worker support for young people through one-to-one support from a person who can guide a young person and their parents or carers through all the options, help them to access options, sustain them and help them to progress. That was the heart of the Beattie committee's recommendations.

The national action group has also considered improving provision, particularly in further education and training. The enterprise networks have developed a new model that is called "get ready for work", which replaces the special training needs skillseekers programme.

The national action group has also worked on developing a specification for post-school psychological services. The Beattie committee recognised that, on the whole, psychological services support was available for the school-age population, but that that did not mean that people could not benefit from it in later life in post-school settings.

The Beattie committee's principles affected the way in which the committee worked and continue to affect how implementation of its report is overseen. It is safe to say that the committee looked for a step change in the way in which a range of agencies work together to meet the needs of a vulnerable group of young people. The committee established a founding principle of inclusiveness and wanted a learning environment that would match young people's needs, abilities and aspirations. That is crucial. The committee wanted a range of agencies to play their part in delivering a range of services so that young people would have the learning and support that they needed to participate in post-school education.

The Beattie committee sought solutions that were pragmatic, affordable and sustainable. It placed increased expectations on other services and some new resources were made available. It tried to find new ways of working and aimed to encourage people to sharpen their practice in every regard.

Mhairi Snowden (Skill Scotland): I am the policy and information officer with Skill Scotland,

which is the national bureau for students who have disabilities. It is a charity and a membership organisation whose aim is to promote full inclusion of people with all kinds of disabilities in post-16 education, training and employment. A large part of what we do is provide an information service that includes publications, a website and a freephone helpline, which is mostly for disabled students, their families and people who work with them. Much of what I intend to say today will draw on the issues that those students raise when they contact our helpline.

Skill Scotland supports the general principle of the bill and the move towards the use of the term "additional support needs" and is pleased that that is being done in line with the Beattie committee principles. The bill deals with the planning that must be done prior to a young person's leaving school. Some 40 per cent of the calls to our helpline relate to difficulties during transition and to how young people can get support. Although the bill considers all the planning around that circumstance, we do not think that it goes far enough and that improvements could be made.

Julie-Anne Jamieson (Careers Scotland): I am the development manager for inclusion and employability in Careers Scotland. I have national responsibility for inclusion and employability in the Scottish Enterprise area of Careers Scotland—our organisation has two separate management structures: one for the Highlands and Islands and one for Scottish Enterprise.

As my job title suggests, part of my role is to be responsible for support services for individuals who experience barriers, so that they can move into education, training or employment. The other part of my role is to do with the services that we provide to help people to implement their career plans and improve their employability.

Careers Scotland broadly welcomes the bill, especially the emphasis on a wider definition of additional support needs, which is consistent with the Beattie committee. Part of my responsibility is for management of the Beattie inclusiveness projects—to which Melanie Weldon referred—and that work includes ensuring that there is successful transition for young people, particularly those who are likely to have difficult transitions and who might not move into education, employment or training.

I am happy to elaborate on any of the points in our submission. Careers Scotland is broadly supportive of the bill, but we have a few suggestions on how the code of practice could be strengthened with regard to transition.

The Convener: I should have said that Wendy Alexander has passed on her apologies this morning. Apparently, she is not very well.

The committee has visited schools and a number of witnesses have given us evidence, which has given us a flavour of the sort of issues that arise further down the school scenario. What are the pressure points and difficult areas that we should focus on in relation to the cohort of young people about whom we are talking as they come to the end of their school careers and move into further education, employment or whatever?

Melanie Weldon: Provision of good information is a key issue and assessment is crucial because we need to know what a young person's learning and support needs are. If we do not know that, we cannot make appropriate provision. Equally, young people and their parents and carers need to know what all the options are. Often, as the Beattie committee recognised, people have to move from one professional to another, so key-worker support is designed to address that problem by providing a thread that helps people to navigate the system.

Mhairi Snowden: Skill Scotland agrees with that. Many of the calls that we receive relate to the need of young people and parents to know what various agencies do and how they fit together: agencies must work well together in order to support the young person effectively. It is important to enable the young person to have access to information and advice on the options that are available to them, and on how those options will affect them financially and in their daily life. In practical terms, it is useful if students can visit places where they will go when they leave school and, perhaps, go there for a few days to get an idea of practical considerations such as the traffic situation and so on.

Julie-Anne Jamieson: Preparation for transition should start as early as possible, but at a stage that is relevant to the young person's maturity, because young people mature at different rates. The young person, parents and carers need to be fully involved in the process because that is where many concerns lie about lack of information, about knowing what is out there and about how different professionals can help.

Melanie Weldon and Mhairi Snowden raised important points about co-ordinated planning by the various support agencies. One of the biggest challenges for young people is to figure out who can help them. Key workers—who are employed by Careers Scotland and other agencies as part of the inclusiveness projects—can facilitate that process by working with young people on their behalf and by liaising with other agencies. The crucial point is that they do not do the job of other agencies, but instead make sure that support is more co-ordinated.

The Convener: What is the key point of contact—is it schools or other agencies? If it is

schools, do they have access to the information that enables them properly to fulfil that role? Are there difficulties that we should know about and on which we should focus?

Julie-Anne Jamieson: A lot of the initial planning for transition starts in school with guidance or learning support staff. It is important that those people have access to adequate information about the range of provision. In identifying the lead agency to work with a young person, a lot depends on what destination a young person is going on to and what their needs are.

One of the difficulties, however—as identified by the Beattie committee and on which we have been working with the Executive—is about sharing information, particularly assessment information about young persons' learning and support needs as identified at school. It is crucial that other agencies, whether Careers Scotland or FE colleges, are able to access that information and identify what appropriate support needs to be put in place in post-school provision.

Melanie Weldon: I agree that most of the information is likely to come from schools. However, Beattie was concerned about people who are no longer in the school system, so a range of other agencies need to play their parts, particularly in the voluntary sector.

Mhairi Snowden: I think that the bill talks in section 19 about asking other agencies to get involved to provide help when an education authority wants it. It is important that the code of practice covers what help people can ask for and that it is more specific about looking at assessment from Careers Scotland. There should not be an assumption that the education authority knows all about post-school provision; it is not its job to know about post-school provision to any extent. The authority needs to get Careers Scotland and other agencies involved at that point and the code of practice could help with that.

Mr Kenneth Macintosh (Eastwood) (Lab): I ask Mhairi Snowden in particular—it is in her submission, but others can comment—about the provision of auxiliary aids and services. Do school pupils currently enjoy the right to ask for auxiliary aids and services and, if they do not, how much of a problem has that been? How many disputes does it lead to? How has the situation changed following the Disability Discrimination Act 1995, particularly in England?

Mhairi Snowden: We deal a lot with colleges and universities and in that setting, every disabled student has a right to auxiliary aids and services. We often find that that is important because they can take that right and say, "I should definitely have this". If they do not get what they need, there is redress and a way of enforcing that right. As it

stands, there is potential for disabled pupils who do not have a co-ordinated support plan not to receive auxiliary aids and services. Although that is covered in the bill and there should be adequate and efficient education, there is no way of enforcing that right. To judge by the calls that we receive to our helpline, it would be useful to be able to ensure that people get the aids and services that they need.

Mr Macintosh: Is your evidence directed more at college-age students than at school pupils? Is there a problem with school pupils?

Mhairi Snowden: The situation is not always straightforward—pupils do not always get the auxiliary aids and services that they need and part of the reason for the bill is to ensure that the whole system is sorted out so that they do get them. You will know that practice varies throughout the country; there is good practice in some areas and not-so-good practice in others. The issue needs to be sorted out. It is about a young person's right to have the aids and services that they need to succeed. It makes no sense that some pupils do not get those aids and services at school, but do when they get to college. The fact is that such pupils might not get to college if they do not have those aids and services at school.

10:15

Mr Macintosh: The right to auxiliary aids and services was introduced by the DDA.

Mhairi Snowden: In colleges and universities.

Mr Macintosh: Am I right in thinking that, south of the border, children and young people also enjoy that right, and that they can appeal to special educational needs tribunals, but that that situation does not apply in Scotland? That is my understanding.

Mhairi Snowden: Yes. All disabled pupils are covered by the SEN framework in England and Wales if they have a statement of needs, whereas here, because the focus in the bill is on co-ordination, pupils who do not get co-ordinated support plans will not have such rights.

Mr Macintosh: We have been given two suggestions. The first is that we amend the bill to give pupils the right to aids and services, and to allow them to appeal to the tribunal for them. Alternatively, we can ask Westminster to amend the DDA along similar lines. At the moment, people south of the border can appeal under the DDA to the English special educational needs and disability tribunal. The DDA could be amended so that similar measures apply in Scotland. Have you thought about either course of action?

Mhairi Snowden: From my experience of answering calls from students, the issue is not

how rights are enforced in a technical sense, but whether they can be enforced. If the DDA was amended in that way, the enforcement route would be through conciliation or the sheriff court or the tribunal.

Mr Macintosh: So you do not mind which route—you just want to establish the right.

Mhairi Snowden: That is a technical matter. I am not sure which is the best route, but the important point is that there should be a route and that people get those rights.

Mr Macintosh: I have a separate question on your point about reasonable cost. I should know this, but I am asking just to remind myself. Do you want the minister to issue guidance, or do you want to change the bill to further define “reasonable cost”, so that it cannot be used spuriously as an opt-out by education authorities in order not to provide services? Do you want that in guidance or in the bill?

Mhairi Snowden: That would be better included in the bill, which would tie it in with the Standards in Scotland's Schools etc Act 2000. The bill would state that all disabled pupils have a right to aids and services, and there would be no easy way of getting out of that. Refusal on the ground of unreasonable cost may occur in exceptional circumstances but, on the whole, pupils need such things; they do not want them just for the sake of it. They need them in order to succeed, and they have a right to them. There should be no easy opt-out clause.

Ms Rosemary Byrne (South of Scotland) (SSP): I have a question on identifying support needs at transition. It has often been difficult to get representatives of colleges and social services to go along to final needs assessments. It is good practice—although that practice has not been embedded anywhere—for schools to invite and attempt to bring together all the agencies, usually at a reasonably early stage; for example, at the end of secondary 3. Would the bill make that mandatory? Would the situation be improved by making it easier to bring agencies together and to become involved with the young person at that crucial stage?

To save a bit of time, I would like you also to deal with the second point that I wanted to make, which is about young people's rights. Future Skills Scotland says that the views of the young person from 14 years old should be embedded somewhere—if not in the bill, then in the code of practice. Young people of that age should be in a position to express their views.

Melanie Weldon: I acknowledge what you say about the difficulties in involving people in the assessment process, but the implementation of the Beattie committee's recommendations

required that a number of agencies raise their game. Agencies have shown greater willingness and have acknowledged the importance of joint planning around individual needs.

Her Majesty's Inspectorate of Education has produced a very good document on good practice. The challenge is to ensure that best practice is replicated more widely across the sector and, indeed, in other agencies.

Ms Byrne: Could I add—

The Convener: Just a minute, Rosemary, I think that you have gone beyond the supplementary point—

Ms Byrne: My point relates to the earlier question about identifying support needs. Currently, if a young person who is going to college has a specific learning difficulty, such as dyslexia, which was identified while they were at mainstream school, the college uses its own processes, rather than the school's information, to identify the learning difficulty. That doubles the work. We have touched on the matter already, but perhaps you could elaborate. Do you think that the bill will provide an opportunity for colleges or training agencies to use information that schools provide, instead of their carrying out another assessment, or will they accept—albeit doubtfully—that the young person has a difficulty that is a current problem?

Julie-Anne Jamieson: I will say something about assessment and elaborate on a point that we highlighted in our submission.

A lot of work is currently being done on a more integrated approach to children's services and assessment, so we have a foundation on which to build. I suggested that, when we come to implement the bill, we should consider the links between the various types of assessments—the co-ordinated support plans and the personal learning plans that all pupils will have in the next few years—in order to ensure that the system is much more co-ordinated. Perhaps it would be most appropriate to include such considerations in the code of practice.

Careers Scotland has consulted widely with statutory and voluntary organisations and has worked closely with the Scottish Executive to take forward the Beattie recommendations for a more joined-up approach to assessment among the agencies that are involved in post-school provision. The proposed national assessment framework will consider matters such as the respective roles and responsibilities of agencies in relation to assessment. It will also look at good practice in information sharing and it will, for example, develop protocols between various agencies, such as Careers Scotland and colleges,

or schools and a number of other agencies, to ensure that the process is better co-ordinated.

