

EDUCATION COMMITTEE

Wednesday 15 December 2004

Session 2

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EDUCATION COMMITTEE

27th Meeting 2004, Session 2

CONVENER

*Robert Brown (Glasgow) (LD)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Ms Wendy Alexander (Paisley North) (Lab)

*Ms Rosemary Byrne (South of Scotland) (SSP)

*Fiona Hyslop (Lothians) (SNP)

*Mr Adam Ingram (South of Scotland) (SNP)

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

*Mr Kenneth Macintosh (Eastwood) (Lab)

*Dr Elaine Murray (Dumfries) (Lab)

COMMITTEE SUBSTITUTES

Bill Aitken (Glasgow) (Con)

Richard Baker (North East Scotland) (Lab)

Rosie Kane (Glasgow) (SSP)

Michael Matheson (Central Scotland) (SNP)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Alex Neil (Central Scotland) (SNP)

THE FOLLOWING GAVE EVIDENCE:

Allan Campbell (Bòrd na Gàidhlig)

Robert Dunbar (Bòrd na Gàidhlig)

Duncan Ferguson (Bòrd na Gàidhlig)

Peter Peacock (Minister for Education and Young People)

Jan Raitt (Scottish Executive Education Department)

Maureen Verrall (Scottish Executive Education Department)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Mark Roberts

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 2

Scottish Parliament

Education Committee

Wednesday 15 December 2004

[THE CONVENER *opened the meeting at 09:52*]

Subordinate Legislation

Protection of Children (Scotland) Act 2003 Determination Regulations 2004 (SSI 2004/523)

The Convener (Robert Brown): Good morning. I welcome members to today's meeting of the Education Committee and apologise for a slightly late start. As we are meeting in public, I ask people to ensure that their mobile telephones and pagers are turned off.

Item 1 is to consider under the negative procedure the Protection of Children (Scotland) Act 2003 Determination Regulations 2004 (SSI 2004/523), which set out the procedure to be followed when Scottish ministers decide whether to include an individual on the list of individuals who are considered unsuitable to work with children. That is a bit of a mouthful, but we will find out what it means shortly.

I welcome Maureen Verrall, who is the head of the Executive's children and families division, Jan Raitt, who is the policy officer in branch 3 of that division, which is to do with protection, and Gordon McNicoll from the solicitors division of Legal and Parliamentary Services.

Although the matter that we are about to consider is relatively technical, we are aware of widespread concerns, some of which featured in *The Herald* yesterday. Representations have been made to members over time about a number of issues to do with the implementation of the Protection of Children (Scotland) Act 2003, which we may want to pursue with the officials. I invite Maureen Verrall to give a brief explanation of the regulations, after which we will have questions.

Maureen Verrall (Scottish Executive Education Department): I will briefly set out what the act does and what the regulations are intended to do. The act establishes the list of those people who are disqualified from working with children. In doing that, it sets out the main provisions on how organisations can refer people for placing on that list and it provides for the making of regulations on the procedures for determinations on referrals. That is what the regulations under consideration are about—they are the determination regulations. They set out the determination procedures to be

followed when a referral is made. In particular, they set the timeframes within which certain things should happen so that the panel that makes a determination can reach a decision within six months of a provisional listing being made. The intention of that is to reduce any period of uncertainty for individuals and organisations during the referral process.

The determination procedures that are set out in the regulations cover matters such as: the information that is to be made available when a referral is made; the process that is to be followed in dismissing a referral because it is not thought to be competent within the terms of the act; in relation to a provisional listing, the process of notifying the individual concerned about the point that the process has reached; the process for the making of observations, both by the individual and the organisation, on any information or evidence that has been submitted; the recording and notification of decisions and determinations; and the timescales for each of those aspects.

The regulations set out separate procedures for dealing with a referral when it is made as the result of an inquiry in the report of which an individual is named. In effect, those procedures mirror the other procedures; the regulations simply set out the different process governing referrals that are made in that way.

In addition to the regulations, there is an accompanying note, "Protection of Children (Scotland) Act 2003: Procedural Note: Determination Process"—the small pink booklet—which sets out in more detail, and in slightly less legal language, the determination process and the structures that will be put in place to enable those decisions to be made. It gives flow diagrams for the determination process for court referrals, organisational referrals and inquiry referrals.

The Convener: I will begin by asking a broad question, so that we can get a handle on the implementation of the 2003 act. A little while back, Disclosure Scotland said in evidence to us that it needed three months' notice to get itself ready to cope with the whole thing. Given that the Scottish statutory instrument on the commencement of the act—which is not the SSI that we are discussing—which was laid only about 10 days ago and gives the commencement date as 10 January, can you comment on what Disclosure Scotland told the committee about the length of notice that it would require? Until recently, the committee has not had any clear indication of precisely when the legislation was to come into effect.

Maureen Verrall: Surely. The commencement order was laid on 2 December. When the act was introduced in March 2003, ministers gave a commitment that they would not commence the act before spring 2004 so that the voluntary sector

in particular, and other organisations, would have a year in which to gear up for implementation. In letters that were sent to the committee in, I think, May and October, our ministers confirmed that they intended to commence the act between spring 2004 and the end of the year. It has always been made clear to the project board and to the other representational structures that we have had in place that it was our ministers' intention to implement the act between spring 2004 and the end of the year. Although the commencement order—the technical order that will commence the act—was laid only within the five-week period, much more notice has been provided.

The Convener: I am concerned about all the problems that there have been with Disclosure Scotland. At our meeting on 27 October, Brian Gorman said:

"we have told them that we want three months' notice of their intended start date for the retrospective checking and new checks under the Protection of Children (Scotland) Act 2003".—[Official Report, Education Committee, 27 October 2004; c 1656.]

That rather suggests that a timescale more in the future was anticipated. Given all the worries about implementation, the key question is whether Disclosure Scotland is geared up to start on 10 January, which is, after all, only a few weeks away.

Maureen Verrall: There are two points to make in response to that. The first is that the commencement order defers commencement of section 11(3)(b) of the 2003 act. That is the paragraph that would require the retrospective checking, which was the issue that triggered the fears that up to half a million checks would need to be carried out on commencement. We have deferred commencement of section 11(3)(b) altogether, so the commencement order will not mean that retrospective checking has to be carried out; only the new checks will be required from 10 January.

As far as I am aware, Disclosure Scotland is already in a much better position than it was even back in September and October. The latest information that we have is that Disclosure Scotland is now turning around within three working days applications that are straightforward and do not have to be referred to police forces or elsewhere.

It is difficult to estimate the total number of new applications that might be required. It has been brought to our attention in the lead-up to the implementation of the act that, because of the ability to acquire disclosure checks under part V of the Police Act 1997, organisations and local authorities are already checking all new appointees. In other words, that process was triggered not by the 2003 act, but by the ability to

seek checks under the Police Act 1997. Retrospectivity was the real cause for concern in the 2003 act and we have deferred implementation of that provision.

10:00

The Convener: As the committee may be aware, we have to report to the Parliament by 17 January, but we cannot do so until we have the final report of the Subordinate Legislation Committee, which we will not have until 21 December. The matter will, therefore, have to be considered at another meeting after the recess.

Dr Elaine Murray (Dumfries) (Lab): The regulations are about setting up the list of people who are disqualified from working with children. As the convener said, some of the concerns in the voluntary sector are about wider issues, some of which he mentioned. It has been brought to our attention that, although guidance has been produced, there has not been any consultation with the voluntary sector about the type of guidance that is required. The voluntary sector wants to know specifically who the "responsible person" is and wants some clarity about risk assessment. Some organisations feel that they must err on the side of caution when they are not quite sure how to assess the risk. They also want guidance on the regularity of checks and the length of their validity. Will any such guidance be produced for the voluntary sector in advance of the commencement date?

Maureen Verrall: I have left a one-page note for distribution this morning about the guidance that is being produced. I will run through what has been produced and will then talk about what additional information might be needed.

In August 2003, we issued a blue version of the booklet "Protection of Children (Scotland) Act 2003: Procedural Note". We distributed more than 10,000 copies of that to raise awareness of the act's implementation, what the act would do and what people's responsibilities would be under it. Two separate sets of guidance have since been produced, one of which is purely for the voluntary sector.

In response to concerns that were raised about the act by the voluntary sector, a voluntary sector support group was set up back in August and September 2003, which has on it representation from organisations such as the Scottish Council for Voluntary Organisations, Volunteer Development Scotland, YouthLink Scotland—as the umbrella organisation for youth bodies—and a number of others, including Children in Scotland, sportscotland and Lead Scotland.

The support group's remit was to determine precisely what support, training and guidance was

required for the voluntary sector and it drew up a specification of guidance and training materials. That specification was then put out to tender and a consortium of four voluntary bodies bid for the tender, which we funded with about £250,000. By August 2004, the consortium had produced an information pack—I have brought along four copies, which I will leave with the clerk. The pack has been fully endorsed by the Executive. I understand that there has been some concern about the Executive not wanting to be associated with it, but the pack has been distributed with a clear signal that it is supported by the Executive.

The pack could not be signed off in its final form by the consortium, as one of its members wanted to seek legal advice on the scope of the act. The pack was finally signed off by the consortium about five weeks ago and it has been with the printer since then. We have been doing the usual to-ing and fro-ing of checking print versions. The pack will be ready for distribution from tomorrow. We have produced it in ring-binder form so that it can be constantly updated. The printer has run off 11,000 copies of the guidance pack and there is an initial distribution list of 6,500 copies for the voluntary sector. Until now, only 800 photocopied versions of the guidance pack have been distributed, as we were waiting to get the final version and have it printed. From tomorrow, 6,500 copies of the finalised pack will be distributed. In addition, the consortium, via YouthLink, is producing a short and simple leaflet for individual volunteers, of which 70,000 copies will be sent out.

A separate set of factual, explanatory guidance is being produced not just for the voluntary sector, but for everybody. The intention is that that guidance, in its final form—when it has been cleared by the printer and everybody else who needs to clear it—will be on the Executive's website by the end of the week. That is the guidance on which some voluntary bodies have said that they have not been consulted. However, that guidance was cleared through a project board that was established to oversee the implementation of the act. The project board had on it a representative from the voluntary sector support group, which that group nominated. The voluntary organisations think that they have not been consulted not on that guidance pack, but on the factual guidance that is designed for everybody.

The Convener: Is it intended that all that guidance will be made available to individual groups and be active by 10 January?

Maureen Verrall: Yes.

The Convener: That is quite ridiculous, as there will not be time for people to digest it. The information may well have been sent to the main

organisations by 10 January, but they will then have to send it out to the scout troops and other individual youth organisations.

Maureen Verrall: As part of the period of gearing up, we have worked with the representative umbrella organisations to allow those national bodies 22 months in which to prepare their member organisations. While we have run national seminars—

Dr Murray: The point is that the guidance is coming out two weeks before Christmas and the commencement order will come into effect on 10 January. How will voluntary groups be able to disseminate the information over the Christmas period? Of all periods in the year—bar, possibly, July—this is the most difficult time for organisations to get information out to individual groups and volunteers.

Maureen Verrall: The photocopied version of the guidance pack has been available since August and September. The 800 people who have participated in the 10 national training seminars come from within the national and local voluntary organisations. We carried out a series of seminars of training for trainers and then conducted 10 seminars for people within the organisations themselves. They have had the photocopied version of the guidance pack; it is the final, loose-leaf ring-binder version that they have not received.