We have a body of work on which to build. We must make the links explicit and ensure that co-ordination happens on the ground. All organisations will have a role to play in implementing the bill.

Fiona Hyslop (Lothians) (SNP): The Careers Scotland submission mentions the importance of linking the different types of assessment—individualised educational programmes, CSPs and PLPs—when the bill is implemented.

Children with CSPs are more likely to have been the subject of previous interagency work. Are you confident that, as far as transitions are concerned, children who do not have a CSP will be treated the same as those who have one? Will they be given as much attention by the different agencies? Do you think that, at 14, all young people should be given the same rights of access for the transition period? Will there not be a two-tier system? Will children with CSPs not have more opportunities than those without?

Julie-Anne Jamieson: It is important that there is equity in the system. Young people who have additional support needs—for whatever reason—should have the appropriate co-ordinated support to help them to plan for transition. That needs to be emphasised in the code of practice.

I do not believe that only young people with CSPs will necessarily receive that service. There is much good work on which we can build when we are considering good transitional planning. That underlines even more the multi-agency nature of this issue. All agencies—not just schools and local authorities—have a role to play. The support that young people receive should be appropriate for their needs, whatever those are, and should be co-ordinated by the various agencies that need to be involved. Inevitably, young people with co-ordinated support plans may need more specialist support, but the principle should be the same. Young people should receive multi-agency support to ensure a good transition that is appropriate for their needs.

The Convener: This is an education bill. Will the implementation of multi-agency support be hindered by the fact that we are not making precise orders for the post-school situation?

Julie-Anne Jamieson: It would be helpful for us to make links with other policy areas, especially with the integrated children's assessment, but also with other work that is already under way, such as good practice from the implementation of the Beattie committee's report. There is much to draw on. We must make those links within the code of practice.

I appreciate that this is an education bill and that it is difficult to be specific about the range of other agencies, but we should emphasise the multi-agency nature of the proposals and the fact that all agencies will have a role to play in creating links with other policy that relates to multi-agency support.

Lord James Douglas-Hamilton (Lothians) (Con): You have answered the questions that I intended to ask. It would be enormously helpful if Mhairi Snowden and Julie-Anne Jamieson, in particular, were to send in suggested amendments that they think could improve the bill in certain respects, along with their reasons. I cannot in fairness make that request to Melanie Weldon, because she works for the Executive and will, no doubt, advise the minister.

The Convener: She is on the inside track.

Rhona Brankin (Midlothian) (Lab): I am interested in how early preparations are made to plan for transition. The bill specifies that preparations should start at least a year beforehand, but do you agree that the code of practice will be important in this area? For some youngsters, preparation for transition will need to take longer than that.

Julie-Anne Jamieson: As we outlined in our submission, good practice would be for preparation for transition to start as early as possible. I suggest that it should start at about age 14. However, we must be flexible and respond to the needs of individuals. It needs to be recognised that some young people would not be ready at that point. The code of practice will be very important as a means of setting out good practice.

Mhairi Snowden: It would be useful if the bill said that, when children are 14, schools should consider whether it is the right time to start transition planning. For some young people, it would be better to start doing that even earlier. Evidence suggests that long-term planning is needed for some pupils who have more complex needs. There should be an assessment process at 14, as there is at the moment. We do not believe that that provision needed to be changed.

Melanie Weldon: It is difficult to be precise, because of the wide range of needs with which we are dealing. What I am saying is consistent with what Mhairi Snowden and Julie-Anne Jamieson have said—that the key is early identification of those people who are likely to require support. In identifying those young people, one can make a judgment about when the best time would be to start preparation for transition planning.

10:30

Rhona Brankin: Do you welcome the fact that the provision of systematic planning ahead will be

widened to cover all pupils with additional support needs? Do you feel that there will be any dilution, or do you welcome that provision and see it as important?

Mhairi Snowden: We welcome the widening of the provision to cover additional support needs at transition. That is really useful. What the bill does not say, which would also be useful, is that additional support needs at transition should be in the co-ordinated support plans of those who have them. It may be assumed that consideration will be given to those needs when a review takes place, but that needs to be stated specifically, because transition is often more complicated for those with a CSP. Because they have had co-ordinated support before, the likelihood is that they will continue to need it, and they may have more complex needs. It is therefore important to include those needs in the CSP, so that the school has a co-ordinating role. Whether or not that means Careers Scotland becoming involved at that stage, it would be useful to have the needs written down in the CSP; that would also be good for information and advice for the young person and their parents.

Rhona Brankin: Do you mean that those needs could be incorporated into the CSP just as the future needs assessment was incorporated into the record of needs in the past?

Mhairi Snowden: Yes. It is helpful to have a plan written down, which also means that the school has more of a role in co-ordinating it. I welcome proposals on the additional support needs for young people and the duties surrounding them, but I feel that it would be better if those needs were also set out in the CSP for those who have a CSP. That might be assumed, and it might be something that needs to be in the code of practice, but it would also be useful to have a statement in the bill that that should be a key part of the CSP.

Rhona Brankin: In essence, that would be a trigger mechanism for ensuring that co-ordination took place.

Mhairi Snowden: Yes. It would ensure that support would start to be co-ordinated. The issue is not just information exchange, but co-ordination.

Dr Elaine Murray (Dumfries) (Lab): My question is aimed predominantly at Julie-Anne Jamieson, but other witnesses may also want to comment.

It is nice to see you again, Julie-Anne. I do not think that we have met since we were both involved in the Beattie committee.

I sit on the Finance Committee and I believe that that committee received a submission from Careers Scotland that raised a concern about the

financial memorandum's identification of the number of young people who would require co-ordinated support plans. The suggestion appeared to be that up to 20 per cent of young people could require CSPs. It may not have been you who wrote that submission, but was the estimate based on the number of people at school who would require the co-ordinated support of other agencies or on the co-ordination of agencies that would be required at the time of transition, which could be quite different? When a young person is coming out of school, more agencies, such as the further education authorities, may need to be involved.

Julie-Anne Jamieson: The estimate is that 20 per cent may have additional support needs and might require support, but whether they still need support at the time of transition will vary depending on what their needs are. The important point is that planning for transition must start before they leave school, and those agencies that would have a role to play, such as Careers Scotland, would need to be involved at that stage. What happens after school is outwith the scope of the bill, so the reference was to the transition in preparation for leaving school.

Dr Murray: The financial memorandum revolves around the estimates of the number of young people who would require CSPs. Careers Scotland's estimate is of the total number of people with additional support needs rather than the number of people with co-ordinated support plans specifically. It is helpful to clarify that.

I take on board what has been said about this being an education bill that does not influence what happens after a child leaves school. Do you feel that the bill should place a stronger duty on the receiving authorities? Is the bill strong enough with regard to their obligations or should there be a ministerial power to ensure that the needs that are identified by the education authority are taken on board by the training organisations?

Julie-Anne Jamieson: I am not sure about the best way of ensuring such co-ordination. I do not know whether it should be linked with other legislation or policy, or whether it should be emphasised strongly in the code of practice. The important point is that, to enable a young person to make a successful transition, the relevant agencies need to be involved—they have a role to play. Such agencies have particular duties and responsibilities to the young people and there should be linkages, but I am not sure of the best way to develop that. The importance of co-ordinated support must be emphasised; we have said a lot about that already. Schools cannot provide such co-ordination by themselves; there is a role for the other relevant agencies in supporting young people into the next stage beyond school.

The Convener: I wonder whether there is a framework of legislation that affects FE and higher

education in this context. I presume that both sectors are covered by the DDA regulations generally. However, do the sectors have anything like the school legislation that imposes duties, for example, for sufficient provision for progressive education?

Mhairi Snowden: There is the DDA, which covers disability rights within colleges and universities, and general legislation—further and higher education acts—that covers colleges and universities. Further legislation is coming in the next year or so to merge the funding councils.

The Convener: One's impression is that provision in the FE and HE sectors is sometimes a little patchy. Again, that is not directly relevant to the bill, but it is a concern if we set in place a bureaucracy while there are deficiencies at the other end, as it were.

Mhairi Snowden: Within the DDA, colleges and universities have a responsibility to conduct a needs assessment. That is one of the examples that are given in the code of practice. If a student does not know what they need as support or adjustments, a college has the responsibility to conduct a needs assessment.

The Convener: If problems were identified or there were variable standards, would that be a matter for the Disability Rights Commission to push?

Mhairi Snowden: Yes. The code of practice states that if a needs assessment did not happen, that would be unlawful. Thereafter, there would be the normal procedures of conciliation or legal action.

The Convener: I want to ask about another matter on the work side. I am conscious of the need to support young people who might have a bit more difficulty in getting into work than others by, for example, identifying employers who are perhaps more friendly than the average to people with difficulties of one sort or another. A couple of agencies—I came across one that is connected with the Wise Group in Glasgow—try to make the links and draw together the information to which I referred. That is not about legislation, but is there a gap in that sort of area throughout the country? I am referring not to statutory agencies but to linkage activities—for example, people making proactive links with potential employers and giving support to young people.

Melanie Weldon: Can I say something about the work that we are doing on supported employment? I am sure that Julie-Anne Jamieson can say something about the links between Careers Scotland and Jobcentre Plus. We have been considering whether there is scope to adapt the model of supported employment that has been developed for people with learning disabilities so

that a wider group of young people can benefit. The young people I mean are those who perhaps have more chaotic lifestyles—for example, young people who are affected by homelessness and looked-after young people. They need intensive personal support.

Careers Scotland is leading on a number of pilots with voluntary sector agencies that have specialist knowledge and skills in working with supported employment, identifying willing, appropriate employers in their local area, finding people jobs or placements, supporting people and working in partnership with employers to give them a sort of leg-up.

Julie-Anne Jamieson: As Melanie Weldon said, we are managing the supported employment pilots and working with a number of agencies, particularly in the voluntary sector. We also work hard to advocate on behalf of young people who have additional barriers with employers who might consider taking them on. I believe that the role of voluntary organisations in doing that is crucial because they have a lot of expertise in supported employment techniques and making linkages with employers. It is probably too early to say anything about the benefits of the pilots, but we are learning a lot. Much of the model of supported employment is applicable to other groups. As the pilots progress and are evaluated, we will be able to say more about them.

The links between Jobcentre Plus and organisations such as Careers Scotland are important in working with employers to market individuals who may have additional barriers. A lot depends on the local labour market, so it is easier in some areas than in others to get jobs for such individuals. However, we believe that Careers Scotland has a role in advocating on behalf of young people to ensure that they have a good chance of getting into employment.

The Convener: That is very interesting. The session has been useful and we are grateful for the input of all our witnesses. As Lord James Douglas-Hamilton said, if you want to come back to us on anything, after consideration of the evidence or otherwise, we are more than happy to have any written input from you. In the meantime, we are grateful for your participation this morning.

I suspend this meeting of the Education Committee for a short while because the ministers—the junior minister is coming as well—are not scheduled to be here until 11 o'clock.

10:41

Meeting suspended.

10:55

On resuming—

The Convener: To conclude our evidence session, we are about to take evidence from the ministers, which is the dénouement of our evidence taking on the bill. I welcome Peter Peacock, the Minister for Education and Young People, and Euan Robson, the Deputy Minister for Education and Young People. I welcome also their support team, which comprises Mike Gibson, the head of the additional support needs division, and Wendy Wilkinson, the head of the bill team. We are familiar with Wendy and Mike, having met them previously in this context.

The Minister for Education and Young People (Peter Peacock): I thank the committee for the opportunity to be here. I am sure that we will take many questions today because the committee has been taking a great deal of evidence. We have been listening closely to the evidence that has been given over the past few weeks. I have made it clear previously to the committee that wherever it is reasonably possible for us to make changes to improve the bill we are more than happy to consider what we can do in that regard. We look forward to receiving the committee's stage 1 report because it will help us to make further judgments about what we may want to do collectively to try to ensure that the bill improves constantly as it goes through Parliament.

I want to set the bill in the wider context of what is happening in education, to reaffirm our policy intentions for the bill, and to address a couple of specific points that have recurred in the evidence to the committee. One of those points is to do with finance; the other concerns the impact on the families of young people who have records of needs as we move into the new system.