Ms Wendy Alexander (Paisley North) (Lab): I would like to clarify two things on timing. You have talked about the guidance going to the printer in the next week. What is the deadline for the printer delivering it to the Post Office and when do you expect it to be posted?

Maureen Verrall: The voluntary sector version is ready for distribution as of tomorrow. The printer is carrying out the final compilation of the ring-binder version today for the distribution tomorrow of 6,500 copies to the voluntary sector.

Ms Alexander: So your expectation—Christmas post allowing—is that it will be posted on 16 December. Is that right?

Maureen Verrall: Yes.

Ms Alexander: It will not be compiled tomorrow, but will go to the Post Office tomorrow.

Maureen Verrall: Yes. That is my understanding.

Ms Alexander: Therefore, the voluntary organisations will receive it on 22 or 23 December.

Maureen Verrall: Yes.

Ms Alexander: Fine. Is there any respect in which the ring-binder version differs from the photocopied version that was sent to 800 people?

Maureen Verrall: It does not differ in substance. The key difference is that, on the covering sheet for the photocopied version, there was a paragraph within which it was stated that one of the voluntary sector members of the consortium was seeking legal advice on the content of the pack in relation to the scope of the act. The covering sheet now states simply that access has been obtained to legal advice to guide people in understanding the full implications of the act as set out in the material. The substance of the material has not changed.

Ms Alexander: If the new version differs in no respect, why has it taken 10 weeks to print and distribute it?

Maureen Verrall: It has taken about five to six weeks to get it printed and distributed, from the point at which the consortium gave it the final sign-off, pending its receipt of legal advice.

Ms Alexander: You are saying that the version that went out in September had a caveat, with the effect that the people who received it did not know whether it was the final version. Therefore, voluntary organisations will know what the final position is only when they receive the new version on 23 December.

There are two ways of interpreting what has happened. The first is that it took you months—12 weeks if the original version went out in August—to publish something that was identical in all respects to the original version. The second is that the recipients of what you sent out genuinely thought that it was provisional because there were outstanding legal questions. Either way, the organisations will receive the guidance only on 23 December, which, when one takes into account the intervening public holidays, gives those organisations less than a working week before the commencement of the act. The committee has heard a huge amount of testimony in the past year about the difficulties of encouraging people to become involved in voluntary activities.

The Convener: The clear problem is that organisations such as YouthLink Scotland and the Scout Association have the information, but the practical issue is what happens at the level of the scout troop, youth organisation or parent-teacher association, some of which will not have been involved in the procedure to any significant extent. As I understand it, such organisations are still waiting for guidance. The guidance may just be a rehash of the 2003 act, but it ought to be a bit more than that and deal with the issues that the voluntary sector has been going on about for months, such as whether volunteers can be used pending the disclosure of applications that are under consideration. Is it the Education Department's view that all the measures can be implemented at the practical level by youth organisations on the ground by 10 January?

Maureen Verrall: In setting up the structures, we have involved the voluntary sector all along, with the clear understanding that the national bodies in the voluntary sector have a role in helping to gear up local units. We have dealt directly with the umbrella organisations and we have also paid for, and facilitated the running of, 10 seminars throughout the country. We viewed the preparation for the implementation of the act as a partnership process, but we never intended to communicate directly with every scout group or guide pack.

The Convener: We accept that entirely, but there must be a prediction of practicability. If we have learned one lesson in the Parliament, it is that it is one thing to pass a law and another to make it work on the ground. It is reasonably clear that some organisations are not involved in the national issues because they are not involved directly with the umbrella organisations, but even for those that are, you are saying that we blew the whistle and started the procedure towards activation only 10 days ago, albeit that we all knew that implementation was coming. Would it not have been realistic to think that that would be the point at which most organisations would begin to finalise their arrangements, given that they did not have the guidance and that the training booklet has only just been published?

All sorts of practical issues must be addressed to make the measures work on the ground. As I said, Disclosure Scotland has mentioned that it will need three months to gear up for the implementation of the act; one imagines that, if that organisation needs three months, other organisations will need the same period. Regardless of how we reached the current situation, does the department believe that it will be possible for everything to be hunky-dory on the ground on 10 January, given the present circumstances?

Maureen Verrall: Last Thursday, one of the representatives of the national voluntary agencies told me for the first time that they had not been working to prepare for implementation because they had been waiting for the announcement of a specific commencement date. They had not spoken to their local groups for fear of disturbing them even more in advance of commencement.

Last week was the first time that I heard that put to me. Until then, we had been working on the assumption that, just as we were working with the nationals, they were working with their groups. We believed that the 800 representatives who had been through the training would have been working locally with the people with whom they are dealing to get everything ready.

We might well have been working to two different starting guns. We were always operating

on the basis of the clear ministerial commitment that the act's provisions would be implemented by the end of the year. That was our clear understanding, which became the clear understanding of everyone whom we told. We took it that organisations would be making preparations in the same way that we were.

10:15

Fiona Hyslop (Lothians) (SNP): A lot of assumptions seem to have been made, including the assumption that Disclosure Scotland would be geared up, because its evidence was quite clear that it was waiting to hear from you when commencement would be.

Maureen Verrall: That is an issue particularly in relation to the retrospective checks, which we have deferred.

Fiona Hyslop: The central issue in the 2003 act is risk to children. Children will be at risk because the retrospective checks are being delayed. The organisations that are meant to be implementing and supporting the new checks are not geared up to that, which is supposed to be starting in the next 10 days, because they do not have the information pack, which they expected to have. We seem to be failing on two counts. First, the retrospective checks have been delayed; we can understand the reasons, but there is a risk. Secondly, the country is not properly geared up for the implementation of the new checks.

Organisations such as the brownies and Girlguiding Scotland are having their Christmas parties this week. The idea that people will receive the information pack on Christmas eve and that that will give them reassurance is unacceptable.

I have a technical question about where we go from here. Given the point of the 2003 act, we are failing on two counts. There is not proper implementation of new checks and retrospective checks have been put to one side. You laid the commencement order 10 days ago. My understanding is that the date for approval of the Scottish statutory instrument is 10 January, but Parliament does not sit until 12 January. From a technical, legal point of view, if we give our approval and register that we have no concerns, the instrument goes ahead. If we have concerns about the date of implementation, what legal scope do we have? Would it be a case of the Executive withdrawing the instrument and laying it again? What technical and legal flexibility do we have if we have concerns about the implementation date?

Maureen Verrall: I will ask Gordon McNicoll, who is from our solicitors, to step in if I get any of this wrong. Going for a later commencement date, which is in effect what you are asking about, would

be technically and legally possible and relatively straightforward. The Executive would be required to revoke the commencement order and the regulations, because they are linked to the commencement date. We would either immediately lay a new commencement order and a new set of regulations, which would be the same in every respect except for the date, or we would lay nothing and there would be no commencement date in sight.

Two issues are being discussed and linked, which is understandable. One is the issue of seeking clearances and disclosure checks whether new or retrospective. The other is the purpose of the 2003 act, which is to establish a list of those disqualified from working with children. The ability to seek the disclosure checks is already in place under the Police Act 1997. As we understand it, for all new volunteers and employees, most organisations, because of their ability to seek disclosure checks under the 1997 act, are doing so because they feel required to do so either as a matter of policy or for insurance reasons.

The 2003 act does not hit on the requirement or the need to get a disclosure check. It establishes a list of those who are disqualified from working with children. In future, once that list exists and there are names on it, the only way in which organisations will be able to check whether someone is on it is through a disclosure. However, the current position of seeking disclosure checks is not brought about by the 2003 act.

Fiona Hyslop: We understand that, but we are conscious that the perception is that the seriousness of the 2003 act will increase the anxiety and concerns of people working in the sector. Some of that anxiety is justified and some of it is people feeling the serious responsibility of risk that is probably in excess of the actual risk, and that is where information and guidance can help. Although the act and the regulations are separate pieces of legislation, they are related in the perception of people on the ground. We have to address our concerns about those people.

We should bear in mind the fact that we have also heard evidence that the content of the draft training was burdensome and unhelpful. We heard that back in October, but you are saying that the training has not changed. The regulations and the act are technically and legally different, but the voluntary sector perceives them as being one and the same as they deal with children and risk.

Maureen Verrall: Part of the difficulty—and I struggle with this quite a lot—is that we talk about the voluntary sector as though it were one sector, but it has many different parts and there have been many different responses to the training. Although some individual organisations have said

that they feared that the training was too detailed for very small organisations, the majority of the responses that we have had from the voluntary sector to the guidance and information pack and to the training sessions has been that they have been extraordinarily helpful and very clear. It is difficult to get to the heart of who is finding the implementation of the legislation difficult and how we can help those people, as opposed to holding up everything for the whole voluntary sector when a lot of people are telling us that the guidance and training are very useful and clear and that they want that.

The Convener: The trouble is that the umbrella organisations are telling us that there are all sorts of problems. For example, we are being told that the ability of people who are awaiting disclosure to work with children while being supervised is causing all sorts of problems with insurance companies. That is not immediately to do with the legislation, but it is obviously a practical issue that produces the same result to all intents and purposes. The guidance is clearly crucial to our being able to assist in that area if voluntary organisations are not going to be landed with all sorts of intractable problems that handicap their activities. That is the kind of difficulty that emerges out of all this.

Maureen Verrall: A paper called "Recognising Your Mistakes" was also circulated. In it, four key issues were raised, including the question of appointing someone to a supervised post pending a disclosure check that will allow them to be appointed to an unsupervised post. There is a perception that there is some kind of ban on that and that it cannot be done. We wrote back to the four organisations that submitted that paper and set out the position clearly. The act does not implement a ban, neither does anything else. Disclosure checks are a genuine part of what ought to be robust recruitment procedures for appointing people to work unsupervised with children. If an organisation has gone through all the procedures that would apply anyway—taking up references, interviewing, and checking what is known about an individual before they are appointed—and the disclosure check is the only element outstanding, it is perfectly possible to appoint someone to a supervised post pending checks, provided that the organisation does its own risk assessment. However, I understand that some of the voluntary organisations were reluctant to do that, particularly given that the disclosure checks were taking so long to come through. Part of the immediate answer was to get that backlog cleared.

The Convener: I understand from what the organisations have told the committee or have told me in correspondence that officials in your department were giving them advice to the

contrary on occasion. That might not be the situation generally, but it shows the extent of confusion. I do not know whether members want to explore the matter further. We will have to consider what we want to do about it. There will be technical questions about immediate issues.

Lord James Douglas-Hamilton (Lothians) (Con): Are you confident that the panel of three officials to whom ministers will delegate matters will be sufficiently objective and representative?

Maureen Verrall: The chair of the panel will be a senior civil servant with responsibility for developing policy or advising ministers on issues affecting children and children's services. The definitions are quite long, but the other members will be a representative of the social work services inspectorate, which will become the social work services agency, and of Her Majesty's Inspectorate of Education. There will be nine members in total, because each official will have two deputies so that panels can sit in parallel if we get a glut of applications, and we can deal with people being on leave.

On objectivity, training is being provided for all nine panel members on issues such as human rights legislation compliance and other detailed issues of which they will need to be aware. One of the points that we will take up with the specialist who is providing that training is the question how—although we can be objective and consider each case on the basis of the evidence before us—we can assess the quality of the decision making. I am confident that we are doing everything that we can to ensure that the panel is sufficiently expert in what it needs to do.