I wish first to describe where the bill sits in our overall thinking. One of the big developments that is taking place in Scottish education is that we are moving from a producer view of how we organise services and a system that is built around providers to a user-led view of how services ought to be provided. That manifests itself in a number of ways but, in particular, increasing attention is being paid to the rights and needs of individuals in a universal system of education. In recent years, various policy developments have reinforced that approach. The most important platform from which to move forward was the Standards in Scotland's Schools etc Act 2000, which significantly changed the philosophy that underlies the provision of education. In the past, that philosophy was based solely on the need for local authorities to provide adequate and efficient education—a kind of systems view of how education should be provided. The act changed that position. While local authorities still have to provide adequate and

efficient education, the act made it clear that every child in Scotland had a right to be educated to meet their full potential—it was very much a statement about individuals within the system.

We are implementing a range of other initiatives to support the thrust of that movement. We have been issuing circulars on using greater flexibility in curriculum choices in schools. We have just started a curriculum review and we are trying to open up more vocational options for young people in schools, to provide them with more choice. We are reviewing our assessment and testing procedures, to return assessment and testing to their original purpose: designing learning for the individual child, not collecting national statistics, which we can do in a different way.

We are piloting in schools the assessment for learning programme, through which we are considering ways of increasing the engagement of young people in their own assessment, development and progress in schools. We are about to review our age and stage regulations, which predetermine when pupils can sit exams. We are trying to look for opportunities to support individuals in the system and to provide more flexibility.

We have refreshed our vision of comprehensive secondary schools and tried to make it clear that we want more flexibility and choice in the system than there have been hitherto. We are reviewing initial teacher education, partly to try to ensure that teachers in the 21st century are equipped to meet the demands of the 21st century, which include the broad movement that I described. We are also working on behavioural support and trying to attach resources to looked-after children. All of that work stresses the need for the system to adapt more to the needs and aspirations of individuals, not for individuals to adapt to the needs of the system.

11:00

At the heart of our thinking is the concept of personal learning plans for young people in schools, which we see as the means of creating much better dialogue in every school in Scotland between individual teachers, pupils and parents. The aim of the plans is to tailor education to meet pupils' aspirations and learning styles, their desires and their demands of the system. We are piloting that system in a number of schools to try to ensure that it is not a bureaucratic approach to planning, but one that liberates conversations and allows proper planning. Our ambition is for every child in Scotland to have a personal learning plan. We must consider the bill in the context of the broad move towards individualising education, at the heart of which are personal learning plans.

I want to be crystal clear about why we are promoting the bill and what the policy intention behind it is. We recognise that Scotland, like any society, has a group of children with multiple, enduring and complex needs. The committee has become familiar with that idea in recent weeks. That group of young people must be given particular attention in the system. We believe that the existing statutory provision, at the heart of which sit records of needs, does not do as much as it could do to support that group of young people.

Members will be aware that the record of needs emerged from the Education (Scotland) Act 1981, in which Lord James Douglas-Hamilton may have had a significant hand, although I do not recall. The 1981 act amended the Education (Scotland) Act 1980 and followed the publication in the late 1970s of the Warnock report, which was a major piece of work. That report introduced for the first time in the UK the concept of special needs, both in education and more widely. That was a major advance because, prior to the Warnock report, the group of children whom I am talking about were widely described as ineducable or untrainable—all sorts of pejorative terms were used to describe them. The Warnock report's impact on the system was to change that perception fundamentally and dramatically and to identify young people with particular needs. In essence, the 1981 act, which, as I say, was a major step forward at the time, came from the Warnock report.

It has become apparent that the system, which has operated for about 20 years, has flaws and weaknesses. Indeed, Lady Warnock has said that perhaps with the passage of time things need to move on. The records-of-needs system has been characterised as bureaucratic and cumbersome—a record of needs has 10 parts—and as having the wrong focus. The record of needs is focused on young people's deficits rather than on the opportunities for those young people, the actions that are required to realise them and the desired outcomes. We should have ambition for all young people, including the group that we are talking about.

The record of needs has not been an active document in all circumstances. We know from evidence from school inspections that teachers sometimes do not even see children's records of needs and that children may not know that they have one. Only part of the record can be appealed, which is rather anomalous and misses a key policy point that we have come to recognise in the 20 years since the 1981 act, which is that some of the services that we need to bring to bear to support the education of that group of young people must be co-ordinated actively. The issue is not only about school resources, but about resources in the wider education authority, the

social work authority, health agencies, the voluntary sector and other agencies. Under the present system, the child's views are not taken into account.

Quite simply, we believe that we can and must do better—consistently, not sporadically—for that group of young people. As I say, the group that we are talking about are children who have multiple or complex needs that last for more than a year and who need significant—I stress that word—service co-ordination to impact on and improve their education. I stress that point because we noticed that not everyone made the connection in their evidence about the use of other services such as health and social work to bring to bear improvements in education. It is not only the existence of those other services but how they are directed that is important.

I stress that service co-ordination is crucial. We know that if the system is going to break down, as any system can, that is most likely to happen around the pooling together of services from different agencies—the scope for service support breaking down is most acute at that level. We need to do that better, which will require a lot of dialogue between professionals, which is why we emphasise the point in what we seek to do.

We are not the only people who have said that there is a need for change or who have received representations on the matter. As members of the committee know, their predecessors in the first session of Parliament conducted an inquiry and they too recommended, among a range of things, that the record-of-needs system should be reviewed.

The proposals for co-ordinated support plans are at the heart of part of the bill—but only part of it. CSPs are designed to replace the record-of-needs system and to address the weaknesses that people have talked about. That is why we include in the bill a new duty to identify and support all those with additional support needs—that is not in the existing legislation. A CSP should become an active document to improve a young person's learning; it should be a live, working document that is available to all those who interact with them. It should state what the child is expected to learn and the support that is required to allow them to do so; the individual's rights are at its heart. To improve the process, the CSP will include a named contact person and it should be reviewed every year, or more frequently. Time scales for that will be set in the legislation, and if they are not met, appeals can be made.

There will be a widening of appeal rights in relation to the contents of CSPs, the reasons for the needs that are specified in the CSPs, the planned learning outcomes and the additional support that is required to achieve them—appeals

can be made on all those grounds. A new appeals mechanism—an independent appeals tribunal—will be established to consider those appeals.

We regard those as significant improvements that are designed to meet the challenges that have emerged during the past 20 years, following the improvements that were undoubtedly made 20 years ago.

The bill goes further than CSPs and the particular group of young people who are involved. Although it is right for us to pay particular attention to those with multiple, complex and enduring needs, central to the bill is the range of other young people in the system who have pronounced additional needs that, for a variety of reasons, occur from time to time. Those needs might be transient or might occur in the medium term. They might occur because of trauma or sickness in a family, or where children are dependent on parents who are drug abusers or have problems with alcohol. In such situations, young people are deemed to have additional needs to ensure that they learn throughout their school career. We need to do better by them, and that is where the duty to ensure that we identify all young people who have additional needs comes from. We must not only identify them, but support them throughout the system. The duty that we seek to put in place would also ensure that we do that more consistently throughout the country. There are already some good examples of work by local authorities. In the “National Priorities in Education Performance Report 2003”, which we published yesterday, local authorities rate their practices in relation to special education needs, as they are currently described, as either good or very good. We seek to get local authorities to the very good level throughout Scotland and to ensure that there is consistency in practice. The duty that we specify will help to achieve that.

The bill is much wider in scope than provision has been hitherto—rightly so, for the reasons that I have set out. However, we understand that particular groups of parents have concerns, and I completely understand those concerns. If I had a child with a record of needs and I knew what it had taken me to get not only the record of needs but the services that my child gets on the back of it, I would be concerned if any change was coming, and I would want to be satisfied that that change would not adversely impact on my child. I therefore appreciate the concerns that people have raised.

There are two parts to that concern. The first is that, because we are widening the scope of the legislation, we might shift resources from the 2 per cent of children who have multiple and complex needs and spread them across the school population. The second is that those who currently

have a record of needs but who might not get a co-ordinated support plan would suffer a loss of service.

On the second concern, children who have records of needs have packages of services already and I stress that nothing in the bill will remove any of those services. To reinforce that, I have written to the chief executive of every local authority in Scotland to make it clear that nothing in the Government’s intentions would remove any of those services from those children. The extent to which the services for those children change over time will relate to how those children’s needs change; such changes will not relate to resource questions. I have an open mind on the question whether we need to do more to provide clarity in that regard and to reassure parents. Our clear intention is that the bill should not impact adversely on those young people.

Finance has been another significant concern, and various scenarios have been put forward in relation to the financial implications of the bill. The Convention of Scottish Local Authorities raised concerns that fuelled the concerns of the Finance Committee, whose report to the Education Committee I saw yesterday. Two fundamental issues are being raised. One is about the costs of the administration of the tribunal and the second is about the number of co-ordinated support plans that will arise in the system.

On the tribunal, we have set out clearly in our financial memorandum the assumptions on which those costs are based. They are based on the experience of a similar system in the south and on conversations that we have had with local authorities, health authorities and others. We believe that those assumptions are correct and have led to a fair estimate of the costs. However, any tribunal, by its nature, is demand led, which means that we can do no more than estimate what the costs will be. I have to cope with that in my budget by retaining the flexibility that will allow me to meet changing demands on the tribunal. That is no different from any budget that has a demand-led element. We need to keep the costs of the tribunal in context. We are talking about something like £800,000 a year, which is a marginal sum of money when compared to the total spend that is available to me. If the demands on the tribunal are greater than we have estimated, I can readily find the money to support that increased activity. I do not consider that to be a problem for us.

I am conscious that COSLA has fuelled concerns about the number of co-ordinated support plans. At first, COSLA indicated that CSPs would apply to 3 per cent of the school population compared to the 2 per cent of the school population that currently has a record of needs. I should point out that I have not seen evidence

from COSLA that supports that figure. COSLA subsequently said that that figure would rise to 15 per cent of the school population. We are clear that neither of those figures is correct.

As I understand the situation—and I have had constructive discussions with COSLA over the past couple of weeks on this matter—the 15 per cent figure that was given to the Finance Committee and this committee arises from a wording change in the draft bill, which COSLA misinterpreted as a policy change to widen the number of people who would have co-ordinated support plans. In a somewhat complex letter to the committee, we have clarified that there has been no change to our policy intention. Our estimates are based on our original estimates, which embraced everything that COSLA is thinking about.

We have spoken to COSLA about that, and my officials have been in discussion with COSLA's officials. The gap between COSLA and the Scottish Executive has narrowed significantly as a result, and we will continue to have those discussions.

The second element of the 15 per cent figure is based on a further misinterpretation and relates to something that I said earlier. COSLA counted every child with social work support who also has an additional support for learning need as a child who would receive a CSP—even when that social work support is not to support their learning. For example, COSLA argued that every looked-after child would have a CSP, because they have additional needs and receive social work support. That is not our interpretation of the legislation.

There are a number of similar examples that illustrate how COSLA reached its conclusion, which is based on an incorrect interpretation of the bill. In our discussions with COSLA, the position is becoming clearer to it. We are working closely with COSLA and want to keep the committee informed of the progress—or otherwise—that we are making, because we take these important issues seriously.

11:15

COSLA's original point was that 3 per cent of the school population would be eligible for CSPs. As I indicated earlier, the evidence base for that estimate is not clear, and it is also logically flawed. The record-of-needs system accounts for 2 per cent of the school population. To get a CSP, with which we are seeking to replace the record of needs, a child will have to meet an additional criterion. There is a three-leg test. A child must have multiple or complex needs and their needs must be enduring. The third, new leg relates to co-

ordination. A child must be in receipt of significant services outwith the education service.

When more criteria need to be met to receive a CSP than must be met to be given a record of needs, it is difficult to see how it is possible that more people will qualify automatically for a CSP. Our firm belief is that the number of CSPs will be within the bracket of 2 per cent for records of needs. In the financial memorandum, we have set out clearly that we think that 50 per cent of those with records of needs will be able to get co-ordinated support plans. We are very confident about those figures, which are based on sampling evidence that we have taken on records of needs and on our discussions with local authorities, health authorities and so on.