Lord James Douglas-Hamilton: Can I take it that the chair of the panel would not be involved in discussions of the career prospects of the other two members?

Maureen Verrall: Yes, absolutely.

Lord James Douglas-Hamilton: Will all offences that someone commits against a child result in their inclusion on the list of those disqualified from working with children?

Maureen Verrall: It depends what you mean by an offence. There are provisions in the 2003 act and in the regulations covering applications that are made frivolously or with malicious intent and applications for which there is insufficient evidence. We cannot include someone on the list on the basis of someone simply telling us that something has happened, without supporting evidence. A referral can be made only if an organisation has dismissed a person or has moved them away from a child care position. The evidence that they would need under employment law to dismiss somebody would be the evidence with which they would provide us for their referral to the list.

Lord James Douglas-Hamilton: Will the case management system work effectively across both local authority and national boundaries?

Maureen Verrall: I will ask Jan Raitt, who is the case manager of the system, to comment. She is infinitely better placed than I am to respond in detail to questions on case management.

Jan Raitt (Scottish Executive Education Department): The case management system is designed to help us manage cases daily. In addition, it creates the list of people disqualified from working with children and transmits the information on it to Disclosure Scotland daily. In time, the information will be transmitted to the Criminal Record Bureau, which carries out disclosure checking for England and Wales. England and Wales require legislation to allow them to take our list. The appropriate provisions will be in the Serious Organised Crime and Police Bill.

Lord James Douglas-Hamilton: Thank you. We dealt earlier with retrospective disclosure checks. Will measures be in place to ensure that children's welfare is safeguarded while such checks are being carried out?

10:30

Maureen Verrall: Indeed. The retrospective checks have been deferred for two reasons. The first reason is connected with the implementation of our legislation and the concerns that have been expressed by the voluntary sector and others about our system's ability to deal with retrospective checks. The other reason is to do with the recommendation in the Bichard report that there should be a single registration scheme for all those who are regarded as suitable to work with children. The Bichard recommendations, when we unpick them, have a big impact on the system that we need to have in place. The first thing that Scottish ministers and ministers at Whitehall recognised was that there must be absolute compatibility between systems and processes if we are to avoid creating loopholes that people could walk through between Scotland, Northern Ireland and England and Wales.

The commencement of the offence in relation to retrospective checks on the part of the organisation has been deferred, but the offence on the part of an individual who knows that they are on the list of people who have been disqualified from working with children still applies, so the situation is not the totally barren land that it might seem to be.

The Convener: Do members have any other technical questions?

Ms Alexander: I have a question about timing and one about content. On timing, in response to

Fiona Hyslop's question, you helpfully said that it is technically possible to revoke the regulations and lay new ones. Do you think that there is any merit in doing that as a way to alleviate anxieties and retain the good will of a number of organisations, which we risk losing?

Maureen Verrall: A number of things can be done to return to a position of good will, partnership and co-operation. I know that my minister is happy to meet anybody from the voluntary sector or elsewhere, this week or next week, to talk through any anxieties. There may well be merit in what you suggest in terms of how people would perceive it, but it is doubtful whether moving the commencement date would impact substantially on the concerns that underlie those requests. The substantive issue that underlies the concerns is the fact that the scope of the act is wide—it captures all voluntary organisations—but Parliament intended the scope to be wide. Some organisations still take the view that we should narrow the scope, but we cannot do that in the guidance.

Ms Alexander: That point relates to my question on content, but on my question about whether we should revoke the regulations and recommence them later, is your answer no? I ask the question for the guidance of the committee as we will have a discussion on the matter afterwards.

Maureen Verrall: I find it difficult to answer that question without talking to my ministers about it. It is not for me, but for the ministers to decide.

Ms Alexander: I will ask my other question, on content, as your answer might guide us. You mentioned that the panel that was involved in drawing up the detailed guidance had one representative from the voluntary sector. Who was that representative? How big was the panel, and why were there not more representatives from what could be described as coalface organisations as a way to diminish the anxieties that we are now trying to manage?

Maureen Verrall: The project board for the implementation of the act considered the factual guidance. The voluntary sector support group, which drew up the specification for the draft guidance on the act included SCVO, VDS, YouthLink Scotland, Children in Scotland, sportscotland and Lead Scotland—I think that that is all. They nominated the representative from sportscotland to represent them on the project board. The other people on the project board represent all the other sectors that are involved in the implementation of the act. For example, the Convention of Scottish Local Authorities is represented. Jan Raitt will have to help me out on this, as I have had only one meeting with the project board.

Ms Alexander: My question is whether there was really any representative of the voluntary sector on the project board. Sportscotland is a non-departmental public body; it is not what people would commonly understand to be a voluntary sector organisation like Girguiding Scotland, the Boys Brigade or the Scout Association. Sportscotland is an NDPB that was set up and is core funded by the Government. Was there a single representative of the voluntary sector on the project board?

Maureen Verrall: That was the voluntary sector support group's nomination. We did not select the sportscotland representative; we asked for a nomination and that is who the group nominated. The absolute answer is no, because the sportscotland representative was the voluntary sector support group's nominated rep.

The Convener: I do not want us to go on for too long about the fiddly details. I think that we have got the general picture.

Dr Murray: I would like some clarification. You say that implementation of part of the act is deferred.

Maureen Verrall: Yes.

Dr Murray: The regulations that are before us today are specifically about setting up the list, and I do not think that there is a major issue about that. Is it possible to decouple some of the other aspects of the guidance from the regulations and allow them to proceed, as long as the Subordinate Legislation Committee does not have any major issues with them? Can we defer the commencement of some of the other aspects of the act for a month or two to allow the voluntary sector sufficient time to digest and disseminate the guidance that it will receive just before Christmas?