Although we do not believe that we are wrong, for the sake of argument let us assume that our estimate is wrong by 50 per cent. That would raise the number of CSPs in the system to about 75 per cent of the number of records of needs and would cost just under £3 million to finance. If we get into that position, the education budget is planned to meet that contingency and we will find the money that is needed. We are committed to this policy and want it to work. Money of the order that I have described is readily findable within the education budget for this purpose. We do not think that our figures are wrong—we are fairly confident that they are right. However, in the scenario planning document that we have sent to the committee, we indicate that we have made provision for the situation that I have described and how we would cope with it.

We are still working with COSLA to explain further our policy position, so that both parties have a much clearer understanding of the situation. We will keep the committee firmly advised of the progress that we make.

I have spoken for longer than I should have, but I wanted to set out the context of the bill, to clarify again the rationale for policy and to deal with the two bigger concerns that have been raised. I am sure that members will ask all sorts of questions, and Euan Robson and I will try to answer them. Depending on the depth or complexity of the issues raised, we will refer some questions to our officials. We will endeavour to deal with all the points that members make.

The Convener: Thank you. In case legal aid issues arise, as may happen, I declare my membership of the Law Society of Scotland and my consultancy with Ross Harper solicitors.

The minister will be aware that we are trying to complete the stage 1 report fairly early in the new year. When do you expect to conclude your discussions with COSLA and to provide the

committee with appropriate information about those discussions, as you have promised?

Peter Peacock: I know that my officials met COSLA officials last Friday and that COSLA officials intend to examine further some of their underlying assumptions. I expect that officials from the Executive and from COSLA will meet again very soon, but I cannot tell the committee whether that will happen before the Christmas recess. We will seek to do something as quickly as we can and to provide the committee with the information that it seeks. I have already had discussions about this issue with the leader of COSLA's education committee. There is a desire on both sides to move forward as quickly as possible, because we know that this issue affects the committee's consideration of the bill. I undertake that we will seek to resolve the matter as quickly as we can. In the light of the convener's indication that there is a need for progress to be made before the committee finalises its stage 1 report, I will speak again to COSLA about how we can meet that timetable.

The Convener: That is helpful; without anticipating the report, the issue is of some concern to the committee and we want to get it right. It would be helpful if COSLA and the Executive could agree the parameters.

You will be aware that the committee has heard much evidence on the principle of inclusiveness, effectively saying that you are proposing a three-strand approach of co-ordinated support plans, additional support needs and then, if you like, the rest, but that is discriminatory and is not the proper way to proceed. Do you have any observations on that?

Peter Peacock: There is a fine balance to be struck. The context that I am trying to set out is that of the Standards in Scotland's Schools etc Act 2000 where there is a duty on local authorities to educate young people to meet their full potential. One interpretation could be that that covers every situation that might arise. Everyone will be treated exactly in accordance with their needs, so we would therefore require no more legislation. We should just repeal the record-of-needs legislation and base ourselves on the 2000 act. That position could be argued.

I have a couple of reasons for not choosing that route. One is that we have and have had a record-of-needs system and a review of that has been requested by a range of parties who want to modernise it in the way that we have described. I am also clear that those children who will qualify for a CSP have particular requirements and that the system has to address those. I cannot envisage a situation arising in the immediate future where our eyes could be taken off that group of young people and we could expect the

good, proper and honourable behaviour of everyone in the system to ensure that all their needs are identified. That is not a plausible argument, and if I was a parent of a child in that group, I certainly would not think that the argument was plausible.

From speaking to parents, I know just how much difficulty they encounter in trying to get the kind of support that is required for our young people. For a time to come, we must make sure that we are focusing our attention on that group of people. Equally, as I have indicated, we want to make sure that we are widening the scope of consideration. We know that young people with social, emotional or behavioural difficulties might have particular additional needs because of circumstances that arise in their families, but they do not have the multiple, complex and enduring needs of those in the first group. We think that it is right to make sure that the system is paying attention to identifying and supporting those young people.

We are not seeking to be exclusive, which is why I emphasised my points about how the system is moving towards taking more account of individuals throughout the system. Personal learning plans will seek to meet individual needs more and more as time goes on. In that way, we are trying to make sure that we include everyone in the education system by considering their individual needs and trying to do better by them. That does not obviate the need for us to pay particular attention to young people with additional needs. That attention will give that group of young people the protection that they require. It will also make sure that the system focuses on those individuals who have additional needs. Our intention is not to be exclusive or to divide the picture; it is rather to be inclusive while making sure that we are giving proper attention where it is deserved.

The Convener: Do you accept the suggestion that your argument would be more persuasive if you were dealing specifically with children with complex needs, rather than adding on the CSP requirements and the need for service co-ordination in the slightly sideways way that you are? I understand why there is a need for service co-ordination in certain cases, but it does not necessarily identify with the most compelling cases in the system. The definition is slightly sideways, if you follow my point, particularly when we bear it in mind that there are bundles of rights, appeals and tribunals that follow from a decision on whether someone requires a CSP. Do you follow my point?

Peter Peacock: If I do not answer your point, please tell me.

If you are saying that how we have designed the system leads to that kind of exclusivity—

The Convener: Can we pause for a moment to see if we can kill the noise from that very loud drill outside?

Peter Peacock: Someone is digging up the road.

The Convener: Are you happy to continue?

Peter Peacock: I am happy to continue.

The Convener: It is a bit awkward to say the least.

Peter Peacock: Perhaps the noise is not as bad for me at this end of the room.

The Convener: I do not think that there is anything that we can do about it.

Peter Peacock: I hope that I picked you up correctly. Having an appeals system for young people with a CSP that attaches greater rights to that group of people is simply born of our experience. We know that, because these children have multiple, complex and enduring needs, by definition they require more co-ordination than any other group of young people. That means that there is potential in the system for relationships to break down and parents rightly seek services to meet the needs of that group of children. Given our experience over the past 20 years—what we have seen and the complaints that we have had about the lack of appeals processes and so on—it is necessary to attach particular rights to that group of young people because their particular needs make engaging with the system complex. That is not designed to elevate a group and give them additional rights compared with any other group of young people. In relation to the other group of young people who have additional support needs, we have sought to ensure that mediation services and dispute resolution procedures are in place, because we also know from experience that situations can break down, and that dialogue between an authority and a parent can break down.

It is a pragmatic approach. It is about ensuring that, in the system, we attach the right importance where we can, and about ensuring that we have the right provision, because levels of need vary throughout the system. It is a pragmatic approach that is born of experience over a number of years.

The Convener: I want to press you on that. You are suggesting to the committee that the areas of difficulty are primarily those where there is co-ordination with other support services, but the evidence in support of that is anecdotal. Is there information on appeal mechanisms, under the record of needs or otherwise, to back up that suggestion? The impression that one gets from the evidence of parents and other people is that the areas of difficulty may relate more to autistic spectrum disorder issues or dyslexia issues,

where there have been bigger issues in many instances than with the co-ordination of support.

Peter Peacock: In a second I will get Mike Gibson to answer based on his experience. I talked to parents over the summer, and one of the issues that was raised—and in the context of those meetings it might be anecdotal, but to those parents it is extremely real—was that if the system is going to break down anywhere, it is going to break down where there is co-ordination. When you get beyond the confines of the school and the education authority—which are well connected—and you start bringing in other professionals and interests, the scope for breakdown is enormous. That is why we made co-ordination a touchstone in the bill, because we know that if we do not get it right, we will more than likely fail that group of kids over time. That is where that derives from.

Mike Gibson will have more evidence on inspection reports and the work that he has been doing over a number of years.

Mike Gibson (Scottish Executive Education Department): Some of the previous witnesses spoke about arrangements for transition from school to post-school, and raised the issue of ensuring that there is good integration of services. One of our major policies, published in the “For Scotland’s children: Better integrated children’s services” report, is to ensure that services are well integrated. When we gathered evidence at the consultation phase of the bill, and prior to it, it was clear that one of the concerns of parents is how services from outwith education can be aligned with what education is trying to do for children. As I am sure you have heard, that applies specifically to health services, therapy services and, in a number of cases, social work department services. That is why emphasis has been placed on better co-ordination and integration of services for young people.

Peter Peacock: I have a broader point, which reinforces why we are keen to cover these issues in the bill, and although it is in relation to a different subject, the same issues arise. That subject is the child protection issue that we have seen recently. I have made it clear to the Parliament that I have been profoundly shocked by what I have discovered in recent months about the lack of co-ordination between education, social work, health, the police and so on, as it is manifested in relation to child protection. Other parliamentarians round the table have been equally shocked. We are all convinced that we need to do more.

What worries me about that is that it is symptomatic of something that happens much more widely in the system. There is a group of kids who are at the pinnacle of identified need, and who are in some cases on risk registers, and

yet the system still breaks down. If it is breaking down at that point, we know from experience that it will break down in other situations. One of the great challenges of government is to join up government more effectively. That is one of the reasons why we have introduced the bill. We are talking about a group of young people who require co-ordinated services, and we must identify that as a key feature of their needs if we are going to serve them properly. That is why we are trying to emphasise that point.

11:30

The Convener: We have a definition of additional support needs as existing where there are one or more complex factors to people's circumstances, which continue for more than a year. That is already a fairly substantial definition, with quite a number of hurdles to overcome within it. We then have the link with the co-ordination of support needs. A number of witnesses have the perception that, after the considerable difficulty involved in achieving record-of-needs provision, that provision will be lost. You have touched on that. I wonder whether ministers have considered whether there is any merit in having a single tribunal system. To control the numbers there could perhaps, in suitable instances, be a degree of difficulty in accessing such a system. A single system might give confidence, do away with some of the transitional issues and give people a uniform series of rights where they are looking for provision relating to the complex problems that their children may have. [*Interruption.*]

Peter Peacock: Excuse my coughing. It happens from time to time and I have managed to survive every episode so far. I may splutter a bit—it is because I have a cold.

We have considered issues around the extent of the tribunal system. The dispute resolution procedure that is in the bill was not there originally. It was specifically designed to try to fill the gap between the tribunal system, which is for that group of young people whose needs we think are most complex and difficult—organisationally, as well as in terms of their individual needs—and the generality of the system, where all additional needs require to be identified. We were clear, as ministers, that there was too big a gap and that we had not fully accounted for the circumstances where people would not have access to a tribunal, but would probably still require access to some other form of reconciliation because of the nature of the dialogue that they may have with the local authorities.

We hope that professional practice will improve throughout Scotland as a consequence of the bill, and that the focus and the emphasis will change. We hope that, generally speaking, professional

practice will improve with regard to the relationship between parents and local authorities. The code of practice, which is at the heart of the bill, will also help to specify good practice in a variety of circumstances. I hope that that will take care of most of the situations where good professionals—with which the system is populated—work with parents and children, so that those professionals ensure that the needs of the children are properly identified and that plans of action that suit those individuals are implemented. Where that does not happen—and we know that it will not happen in certain circumstances—we want to have a mediation system, so that we can try to resolve those difficulties as early as we can.

We know also, though, from speaking to groups of parents, that they thought that that was not sufficient and that there had to be something beyond that. Some would argue for access to a tribunal and others would argue for some extra mechanism. That is why we put in the dispute resolution procedure. We have a lot more work to do on that, which the committee may want to ask questions about later. The dispute resolution procedure is to ensure that we have tried to account for that group of young people without necessarily going to the tribunal, so that we can try to keep the tribunal for the complex group of issues that require detailed attention and the co-ordinating aspect of the tribunal. That is the logic of it. We are trying to achieve a coherent system.

The Convener: It appears to result in a fairly complex system. That is one of the troubles, but perhaps we will come back to that.

Mr Adam Ingram (South of Scotland) (SNP): I would like to focus on the general principles of the bill and perhaps to consider what problem the bill is designed to solve.

Surely the aim of the bill is to reduce the current inequalities in educational outcomes through the provision of more flexible and individualised teaching and support for all children? If that is the case, how do you respond to the view that a more powerful safeguard for children with additional support needs would be to strengthen the universal system? It is said that systems for everyone tend to have higher standards than those for sub-groups.

Following on from that, why was a decision not taken to streamline the current system? I understand that consultees favoured that way forward. Why not go for an organic development of the kind that is being pursued in England and Wales? I understand the resource emphasis on a strengthening of the universal system for support of children. It is anticipated that that will reduce the demand for statements or records of needs. Would that not be a much more inclusive approach to take?

Peter Peacock: I think that I picked up on a number of those points in response to an earlier question from the convener. In an ideal world, it would be commendable to move to that universal system. That is partly why I laid such emphasis on the general move within our universal education system to identifying the needs of all individuals in the system more effectively and of tailoring education to suit their needs. The personal learning plan is at the heart of that. We are moving in that direction and we want to move in that direction.

At the end of the day, however, we have to make a judgment about whether that would be likely to ensure that the current needs of groups of people in the system are protected in the short or medium term. My experience—and all the advice that I have had and the feedback that I have received from parents—tells me that we have to ensure that the group of young people who have complex, multiple and enduring needs get the services that we know they require. We need to do that in a systematic way and we need to place a duty to do that. That is why we have come to a judgment that, notwithstanding our desire to improve universal provision in the way that you have described, it is still right for us to attach particular attention to those who have barriers to learning in particular ways.

I described the effects that the Warnock committee had on identifying special needs as an issue and changing the climate of how we approach that; 20 years later we are trying to move that on. I would love to think that, in years to come, we would all be entirely satisfied that the universal provision that our direction of travel would provide would meet all the requirements in the particular way in which they manifest themselves in the system. That would be a laudable aim. We are not there yet.

I know that parents would be shocked if we were to say that we were going to withdraw the special attention that has been given to young people who have the needs that I have described. Parents would be aghast if we were to say that we were just going to allow the system to cope. All their personal experience would tell them that that would be the wrong thing to do. We must ensure that we protect the special attention that those young people get.

I want to be clear, however, that in principle I am not against the moves that Adam Ingram describes that would ensure that universal provision is much better. That is the direction of travel that we are moving in. That is why we are piloting personal learning plans and doing all the other things that I have talked about. We want to improve universal provision. Ultimately, that might

be the most inclusive way to provide support, but in the short term it would not be the right way.

Mr Ingram: Basically, in order to justify the difference in policy direction between what we are doing up here and what is happening in England and Wales, I was looking for some sort of suggestion that the Scottish experience or Scottish conditions are different.

Peter Peacock: I have to say that I have not paid a huge amount of attention to what is happening in England and Wales. What we have been doing is listening to what people in Scotland have been saying to us. I pay as much attention to what is happening in France or Italy or anywhere else as I do to what is happening south of the border. The issue is not one of seeking to mimic by accident or design anything that is happening in the south. We are trying to design a system that is suitable to our circumstances in this context. If that happens to be the same as other systems, it will mean that we have all arrived at the same conclusion.

Mr Ingram: The committee has received a lot of feedback to the effect that, for all the aspirational language about the move away from the idea of special educational needs to the broader concept of additional support needs, the ethos of the bill is little different from that of the legislation that it will replace. A bureaucratic process will still have to be gone through to access co-ordinated support plans rather than records of needs, and families and education authorities will still be locked into an adversarial system in which the onus will be on the parents to enforce the law. Only a minority of parents will have the confidence and capability to take on a local authority. I put it to you, minister, that the bill will do nothing to enhance the Executive's inclusion or social justice agendas.

Peter Peacock: I reject that point firmly. The intention is to ensure that young people who have additional needs and barriers to learning are given additional support so that they can be included in society. The aim is to include those young people more, not to separate them out and put them into a corral. The fundamental aim is to recognise individuals' challenges and barriers to learning and to attach resources to them to ensure that they have the best possible chance of being a full part of society.

Some people have put it to me that the bill will simply provide a reform of the record-of-needs system and no more than that. Even if the bill did only that, it would be justified because we know, for the reasons that I have set out, that the record-of-needs system does not meet needs in a variety of ways. Other people have said that the bill will completely ditch the present system and introduce something entirely new that meets different objectives. I do not mind whether people think that

the bill is an honest revision of the record-of-needs system with a new label but which does the right thing, or that it is an entirely new system that does the right thing; the important point is that we do the right thing for the group of young people involved. I do not care what labels are attached to the process of change.

The new system will be bureaucratic to a certain extent, but it will deal with complex situations. We know from experience that we must build in certain provisions to allow the necessary dialogue at local authority level. I sincerely hope that we will see a change in the adversarial nature of the system, but from my experience of the bill and of previous bills that touched on similar issues, I know that there has been a complete breakdown of trust between groups of parents, and individual parents, and the education system. I regret that, as do professionals in the education system and parents, but it is a fact.

We must ensure that we provide means through which parents can have the necessary dialogue to achieve the services that their children require in the system. The dialogue should be a proper one between the professionals who have wider experience of such situations, the parents who have aspirations for their children, and the young people themselves. That is why we have tried to produce a graduated process, which will move from what I hope will be good professional practice that meets young people's needs, to a system of mediation if those needs are not being met. We will then have a dispute-resolution procedure, if that is required, and the tribunal. The bill will introduce other improvements such as a contact person or named officer in local authorities who will help support CSPs. We will put in place a range of provisions to try to ensure that we move away from hard adversarial situations to managed situations that allow proper dialogue and proper progress to be made for the young people involved.

Obviously, we do not wish to create bureaucracy, and we certainly do not want an adversarial system. However, I cannot see which bits we could successfully take out of the system that we have designed so far, which has been designed in response to what people have said. It would not be right to take out the mediation service or dispute-resolution procedure ostensibly to make the system less bureaucratic. We must have a range of provision to ensure that we take account of young people's needs.

Rhona Brankin: The vast majority of witnesses welcome the broad thrust of the bill and regard it as introducing a more inclusive system, but there are areas of concern. I draw your attention to the question of duties on both education authorities and other agencies. A concern has been

expressed that the duty on other agencies is not strong enough. If a parent has a youngster with complex, enduring needs, a co-ordinated support plan and a physical disability, how will the new legislation ensure that they have access to the full curriculum? In physical education, for example, the youngster may require physiotherapist-led exercises or special swimming sessions. How would the bill make it easier for the youngster to have access to those kinds of provision?

11:45

Peter Peacock: I will make several points. This is an education bill, so it views matters through the eyes of education and focuses on how we bring resources to bear to support children's experiences of education and, as Rhona Brankin suggests, how we support that experience in many other ways. That is why the primary duties in the bill are placed on education authorities.

However, the bill makes it clear that other agencies that have an impact—the health service and other parts of local authorities, such as social work departments—have a duty to bring to bear their resources to assist in the fulfilment of those requirements. The focus of the bill is primarily on education authorities, but the duties that it imposes extend far beyond that. Health authorities and others should be under no illusions but that they have a duty to ensure that the measures set out in CSPs are taken to help young persons. The bill states explicitly that that must be done. In future, the requirements that have been placed on local authorities by virtue of the duty to which they are subject ought to help to provide the resources that people seek to manage the situation of individual children in the classroom and to improve their lot.

One concern that has been expressed is that tribunal decisions in relation to CSPs are binding on local authorities. For that reason, people think that they are not binding beyond that authority. We believe that we have dealt with the issue fairly effectively. A tribunal might alter the content of a CSP and place a duty on a local authority to implement it—the local authority would have to do what the tribunal said—but the duty on other authorities would kick in at that point. From the change that the tribunal required to be made to the CSP, a duty would flow out to the health authority—the body that is cited most frequently—to support the CSP. Other agencies are also bound in by that process.

It has registered with me that people are anxious about this issue. We will be interested to hear what the committee has to say to us about it and whether there are other things that we can do to provide the reassurances that people need.

However, in legal terms, we think that we have the matter covered.

Rhona Brankin: If when HMIE is inspecting the provision that is made in schools and considering co-ordinated support plans, it discovers that an aspect of a youngster's curriculum is not being delivered due to the failure of an outside agency, what will happen?

Peter Peacock: Increasingly, we have multidisciplinary inspection teams in schools. The thrust of what we are doing in relation to integrated community schools and so on implies that, increasingly, we should take a multidisciplinary approach.

If an aspect of a CSP was not being delivered due to failure by the education authority, we would expect the authority to act on that point. The bill places education authorities under a duty in law to ensure that they are attaching the necessary resources to a young person. If they are failing to do that, they are failing in their statutory duty and the local authority should act on that. If the local authority fails to act, there is a section 70 procedure that allows a complaint to be made to the minister, on the basis that the local authority has failed in its statutory duty. I would then be able to direct a local authority to take the appropriate action. Frankly, I hope that such a situation does not come about, because one of the bill's purposes is to ensure that a local authority's duty is clearly and precisely indicated, which is not legislatively the case today.

Similarly, if a health authority does not do what it is required to do regarding the identification of needs, it will be failing in its statutory duty. A health authority will have a duty to support a local authority in meeting the requirements of a CSP. Again, we will be able to act on any failure to do that. I hope that such action will not be necessary. However, ministers will have extensive powers to require action to be taken in particular situations. I hope that people will buy into the spirit of the bill and ensure that services are improved. However, in extremis, if services are not improved, we will have a range of powers at our disposal to ensure that matters can be acted on.

Rhona Brankin: I have a question about duties for youngsters under three. Education authorities will be able to assist in, rather than have a duty towards, the identification of needs and will offer advice for children and young people who are not in the public system, such as those under three and those who are being home educated or attending independent schools. Concern has been expressed to us about that, because currently the record of needs is available for youngsters from the age of two and because for some youngsters, notably those with autistic spectrum disorder, the identification of needs may take place at the age

of 18 months, when a child requires complex support and joint planning. Can you reassure the committee that you will not make it harder for parents to get support for children under three?

Peter Peacock: That point has registered with me, but I ask Euan Robson to pick up the question, because he has been considering the relevant details.

The Deputy Minister for Education and Young People (Euan Robson): Clearly, the issue to which Rhona Brankin refers is important. There is no intention to remove existing rights, but we are still looking at the area in detail. Concerns have been expressed about nursery provision, for example. Where a nursery is clearly a local authority nursery, the bill's provisions will cover the children in it. Similarly, children will be covered where a local authority is involved in a partnership with a private nursery.

Where children are outwith the public sector—in home education or exclusively private nurseries—we suggest that the parents have opted not to have their children within the state sector. However, rights will be available to them to enlist the support of a local authority. Our current proposal is that there will be no specific duty on a local authority in that respect, but we want to reconsider that issue, because we are not clear about the numbers that might be involved.

We will consider provision for under-threes before we come back to the committee. If the committee uncovers specific advice or information from an evidence session, we will be interested to hear it. We are particularly interested in the committee's views on the under-threes—the committee is right to highlight such an important area.

Rhona Brankin: In our evidence, we heard that there was concern that the education authority's ability not to do anything that

"is not practicable at a reasonable cost"

could be seen as a get-out clause. The Disability Rights Commission suggested, as an alternative to the test of "reasonable cost", a test of "reasonableness". What are your thoughts on that?

Peter Peacock: The provision to which you refer was not put in the bill to try to create an out—I want to be very clear about that. I know from my experience that local authorities are sometimes involved in major bits of expenditure in relation to an individual child. If it is right and proper for that to be done, it should be done. There is a general presumption that no local authority can act unreasonably. It would be illegal for a local authority to do so in any circumstances. We do not believe that the provision to which you refer will

change that general presumption. I am always open to considering particular forms of words to try to make our intentions clear. However, our intention is clearly not to introduce a get-out clause. Apart from anything else, the code of practice will pick up good-practice issues in relation to individual children's needs.

The Convener: I want to return to Euan Robson's point about people who are outwith the public sector. He referred to nursery school provision, but the point also applies to people who have fought with the local authority and taken their children out of the school sector. Why will there be only a power rather than a duty to provide other services, which, after all, CSPs are all about?

Euan Robson: We are happy to consider that issue. Where a parent decides actively not to be part of the public sector, we must respect that and we should not impose a duty on local authorities in that situation. However, I take the point about situations in which there has been a dispute. One would hope that, in such situations, the mechanisms for resolution of the dispute would apply and appropriate provision would be made for the child as a result either of mediation or of dispute resolution. Where there is a complete breakdown, the parents must understand that, if they take their child out of the public sector and opt for the private sector, there will be less coverage for them than there would be if they remained in the public sector.

I stress that we are interested in hearing the committee's views on the issue, because we are still considering the matter in detail. In particular, we need to find out about the number of parents who are in such situations, because we are not entirely clear about that.

Peter Peacock: On the under-threes and the point that, whereas some parents choose positively to move outwith the public sector, many others in other situations do not have a choice and have to do so, our intention is that local authorities should not withhold the use of their power unreasonably in those situations. We are considering those issues further.

Euan Robson: We may construct specific provisions for situations in which there is not a practical option for parents to get their children into the public sector—in rural areas, for example—but the matter must be considered further.