Maureen Verrall: I am not sure that I understand which aspects you want to defer. The act sets up a requirement that somebody is referred to the list if they are dismissed or moved, and an organisation has a duty to refer them if they dismiss them or move them.

Dr Murray: So, there is not really any possibility—

Maureen Verrall: Are you asking whether we could defer commencement just for the voluntary sector and introduce the provisions for everybody else?

Dr Murray: I am just exploring whether there is any possibility of being a bit flexible in regard to the organisations that will have a problem in getting the information out to their members in time for the commencement.

Maureen Verrall: Again, I ask Gordon McNicoll to jump in and correct me if I am wrong. The act

introduces the requirements to refer to the list people who are dismissed or moved, and to check new appointees against the list. Aside from the deferment of retrospective checking, those are the two things that the act does. We would either defer the requirement for organisations to refer people to the list, in which case we would not establish the list, or defer the requirement for organisations to check new appointees, which they are doing anyway, by and large. Therefore, I think that it would be necessary either to defer the whole act or not to defer it at all. I do not think that we can defer it for specific sectors, as there is no power in the primary legislation to allow us to do so.

Ms Rosemary Byrne (South of Scotland) (SSP): The concerns of the umbrella organisations for the voluntary sector are real, and I have not heard anything that has reassured me. I do not know how we can reassure those groups, which—quite rightly—feel that the scope of the act is not clear and that there is no consensus on it. They say that it is not clear who the “responsible person” is—you have talked about that, but it is still not clear to me—although you say that they have misunderstood.

Maureen Verrall: The act does not define a “responsible person” within an organisation.

Ms Byrne: Why have they got all these concerns? They have concerns about risk assessment in relation to the supervised access of volunteer staff, about the length of time that they need to wait between checks and about the validity of checks. Why is there so much confusion, misunderstanding and concern? Many voluntary sector groups do not feel able to move forward to the new regime, yet we are hearing that that should not be the case. Why are there huge differences in understanding, unless there are real concerns that are not being picked up? I am confused. There seems to be a complete mess. There is a shortage of volunteers to work with young people. People who read the newspapers yesterday would simply say, “I’m going to walk away from this.”

Maureen Verrall: There are two separate issues—one is what the act does and the other is the raft of concerns that you mention. The act does not impact at all on the period of validity of checks. That is an issue for other legislation or processes for the issuance of checks by Disclosure Scotland and the ability or inability of Disclosure Scotland to have a process of updating.

I think that volunteer-led organisations—those that rely on volunteers to make appointments—are concerned that a named individual will be criminally liable, but there is no responsible person under the act. It places the onus on and the offence is created by the organisation. The only

exception whereby an individual would be criminally liable would be if they were found to have connived or assisted in an offence under the act and knowingly appointed somebody who was disqualified. The act makes it clear that that is the case.

Ms Byrne: If that is the case, why is there confusion? Why are there so many concerns? What can you do to allay such concerns as quickly as possible?

Maureen Verrall: First, you ask why there are concerns. I think that the act has acted as a touchstone for all the concerns around child protection and its impact on the voluntary sector and others. Over two or three years, there has been growing concern about the impact of child protection measures more broadly and the act has been a touchstone, although none of the issues flows from the act.

To continue to deal with these problems, our minister has offered to meet any voluntary sector representatives this week or next week. He instructed me that I could say that this morning. A meeting has been agreed that will be brokered between the head of the voluntary issues unit, which is part of the Development Department, and the head of my group. They will have a joint meeting with volunteer umbrella bodies, anybody else who those bodies want to bring along and anybody else who we think should be there. That meeting has been fixed for either 7 or 11 January. We recognise that there are longer-term issues that are nothing to do with the commencement of this act.

We can talk to the voluntary sector again once the 6,500 packs are out. We have done them in loose-leaf form at the request of the voluntary sector, so that we can update and change the guidance without having to issue replacement packs. There was concern that we are not sufficiently closely associated with the packs, as our logo is not on the bottom of them. We can address and handle such matters. However, the debate is on wider issues than the introduction of the list of people who are disqualified from working with children, which is what this specific legislation is about.

The Convener: I am well aware that the witnesses have had a baptism of fire this morning. I am sorry about that, but the issue is important and we must deal with it. Obviously, you will convey to the minister the concerns that have been raised, and the committee will want to consider what it should do. I thank you and your colleagues for the time being.

Now that we have finished taking evidence, the committee will consider what to do. I am conscious of the time and will summarise where we are.

Whether we like it or not, the act is the act and we cannot narrow it, change it or whatever. We are talking about subordinate legislation. That is the starting point.

Everybody agrees that checks in children's interests under the act should go ahead in an efficient fashion that does not damage the voluntary sector. Most of us have the impression that all is not entirely right—to put it no stronger than that.

We are rushing up against the immediate post-Christmas deadline of 10 January 2005. In a way, that is nothing to do with the regulations; it concerns the commencement order, which is not subject to parliamentary procedure, but which could be revoked and replaced by another instrument if the ministers thought that appropriate, as we have heard this morning.

We have received the helpful information that the minister intends to meet voluntary sector representatives; the deputy minister has told me that. That is good news.

10:45

The question for the committee is whether all that will—even in theory—lead to the potential for effective action by 10 January, which is the commencement date. However we look at it, that is the date on which criminal sanctions are introduced for this, that and the other against voluntary organisations.

What can the committee do about that? I have two or three suggestions. I would like to see the *Official Report* of our discussion of agenda item 1 sooner than we would normally have it—I think that other committees have done that. It is helpful to know exactly what the responses to questions were.