Fiona Hyslop: I move to financial questions. The minister must acknowledge that the Finance Committee's report is highly critical, although he addressed some of the points in his introduction. The report states:

"It is patently obvious that until a Code of Practice has been developed ... costs cannot be properly ascertained and there remains the very real possibility that the costs

quoted in the Financial Memorandum have been underestimated, potentially very significantly."

The report also states:

"the Committee has not been reassured on key substantive matters and it remains extremely concerned that the Parliament could be asked to approve legislation without being made aware of the full financial implications."

We accept your commitment to try to resolve some of the financial issues, minister, but if you cannot do so satisfactorily, will you be prepared to delay the bill to allow us to get to the root of some of the financial concerns and discrepancies? For example, the Executive's figure for the number of people who will have a CSP is 50 per cent smaller than COSLA's figure.

Peter Peacock: I do not anticipate a delay in the bill because we are confident that the figures in the financial memorandum were set out fairly. For the reasons that I have given, we do not believe that COSLA's evidence stands up to scrutiny. That results from COSLA's understandable misinterpretation of a change in the draft bill—COSLA interpreted that as a widening of what we seek to do, whereas we did not aim to widen that at all. It is now clearer to COSLA that we do not seek other things from the bill that it thought that we were seeking. I think that the committee will find that the gap between us and COSLA will continue to narrow.

We are committed to the policy and we believe that we need to make progress. Even if we have got the figures wrong in the scenarios that we have set out for the committee, within certain parameters we are prepared to find the cash to ensure that the bill makes progress. I do not think that the situation that you described will arise.

Fiona Hyslop: The committee will have to wait and see on that one.

Peter Peacock: Indeed it will.

Fiona Hyslop: As a result of the bill, will there be more and better support services for children with additional support needs?

Peter Peacock: Absolutely.

Fiona Hyslop: I am interested that the financial memorandum from the Executive concentrates on the cost of CSPs. You are committed to the provision of more and better services for children with additional support needs, so let us talk about those who do not have a CSP. In your submission to the Finance Committee, dated 28 November, you state at paragraph 4 that you will be

"filling the gaps in services",

which

"is acknowledged as a cost implication of the Bill".

However, you go on to say:

“there was no particular group of children with additional support needs who were not receiving any support for their learning.”

You say that the bill builds on the provisions on mainstreaming in the Standards in Scotland's Schools etc Act 2000. We know from Audit Scotland's report that there are concerns that the cost implications of mainstreaming have not been thought through, but still you have not stated in the financial memorandum the additional costs that are required to meet the additional support needs that clearly will exist for those children who do not have CSPs. Why have you not included the costs of support services for those children in the financial memorandum?

Peter Peacock: There are several points in that. I say—with respect to the Finance Committee—that the point that you have picked up is the point that has been missed. The gap in service level, which is what you are talking about, is potentially the most serious of all the issues.

12:00

Fiona Hyslop: That is why I am asking about it.

Peter Peacock: I accept that that is why you are asking the question. Our broad policy intention covers: mainstreaming provisions; behavioural support for young people in schools, in relation to the poor behaviours that manifest in some situations; looked-after children; and doing better by any group of children who have additional support needs.

One thing that we have been clear about doing—and that is why it is not in the financial memorandum; it is part of our general policy approach—relates to the substantial additional resources that are coming into education over the next three to four years, in particular additional teaching resources. We have been clear that a significant priority for those resources will be young people with social, emotional and behavioural difficulties, young people with additional support needs—who are referred to in the bill—looked-after children and others, to ensure that we do better by them generally. That is part of our policy rationale for increasing the number of teachers in our schools and for attaching more resources generally speaking. As you will know, substantial resources are coming into education, which will allow us to do that.

Some local authorities are already doing extremely well in providing services. Through the bill, we are seeking to ensure that extremely good practice in local authorities is replicated throughout Scotland, so that there is no postcode lottery of services. The code of practice will help us to establish solidity between different local authority

areas and to ensure that we do better by everybody across local authorities.

Fiona Hyslop: Why is the biggest cost implication of the bill not reported in the financial memorandum?

Peter Peacock: That depends on the extent to which one calculates that the gap in services exists in the way that you described it. I was going to say that local authorities are doing extremely well—in their own reports, they believe that their performance is “good” or “very good” in relation to young people in this sector—so a substantial amount of need is already being met in the system.

I am saying that we want to do better generally, which is why we have supported the additional teachers who are coming into the system. That additional support is not particular to the bill; it is across a range of our policy considerations. That is why the policy memorandum quite rightly says that it is difficult to give a specific figure. Indeed, it will always be difficult to give a specific figure. We seek to float up the total amount of resource, attaching it to those young people to whom I referred, and to improve the service levels—to come back to your original question—by that process. The financial memorandum sets that out clearly.

Fiona Hyslop: It is interesting that the documentation from the bill team makes little or no mention of additional teachers being a main resource implication. The documentation stresses the national priorities action plan, funding for which is due to increase by £13 million next year and £8 million thereafter. That is less than the money that was allocated to implementing the recommendations of the report “Determined to Succeed: A review of enterprise in education”.

Peter Peacock: The changing children's services fund and a range of other funding are also coming on stream. The point to be clear about is that the substantial additional resources that we are putting into teaching in the round in Scotland are in part justified by our desire to do better by those young people without CSPs, those with particular emotional, social and behavioural difficulties, looked-after children and so on. The cash is coming in irrespective; it is an improvement in the system. The bill underpins the statutory way in which those young people will be better identified, but the resource will be put in to ensure that that is being done.

Fiona Hyslop: There is a worry that the bill might be built on sand. The Auditor General's report on mainstreaming—

Peter Peacock: But that is exactly one of the reasons why we seek to put more resource into

the area. We want to do better by all those young people.

Fiona Hyslop: I suggest that it might be helpful to the committee if you were to document all that information in one piece of paper.

The Convener: Mike Gibson provided some of the information to which Fiona Hyslop refers when he gave evidence.

Fiona Hyslop: In its written submission, the Scottish NHS Confederation said that it believes that an additional 60 therapists will probably be needed in each of the three categories of therapists, which would mean a total of 180. However, the budgeting explanation tends to show that the funding is for bureaucratic requirements. Is that a short-term fix for bureaucracy? Do you genuinely want to ensure that more therapists are available? If so, where is the costing for that?

Peter Peacock: The confederation's evidence specifically identifies the need for additional therapists, which was not identified by the health colleagues who were part of the team that considered the bill's costs. However, we know that the lack of therapists is a problem and we are taking strong action to improve the situation. I discussed with Malcolm Chisholm and other colleagues recently all our needs for additional staff and the impact of that on universities, which train and produce people. Very much part of our planning is to increase the number of therapists to a figure that will more than deal with the points that the committee has raised. Again, that is a part of a general policy that has been known about for some time.

Euan Robson: Training, which Peter Peacock mentioned, is an important issue. Obviously, there will be an implementation phase for the bill. However, local authorities currently receive a specific grant of £8.4 million per annum for training purposes and there was a recent announcement of £9 million for social work training. In addition, there is the on-going teacher education review and much effort is going into continuing professional development. The issue is allied to the point that Fiona Hyslop raised about resources. There are resources for training, which will be an important part of the delivery of the bill's principles and the improvements that the bill will bring.

Fiona Hyslop: Are you talking about social worker training or teacher training?

Euan Robson: Both. It is important to recognise that existing provision will be able to make a significant impact in delivering the bill's principles and the improvements that the bill should bring about.

The Convener: That is very helpful.

Rhona Brankin: I believe that we all agree that there are big implications for training. We need to find out where the space and time will come from for that training. More important, will the training be rolled out before the bill is fully implemented?

Euan Robson: Yes. That is the intention. There will be an implementation phase for the bill. Existing training structures should be able to provide the specific training that will be required to deliver the bill's content. Additionally, there will be a need for information provision. As members will recall, information was delivered to parents through a bag drop, so called because the information goes into children's school bags. There will also need to be information provision after the bill receives royal assent to explain the bill's content to parents and practitioners. All that will be done, as it always is with legislation. I emphasise the fact that we understand the importance of training and people's access to it. The coverage is adequate to ensure the delivery of the objectives.

Peter Peacock: As Euan Robson said, we have a group that is helping with the implementation plans—the group comprises people from across the various sectors, including the voluntary sector and parents. We expect the group to help us to identify particular needs.

Much is being done with regard to social work, as Euan Robson said. In education, the initial teacher education review is designed to ensure that, in future, the particular group of needs will be dealt with more effectively as part of teacher training. There are huge new opportunities with regard to continuing professional development because of the changes arising from the McCrone settlement, the chartered teaching programme and so on.

Rhona Brankin: How can you ensure that training is going on in the health service, for example?

Peter Peacock: The implementation group includes people from the health service. It is our intention to ensure that the policy is embedded in the health service just as it is in our education system. Malcolm Chisholm and his colleagues in the Health Department will help to implement recommendations that flow from the implementation group.

Dr Murray: I am a member of the Finance Committee as well, so my first question relates to it, slightly. The Finance Committee's point about the tribunals did not relate to the additional cost to the Executive as much as to the possibility that, if the tribunals were persuaded to overrule the judgments of the education professionals, that might result in a skewing of local authority resources to the services that are provided to

children with parents who are articulate or who can afford lawyers. There was a concern that resources could end up being removed from the more general support for children with additional support needs or from children in mainstream education who did not have additional support needs. How do you react to that concern?

Peter Peacock: Again, we must keep the matter in context. The projection in the financial memorandum of the number of cases that would go to the tribunal, based on the incidence of tribunal cases in England and Wales, was around 300. In terms of the total number of cases, that is quite low. Even if that projection is wrong, I do not think that we are talking about a huge number of young people.

Dr Murray: Yes, but is it not possible that the 50 per cent of children who lose their record of needs at the point of transition could come back to the tribunal to appeal the decision?

Peter Peacock: Indeed, but equally the tribunal's job is to make correct judgments in the interests of the child. The tribunal works within the framework of the legislation and has to apply tests to determine whether the local authority has acted adequately in relation to the law. That will have the effect of holding the numbers within the 2 per cent that I talked about earlier. We believe our estimates in that regard to be correct.

Let us develop the scenario. What if we have got the number of young people who will go to the tribunal wrong? I remind the committee that the young people who have a record of needs at the moment but who might not get a CSP already have a package of services. The tribunal would be trying to add to that package, if anything. It would not give people who did not have a package of services a full package of services; it would raise the level of service that was provided to those who already had a package of services. In the context of the overall education budget—which involves several billion pounds of expenditure—the amount of money that will be required in that regard is marginal. In certain cases, the judgments that the tribunal makes might involve quite high costs, but we will be able to cope with such costs within the overall resources that we have available.

You mentioned that there was a concern that resources might be shifted away from young people with additional support needs who have a package of services. I assure you that that will not happen. They have that package of services by right under the law and the local authority would fail those kids under the law if it shifted the resources away.

Furthermore, given the additional cash that is coming into the sector, we believe that there is scope to improve service levels without

jeopardising services for any young people. We genuinely think that the impact of the tribunal in that sense will have a marginal effect on the total financial cake that is available to us.

Dr Murray: You have already answered the questions about COSLA's confusion and the fact that, as we heard earlier, Careers Scotland's figures in fact referred to the number of people with additional support needs, not to CSPs. However, are you absolutely confident that your interpretation would be robust enough to stand up in a court of law if you were challenged?

Peter Peacock: If I was challenged on what basis?

Dr Murray: Are you confident that if, for example, parents took you or the local authority to court over the involvement of social work or the matters about which COSLA became confused, the definition in the bill would be sufficiently robust not to be misinterpreted?

12:15

Peter Peacock: Yes. When we are in the hands of the courts, we are in the hands of the courts, because they make judgments and reinterpret law. However, our intentions for the bill are very clear and the code of practice will further exemplify those intentions in ways that will help any court to come to a judgment. We do not believe that we are vulnerable on that point; we believe that our policy intentions are clear.

My understanding is that Careers Scotland took its definition from the Warnock report's definition of those people in society who may have a special need. The point was, as you say, not about CSPs, because Careers Scotland used the widest possible definition.