We will consider the regulations further on 12 January. Although that is after 10 January, when they come into force, we are still—oddly—entitled to take action. However, that does not lay matters to rest.

Should the committee meet next week to hear from the minister? We can do that directly, or the convener and deputy convener can do that. I think that a full committee meeting would be better, but I am in people's hands. The minister could comment on where we are at, and on the practical issues, and the committee could determine its view.

That is broadly the direction in which we should go, although there may be other nuances.

Dr Murray: When is the Subordinate Legislation Committee due to consider matters?

The Convener: On 21 December.

Dr Murray: So we could have a report from the committee.

The Convener: The report will be on the regulations only.

Dr Murray: If we met next week, we could encompass some of that work.

The Convener: We could kill two birds with one stone.

Ms Alexander: One way to proceed is to write to the minister before the meeting. I would like us to write to him about the content issue. I do not mind whether we meet him next week or on 12 January. The committee has no quarrel with the act's purpose, but guidelines do not mechanistically follow from the provisions of an act. The reason for guidelines is to address implementation issues in the context in which an act will be operationalised.

Given that the act raises the prospect of criminal sanctions, it was inevitable that it would arouse anxieties in the voluntary sector. We should say that we are disappointed that no volunteer-led organisation was a member of the group that produced the guidelines. That made it inevitable that that sector's good will would be eroded.

In those circumstances, will the minister reflect on how to retain the sector's good will? I do not want the committee to be boxed into saying that it disagrees with the act's purpose, but we must draw a distinction by saying that guidelines concern the context in which the act is implemented and that it is unfortunate that no volunteer-led organisation was a member of the group that produced the guidelines. The list of organisations included Children 1st and the SCVO, which are not primarily volunteer-led organisations. All the evidence that the committee has heard is that such organisations have a different character. The danger is that the anxieties will have an ancillary effect on people's willingness to volunteer. I would like to alert the minister to that so that he can reflect on the matter.

The Convener: I do not think that we are at the stage of writing to the minister; the matter has become more urgent than that. The minister can read the *Official Report* of the meeting that will express both what you have said just now and what I and others have said in the course of the meeting. His officials will report back in an event. The committee needs to liaise with the minister, get a clear view of where we are going and perhaps indicate to him in pretty strong terms that the committee has major concerns that need to be addressed by more than reassurance. We need positive action on a series of detailed implementation issues, not least the issue of guidance.

Wendy Alexander rightly commented on guidance. I have seen so many guidance notes that retell sections of the act, but add nothing to the sum of human knowledge. That is not what we are looking for here. We are looking for information that deals with practical matters such as supervised working and local parent-teacher associations. That information might be in the large pack of draft guidance on the act that we have just received, but I think not. We need to see more details. We need solid, cast-iron and workable reassurance on many such points.

Fiona Hyslop: I agree with your recommendations, which are appropriate. Can we also ask the clerks to look at the parliamentary procedure in this situation? Although the commencement order does not need to come before Parliament, the regulations do. The idea that we get to discuss the regulations two days after they come into force is a farce: if we had any concerns about the regulations we could do nothing about that. We are concerned about the commencement order, which is connected to the regulations and it is meaningless if the regulations are not approved. I am very unhappy about the timescale with which we were presented for what is a clearly contentious matter. The minister will know that the Parliament has concerns because of the evidence that we have been taking. I would like us to be aware of those issues, and if necessary, we should send a note to the parliamentary business managers about the process in connection with the regulations.

The Convener: The regulations have come to us earlier than they would normally have done, because we should receive SSIs after the Subordinate Legislation Committee has looked at them. I asked for the matter to be put on our agenda sooner. Commencement is a different matter.

Fiona Hyslop: Exactly. What you describe even compounds the problem. There is also a concern from a policy point of view—perhaps we are trying to close the stable door after the horse has bolted.

It is a bit disingenuous of the officials to say that there are two separate issues: one to do with the content of the 2003 act, plus the other related issues. The officials lay great stress on the publication of the guidance, which is wider than the act. Like it or not, we will have to ask the minister to address the connection between those issues.

Dr Murray: The regulations come into force on 10 January. If we are to discuss with the minister the possibility of revoking the order, that date would be affected. We need to see him in advance of 10 January. We cannot have the order coming into force and then say afterwards, "By the way, it didn't really matter because it didn't really come into force." We need a decision prior to Christmas.

The Convener: We seem to be heading towards a meeting of the committee next week, if that can be arranged. I ask Martin Verity how many days' notice we have to give.

Martin Verity (Clerk): There is plenty of time to give notice of the meeting; the agenda must be published in the *Business Bulletin* the day before the meeting.

The Convener: Can we liaise with the minister now—we will see him later anyway—and see if we can get a date next week for such a meeting, preferably after he has had a meeting with the voluntary sector? If that is not the case, we will want to have the meeting anyway.

Martin Verity: The difficulty with some dates is a potential clash with other committee meetings. A room will be available next Wednesday morning at the normal time.

The Convener: Wednesday morning would be the most obvious choice.

Martin Verity: That would not clash with members' commitments to attend other committee meetings.

Fiona Hyslop: Procedurally, if we wanted to do anything with this legislation, we would have to publish it in the *Business Bulletin* for Thursday next week.

The Convener: Do you mean if we wanted to do anything with the regulations?

Fiona Hyslop: We need a note about the parliamentary procedure. We might not want to do anything with it, and I am not saying that we should, but we cannot be prevented from doing so.

The Convener: Let us ask Martin Verity to produce the note. My recollection is that, although the committee can make a recommendation, it is up to an individual member to lodge a motion to annul under the negative procedure.

Martin Verity: A member can lodge a motion to annul with the chamber clerks at any time. That motion would recommend to this committee that nothing further should be done under the regulations and the motion would then be debated at the committee meeting for up to 90 minutes. The deputy minister in charge of the regulations would be entitled to attend the meeting and participate in that debate. If the motion were agreed to by the committee, the Parliamentary Bureau would be required to lodge a motion in Parliament to propose that nothing further should be done under the regulations.

Fiona Hyslop: Would that have to happen before 10 January?

The Convener: That is the point. Let us find out the position on the timescale of that. I am not

suggesting that a motion to annul should be lodged, because we should not make a premature decision before we have heard from the minister, but if we decide to lodge such a motion and we have a meeting next week, will there be sufficient time for the motion to be considered by the Parliament before 10 January, given that the Christmas recess will start next week?

Martin Verity: There is not sufficient time before 10 January. If the committee decides next week that it would be advisable for a member to lodge a motion to annul, the motion will come back to us on 12 January. That is after the commencement date, but that is normal with SSIs and we would be within the parliamentary timescale for consideration of the instrument. The committee could go ahead if it wanted to.

The Convener: So there would be an element of confusion for a period, but the procedure would be technically correct.

Martin Verity: Yes.

The Convener: That was a tortuous session, one way and another. We had intended to deal with a preliminary, minor matter before the main business of the day.

Gaelic Language (Scotland) Bill: Stage 1

10:55

The Convener: Item 2 is evidence at stage 1 of the Gaelic Language (Scotland) Bill. I welcome witnesses from Bòrd na Gàidhlig: Duncan Ferguson is the chair, Allan Campbell is the chief executive and Robert Dunbar is a member of the bòrd. We have heard evidence on the bill from other organisations and are pleased that the kingpins of the set-up are before us. I understand that you want to make some initial comments to start our deliberations.

Duncan Ferguson (Bòrd na Gàidhlig): Thank you. I am conscious of the fact that you have just had a tortuous session, as you said. We are pleased to be here. You will not be surprised to hear that we will make our presentation in Gaelic. I am aware that simultaneous translation facilities are available to members.

Duncan Ferguson continued in Gaelic:

Madainn mhath. Seo an triùir againn a tha a' riochdachadh Bòrd na Gàidhlig an-diugh. Is mise Donnchadh Fearghasdan, cathraiche a' bhùird, Ìleach, fear a thàinig air ais gu Gàidhlig—a recycled Gael, mar a chanas iad rium corra uair—agus cuideachd tha mi nam cheannard aig Àrd-sgoil a' Phluic. Còmhla rium tha ceannard Bòrd na Gàidhlig, Ailean Caimbeul, a bha airson iomadach bliadhna na mhanaidsear aig a' BhBC, agus an uair sin airson 11 bliadhna na cheannard air Comunn na Gàidhlig. Bha e an sàs cuideachd anns a' bhuidhinn a chuir air dòigh an aithisg "Cothrom Ùr don Ghàidhlig", às an tàinig Bòrd na Gàidhlig, agus tha e air leth fiosraichte mu dheidhinn leasachadh Gàidhlig. Air an taobh eile tha Canèidianach Gaidhealach, Rob Dunbar, a bha a' teagasg lagh ann an Oilthigh Ghlaschu agus a tha a-nis na leughadair ann an Ceiltis agus lagh aig Oilthigh Obar Dheathain.

Tha an triùir againn an seo an-diugh, agus bu toil leam taing a thoirt dha na buill air fad agus do dh'oifigearan na comataidh airson na rinn iad gu ruige seo ann a bhith a' trusadh fianais agus a' faighinn fiosrachaidh mu choinneimh a' bhile. Tha fhios agam gun robh feadhainn de na buill shuas anns an sgìre agam fhèin anns an Eilean Sgitheanach; bha mi duilich nach do choinnich mi ribh aig an àm sin. Tha fhios agam gun do thadhail sibh air Sabhal Mòr Ostaig, Bun-sgoil Phort Rìgh agus Àrd-sgoil Phort Rìgh. Leis an sin, fhuair sibh deagh fhios mu dheidhinn foghlam Gàidhlig fo aois sgoile, aig bun-sgoil, aig àrd-sgoil agus aig àrd ìre, agus bidh sinn a' tighinn air ais gu foghlam, tha mi cinnteach, anns a' chòmhradh a bhios againn an-diugh. Tha mi a' smaoin eachadh gu bheil e

iomchaidh a ràdh gun d'fhuair sinn deagh naidheachd an-dè is Comhairle Baile Ghlaschu a' dèanamh co-dhùnadh gum bi sgoil Ghàidhlig acasan airson sgoilearan bho trì bliadhna a dh'aois gu 18. Tha mi a' smaoin eachadh gur e deagh naidheachd a tha sin.

Tha sinn a' bruidhinn ribh aig àm a tha air leth dòchasach airson na Gàidhlig. An dèidh bhliadhnaichean far an robh sinn a' strì airson mion-chànan tha sinn a' faireachdainn a-nis gu bheil sinn aig ìre far an urrainn dhuinne, a' cleachdadh na Gàidhlig, a bhith feumail gu soirbheachas na h-Alba gu lèir, agus gu dearbh gu h-eadar-nàiseanta. Leis an sin, tha mise a' toirt taing dhuibhse airson a' chothruim a tha sibh air toirt dhuinn an-diugh a bhith a' bruidhinn ribh, agus gu bheil sinn aig ìre far a bheil am bòrd a' toirt sùil air dè tha a' dol a thachairt anns na bliadhnaichean a tha romhainn. Aig coinneamh a bha againn ann an Dùn Èideann an-dè, bha sinn a' bruidhinn air smaoin eachadh farsaingeachd a' chuain—sin a' Ghàidhlig a tha agamsa air "blue sky thinking".

A' tionndadh gu gnothaichean an latha an-diugh, mar a thuigeas sibh, tha Bòrd na Gàidhlig air a bhith