Dr Murray: The code of practice will be important for interpreting the bill. Will you give us a bit more information about the consultation mechanism that will be used in drawing up the code of practice? What will the code's status be? We have the impression that it will not require secondary legislation—it will not be laid before the Parliament as a statutory instrument—but will the code allow for ministerial intervention if its terms are broken?

Peter Peacock: We want the process of drawing up the code to be extremely open. At the very least, we expect to come back to the committee, consult it as part of the process and show it how the code is shaping up. There are wider questions about statutory approval of the code, which is one of the matters on which we will be interested to hear what you have to say when you report on the bill. We intend the process of drawing up the code to be inclusive and we want

to involve not only professionals who work in and across the system, but parents and people from the voluntary sector who have particular views about how the code might work and what bases it should cover. The process will be open and participative because we want to ensure that the code will be a clear document that helps to move everything forward.

Your point about ministerial intervention brings me back to the point that Rhona Brankin made earlier. If we felt that a statutory duty was not being fulfilled, we would have regard to, among other things, the code in making our determinations. For example, if there is an appeal under section 70 of the Education (Scotland) Act 1980, ministers can exercise powers in relation to any failures, but the code's purpose is to minimise the number of failures and to try to ensure that the system works effectively in people's interests.

Dr Murray: Do you have any idea of the time scale for the code's preparation?

Mike Gibson: That is something about which we are thinking. We are already starting to consult on it, but we will need to see the final shape of the bill before we can draw up the final details of the code. That will take us well into next year if we are to consult as fully as we wish to.

Peter Peacock: I give you an undertaking, convener, that, when we have clarity on the time frame, we will notify the committee. I also make clear our intention that the committee should see copies of the code. The code is not intended to be secret in any way. We need it to be open and purposeful and we need people to contribute their thoughts to it.

Dr Murray: The financial memorandum recognises that there is some unmet need, which you identify as 0.3 per cent to 0.6 per cent of the school population—those who did not have a record of needs but might get a CSP. Am I right in assuming that, if the CSP is a third leg—requiring support over and above what is required by a record of needs—there are no children who are not eligible for a record of needs who would qualify for a co-ordinated support plan?

Peter Peacock: I am not sure that I followed that double negative.

Dr Murray: If the CSP has the additional requirement for co-ordination of services from other agencies in support of education—the Executive has said that it will be able to limit the numbers because of that additional requirement—and if, as the financial memorandum partly recognises, there may be children who should have a record of needs who do have not one, is it the case that no child will get a co-ordinated support plan if they did not either have or should have had a record of needs?

Peter Peacock: The easiest way to deal with that is to explain that the bill is constructed in such a way as to provide that, under the law, children who have a need for a co-ordinated support plan should get one. If they do not have a co-ordinated support plan but they had a record of needs or should have had a record of needs, they will still receive their services, because the duty extends to identifying the child's needs and to constructing services that suit them. It is not the case that those with a CSP will get services and those without a CSP will not. The duty should cover that particular point.

Dr Murray: I understand that, but there is still confusion about who is eligible. The issue is also about the expectations that may be raised in the wider community. I think that if somebody has failed to get a record of needs for their child, they are very unlikely to get a co-ordinated support plan. However, I think that the perception among some people is that the co-ordinated support plan might be something new for those who did not get a record of needs.

Peter Peacock: I see what you mean and I would not want to raise expectations about that. It is difficult to generalise, but that is not to say that there will not be cases in which young people who would not have had a record of needs get a CSP.

Dr Murray: Would those people have been entitled to a record of needs? Are we talking about people whose needs should have been picked up by the system but were not, or are we talking about a new category of young people who will get a co-ordinated support plan?

Peter Peacock: There may be new categories of young people. I am told that one of my officials can deal with the issue more effectively than I can.

Wendy Wilkinson (Scottish Executive Education Department): I am not sure that I can deal with it more effectively, but I will add to what the minister has said. The record of needs is based on special educational needs and the issue is the understanding of what that term means. For the criteria for the co-ordinated support plan, there is a move from special educational needs towards additional support needs, which can take in any barrier to learning, including social barriers as well as cognitive barriers. In practice, some children who are not currently deemed to require a record of needs may in future be eligible under the criteria for a co-ordinated support plan.

The Convener: That is helpful. For the avoidance of doubt, minister, will you clarify that the committee will be given adequate time for involvement in the details of the code of practice? Will you also clarify that the act will not come into force before the code of practice is ready?

Peter Peacock: That is the intention. The easiest thing would be for our respective officials to get together to ensure that we have the right way of getting the code to the committee within the right time scale. There may well be several iterations of that. We will just need to see how we take that forward.

Lord James Douglas-Hamilton: I have two questions, the first of which concerns parents' rights. There will no longer be a duty on education authorities to carry out compulsory assessments, although parents will be able to request specific types of assessment. We have heard a considerable amount of evidence that some parents may not know what type of assessment to ask for. Also, some parents fear that their children's needs may not be identified because of the removal of compulsory assessments. Would you comment on those views? The basic theme behind the question is parents' fears that their child could fall through the net.

Euan Robson: I referred earlier to the fact that specific information was given to parents through schools to make them aware both of the fact that the bill was being introduced to Parliament and of the policy intention and outline of the bill. It will be important to repeat that process in the implementation phase. We will see how that develops, but we would not be averse to reissuing information to parents after the passage of the bill. It is extremely important to give parents information on how the bill will operate when it is enacted, on what they can expect from it and on the processes to follow when they pursue the interests of their child. We can give a clear undertaking on that.

Peter Peacock: I will pick up the other dimension of your question. The intention is not to allow gaps that allow people to fall through. We want assessments to be undertaken. The nature of the duty is that a parent can request an assessment and the local authority should undertake that assessment, unless there is a very good reason not to. The authority would have to set out that reason and, if it was not sustainable, it could be challenged on various levels in the system. The intention is to ensure that that point is covered.

Lord James Douglas-Hamilton: My second question relates to the transition from the old to the new system. Given that many parents have felt that they have had to fight to have a record of needs for their child and that it is estimated that only about 50 per cent of children with a RON will qualify for a CSP, how can you reassure parents that their child's needs will continue to be met? For example, would you consider running two systems in parallel until those with a record of needs are well through the system?

Peter Peacock: The key is that we want to give a guarantee to those parents whose children have a record of needs that the services that they have derived on the back of the RON should not be diminished or altered in any way as a consequence of the bill. Those services should alter only if the child's needs alter and what a child's needs are should be the result of consideration between parents and professionals. I have tried to make it clear that we want to give that guarantee. I have written to every local authority chief executive to make it clear that that is how we interpret the matter and to stress that there is no need to change the level of service that a child is getting.

As I have already indicated, if there are further ways in which we can make clear that guarantee for parents, I am more than happy to consider them. It is our clear intention that those services should not diminish at all. In that context, there will be no particular need to run two systems in parallel, as long as we are focused on the services that the young people in question have. There will be a two-year transition period, during which every young person with a record of needs will be assessed to determine whether they should have a CSP in future. We think that it will take two years for that process to be completed. There is no question of our removing or changing services for that group of young people.

The Convener: Would you consider including a provision in the bill to that effect, because that is an important point, on which we have received a lot of evidence? In spite of the guarantee, people want to have such measures set out formally in the legislation.

Peter Peacock: I understand that. I have an open mind on how we can best reassure people about that. Our policy intention is crystal clear and I want to ensure that people understand that. If there are ways in which we can do that, I would be happy to consider them; I do not rule anything out in that regard.

Mr Macintosh: I will continue along the same lines, but will focus on mediation, appeals and tribunals. Lord James Douglas-Hamilton mentioned the concerns that have been expressed about the loss of perceived rights. I welcome the remarks that you made earlier, when you talked about trying to be coherent in the new system, but that will not be universal—you will have to be pragmatic. In effect, we will be reintroducing a range of rights, because there will be three categories of children: children, children with additional support needs and children with a CSP. Because those categories are defined differently, the children in them will enjoy different rights.

Furthermore, there are a number of different ways in which those rights will be enforceable. In

some cases, it will be possible to appeal through a local authority resolution process, following mediation. In others, it may be possible to go to the new appeals tribunal, to the sheriff court—possibly after local authority dispute resolution, although that can be bypassed—or to DDA tribunals. As a result, there could be various ways of enforcing different rights. How will you ensure that there is equity of treatment across the board? Are you happy that the different definitions will fairly prioritise the different needs of the different children involved?

12:30

Peter Peacock: For the reasons that I set out earlier, we are happy that we have made a genuine attempt to get the balance right with the differing needs in the system. That said, we are always open to other views on the matter and to finding out whether we can tweak or adjust the system without removing layers such as mediation and dispute resolution.

As for equity, you said that different rights exist in different areas. The key thing is to ensure that people who are in a category that allows them to have access to mediation, dispute resolution, the tribunal or whatever can do so easily. As Euan Robson said earlier, we still have a lot to do to educate people about their opportunities and rights within the system. Moreover, we must ensure that there are support services to allow parents and young people to access the services effectively. For example, I think that today we will reconfirm significant grant support for the Enquire helpline to ensure that good independent information and advice is available to parents.

Moreover, as far as support for parents is concerned, we have not ruled out—and indeed are still considering—supporting access to certain advocacy services. We are currently reviewing grant applications from organisations for such services, where they are required. I have an open mind about providing some support for such an approach, because I recognise that in certain circumstances parents might want support in the system.

I should also mention that a named officer in the local authority will ensure that people have a good supply of information and an additional support needs contact person will support parents by co-ordinating support plans. Parents can also have supporters to help them in the system and to give the kind of support that they require. As part of the implementation process and in consultation with parents, the voluntary sector and other interests, we must ensure that your point about equity is addressed by providing very good information and by allowing access to the kind of support services that people require in order to utilise the services,

exercise the rights and benefit from the opportunities that are now available to them. We need to continue that work.

I hope that my response makes it clear that we want to get this matter right. In implementing the bill's provisions, we need to focus on the fact that there is no point in having a mediation or dispute resolution service or tribunal that people cannot access effectively.

Mr Macintosh: I welcome a number of those comments. However, it appears from evidence that we have taken that an issue of contention is the lack of legal aid that will be available to parents who appear before a tribunal. The main concern stems from what has happened in the SEN tribunal south of the border, in which local authorities are represented by lawyers during hearings. As a result, there seems to be an imbalance between local authorities defending their actions and the parents who are arguing for certain actions. Moreover, such a system creates another grossly unfair inequity in that certain parents will be able to afford their own lawyers while others will not. Will you comment on that matter and on the proposal that has been suggested to the committee that more advocacy services—not legal aid—should be provided to parents?

Peter Peacock: Your question raises a range of issues. First, I should point out that I am anxious not to create through the tribunal and the other processes a highly legalised system in which people feel that they must have legal representation to exercise their rights and have their case considered. Such an approach would be completely outwith the spirit of what we are trying to achieve in the bill. I hope that the committee shares that general view. As a result, we must ensure that the tribunal and the other systems are sensitive to the requirements that you and I have touched on, without requiring everyone to have a lawyer. If everyone had to engage to lawyer, it would not serve the system well.

We can do a range of things to improve the situation. We must ensure that the way in which the tribunal operates and the guidance that we offer to the tribunal encourages an informal approach. We have specified that the tribunal will be chaired by a legally qualified person and that there will be a couple of people on it who have expertise in the area. We must consider what we state in the code of practice and elsewhere to guide the chair of the tribunal to ensure that the interests of those involved—the local authority and parents—are looked after and ensure that they do not have to have lawyers to get their point across. We must ensure that that is built into the system.

It may well be that we can use the code of practice to set out not only the expectations that

we have of the tribunal but the expectation that the local authority, in particular, should not seek to populate the tribunal with lawyers. The tribunal should seek to deal with the matter in a different way. There is a lot of experience of such an approach in other spheres of activity. For example, the children's hearings system has for 30 years managed pretty successfully—I say this with respect to any lawyers around the table; two are peering at me right now—to keep lawyers out of the system, because of the way in which it has been managed. I hope that we can have the same spirit in the tribunal. Much must be done to reinforce those messages and ensure that the system does not become highly legalised.

Having said that, I think that there will be occasions when parents and local authorities want to be legally represented. We must try to ensure that in the absence of legal aid, other than for preparation for a tribunal, we do not leave parents unsupported in that situation. That is why my comments earlier about advocacy are important. I understand the need for representation in some cases and parents should have access to suitable representation. That is available in a variety of forms, but we must ensure that it is available so that people are not left—as they would see it—at a disadvantage in pleading their case at the tribunal. I hope that we do not reach that situation terribly often, but we must ensure that we have it covered. That is why we are looking at grant applications in relation to advocacy and we are prepared to take action on that matter.

We are aware of an anomaly that could arise when there is a placing request. For reasons that committee members understand and which I have touched on, it will not be possible to get legal aid to be represented at a tribunal considering a placing request case. However, if a child who does not have a CSP appeals through the local authority but does not like the result of that and appeals to the sheriff court, they could get legal aid. There seems to be an issue of principle in there. I am aware of that issue as it has been pointed out to me pretty forcibly by some parents. I suspect that the numbers involved are very small, but nonetheless there does seem to be a point of principle and we are considering the point to see whether there is anything that we can reasonably do about it. I cannot give a commitment on that matter, but we know that there is an issue and we are considering it.

I hope that that covers most of the points that have been raised.

Mr Macintosh: It does. I will pursue some of the issues. We have received evidence that there is a fear that the extension to all children with additional support needs of the right to make a placing request—a change that we welcome—will

generate huge demand and so will place a huge extra burden on the system. Placing requests might come through either the school placing request committees or the tribunal. What do you say in response to that fear?

Mike Gibson: The issue about placing requests—Wendy Wilkinson will correct me if I am wrong—is that if a child has an additional support need, they will be able to appeal to an independent special school, whereas in the past it was necessary to have a record of needs to appeal to an independent special school. That is the major change.

Mr Macintosh: That change is welcome. In the past, it was necessary for children to have a record of needs to appeal, so only 2 per cent of the school population could appeal for a special place, whereas now that right is being extended to all children with additional support needs, which is 15 to 20 per cent of the school population.

Peter Peacock: Does your question suggest that the nature of the system will give rise to more demand for independent special schools or more demand for access to the limited number of such schools that we have?

Mr Macintosh: It will give rise to a huge increase in the number of people who submit placing requests. Clearly it will not be possible to meet all the extra demand, so there will need to be a huge number of tribunals or local authority hearings to cope.

Peter Peacock: We do not envisage that arising from the new system but, on the basis of your question, we will take a further look at the matter and bottom out what the possibilities are in that regard. However, we do not expect such major demand.

Euan Robson: As I understand it, parents will have to show why the special school is appropriate for the particular needs of the child. The school will also have to indicate its willingness to take the child. I appreciate the point, but it is not a question of parents simply being able to access the school. However, generally, the point does need further consideration.

Mr Macintosh: I welcome that. I think that I speak on behalf of the committee in welcoming the fact that you are expanding the right. My experience as a constituency MSP is that the two greatest areas of contention are placing requests and the level of support services that are in place.

I have two further questions to ask. The first is on mediation services. The point about mediation services being independent of local authorities has been put to us strongly in evidence. What is your view on that?

On a separate matter, there is a perception that, although the Disability Discrimination Act 1995 was supposed to apply to Scottish schools, it did not, on the basis that there would be subsequent legislation in Scotland to set up the new tribunal system. The powers in the DDA to give rights to schoolchildren do not seem to be being applied in Scotland. Am I right or wrong in thinking that?

Peter Peacock: Is that in relation to a particular aspect of the DDA?

Mr Macintosh: The specific right in question is that of a child or young person to access aids and adaptations. I believe that that right is granted in England, but will not be granted in Scotland.

Peter Peacock: I will get Euan Robson to deal with the point about the DDA in a second. On the matter of mediation being independent, we have made pretty clear efforts in the bill—which will be reinforced in the code—to ensure that anybody in an education authority who is involved in a child's case will not be involved in the mediation process. There will be a system of Chinese walls between bits of the local authority. A person would have to be independent of the council's education service. They might well be attached to the chief executive's department for that purpose, to ensure that a corporate rather than a departmental view is taken on the matter and to get some distance between the department's interests and the rights and obligations that are placed on the authority and on the parents. An attempt has been made to ensure that consideration is given at a distance from authorities' education departments.

Beyond that, it will be entirely possible for a local authority to contract out mediation services to an external party, either in whole or in part, if it so wishes. If circumstances arose in which it was felt right to bring in somebody independent, the local authority would be free to do so or to make a service-level agreement with an organisation that would provide mediation or other services. That is a matter for local authorities to judge. I hope that the code will pick up such areas of good practice, and I hope that authorities will listen carefully to parents in that regard. We need mediation services that help to mediate. If there is mistrust on either side before the process is entered into, it is not likely to be terribly successful. We need to have an open dialogue about all that.

That said, I have received representations that we should rule out the possibility that a local authority may provide mediation services, to ensure that such services must be provided completely independently from the local authority. I do not think that that would be right. There are some perfectly good examples of local authorities taking the matter very seriously. Authorities want to do the right thing, and they will want to create that distance and independence. Local authorities

already have such a dimension to their lives in their complaints procedures and so on, and it would be wrong simply to rule out mediation services being offered by the local authority. That said, there are other ways to deal with the matter, and I hope that the code will highlight good practice and the range of options that are available, so that we ensure that we meet people's needs.

The other point, I suppose—

The Convener: I am conscious of the time, so I ask Peter Peacock to be brief.

Peter Peacock: I was trying to talk the committee out so that it could not ask me any awkward questions, but I will stop there.

Euan Robson: Our view is that the bill covers auxiliary aids and services, as the education authority has a duty to identify and address the need for additional support, which we expect to cover auxiliary aids and services. I understand that the number of disputes about such matters is very small and is of the order of 10 in 14 months. I understand that, as discrimination is a reserved matter, amending legislation would need to be passed at Westminster. Wendy Wilkinson will talk about that in a minute. In informal discussion, the strange concept of a reverse Sewel motion or some such measure has been mentioned. If members have views on the matter, we would be interested in considering them. Discussions can be held with Westminster. Overall, we say that the general duty covers the policy position.

12:45

The Convener: In England, in the scenario that was described, an application would be made to a tribunal but, in Scotland, such an application would not be made unless a child had a CSP. Aids and adaptations are not intrinsically reserved. Could the jurisdiction of additional support needs tribunals be extended to deal with the slightly awkward jurisdiction point that Ken Macintosh raised?

Wendy Wilkinson: We would consider that over time. In 2001, when Westminster legislation amended the Disability Discrimination Act 1995 to cover schools, England and Wales had tribunals for SEN—unlike Scotland, which did not and still does not have tribunals for SEN—so it was decided that the SEN tribunal would be expanded to cover disability discrimination cases under the DDA. In Scotland, those cases were to go to the sheriff court.

The Convener: We understand the background. We ask the Executive to go further into the practicalities of resolving the situation, rather than

creating a hierarchy of issues. I am sorry, but we must move on. We are a little squeezed for time.

Ms Byrne: Many organisations have provided significant evidence about eligibility for co-ordinated support plans. Some organisations have suggested that the hurdle for eligibility should be lowered. One concern of parents is that resources might not follow a young person who has additional support needs only. Have the minister and the bill team considered the many examples of good practice that are being developed in connection with IEPs? Embedded in many IEPs are service co-ordination and targets for young people that are prepared by staff who deal with young people, with input from parents and young people. What will be the status of IEPs? How will they fit in with co-ordinated support plans and PLPs? We are in danger of giving teachers a huge headache because of the work load and resources, when good practice out there could be considered and implemented.

Peter Peacock: I take your point, which was well made. You have intimate knowledge of the subject from your professional background and you make the point that I would make: that extremely good practice has been adopted in IEPs, that we want such practice to be extended and rolled out and that we want to encourage the practical mechanism that an IEP has become, where it works well in the way that you described, because we would like use of the model to be extended to allow active management and improved learning for young people. We would be more than happy to continue to do anything that we can to support that.

Ms Byrne: Given that, the premise of the bill and the principles that are embedded in it, was significantly reducing class sizes never considered as a means of easily meeting a huge range of additional support needs? Such a measure would have ensured that young people who have much more complex needs had their needs met through legislation.

Peter Peacock: Class sizes have been reducing in certain stages of primary schools. You will be aware that we will specifically target some of our extra resource on reducing class sizes in primary 1 and reducing class sizes in mathematics and English in S1 and S2. Part of the reason why we brought in classroom assistants and so on is to get a better adult to pupil ratio in classrooms to allow better individualised learning. I referred earlier to the general increase in teacher numbers and how we want to attach some of that resource to the kind of areas to which Rosemary Byrne referred. I hope that all that will result in reducing class sizes in areas that will benefit those who have additional support needs.

Part of the McCrone settlement is to bring in further additional support staff to schools and we are making progress on that. Our real hope for the bill is that much more attention in the system will be focused on the groups of young people whom we have been discussing this morning. We are floating up the resources to help to support all that. With such support and falling school rolls, there is every prospect of the situation improving significantly over the next few years.

The Convener: I seek a final assurance on the documentation that Rosemary Byrne touched on—the IEP, the PLP and so forth. What consideration are you giving to simplifying and streamlining the documentation? One simple set of documentation would be extremely useful.

Peter Peacock: You are absolutely right. We are in this situation for a variety of good reasons, but we must ensure that there is a clear understanding about the relationship between the different documents. We will put every effort into ensuring that they are clarified. The other point that I want to make—which is perhaps the point that Rosemary Byrne made—is that we want the IEP and the PLP in particular, as well as the CSP, to be working documents. They need not be heavily bureaucratic documents; they will be working tools for teachers to help to plan, support and advance learning. Part of the reason why we are piloting work with PLPs is to ensure that we take out the bureaucratic aspects of the PLP and make it a working tool with a genuinely light touch. We will keep the committee advised about that. I believe that it will be helpful if we come back to the committee with our views on how we envisage the relationship between the different documents developing.

The Convener: I was going to ask you to do that. That will be extremely helpful.

Rhona Brankin: That would be useful because we have had evidence from practising teachers that there might be an additional work load, as Rosemary Byrne said. There will be a reduced number of youngsters with CSPs, but more youngsters might come into the IEP system. As somebody with experience of managing support systems, I know that a huge amount of management is now required in schools, for example to manage inter-agency work or to ensure that youngsters have support in some subjects in the classrooms. Managing in schools is now a big issue. I seek reassurance that the minister is aware of that and that the code of practice will recognise the issues that are involved in managing.

Peter Peacock: Yes. I outlined in my opening remarks some of the things that are happening in that area, such as the recent measures on curriculum flexibility. We also want to push out the

boundaries of devolved school management. As a result of the McCrone settlement, we are now seeing major changes in the management structures in schools in some areas. Part of the reason for all that is to create flexibilities at the school level and to allow head teachers to exercise more discretion over how they structure the management in their schools. We seek to allow the flexibilities that can deal with the kind of issues to which Rhona Brankin referred and other issues. I recognise that the issues that surround support bases and units, IEPs and so on require active management. That is partly why we are increasing resources to schools and creating flexibilities to meet the new requirements.

Rhona Brankin: And at senior management level as well.

Peter Peacock: Yes.

The Convener: Thank you for that, minister. That is a useful and practical point on which to finish this evidence-taking session—I am sorry, Adam Ingram wants to speak.

Mr Ingram: I have a couple of questions on the rights of the child.

The Convener: I urge you to ask them quickly because our time is tight.

Mr Ingram: Does the bill fully comply with the United Nations Convention on the Rights of the Child? We have heard quite a bit of evidence that suggests that children will not have the same rights as young people or, indeed, parents. I seek feedback on that.

Peter Peacock: All bills that the Executive publishes are tested to ensure that they are compliant with all the different requirements. The Education (Additional Support for Learning) (Scotland) Bill has been tested to ensure that it is compliant. If Mr Ingram wants to put particular points to us, we will give him a detailed answer later.

Mr Ingram: There has been criticism of United Kingdom policy in the area of rights compliance. I seek an assurance from you that the bill will receive some sort of compliance proofing.

Peter Peacock: All bills are proofed against rights criteria to ensure that they are compliant. We have to do that. We will happily provide the committee with a note about that.

The Convener: That might be helpful.

I thank the ministers and their team for their helpful support during the bill's progress so far. We have given the ministers quite a long session this morning and we are grateful to them. We will move on to consider the stage 1 report at subsequent meetings.

Meeting closed at 12:55.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Monday 29 December 2003

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0870 606 5566 Fax 0870 606 5588

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF12BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0131 348 3415

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers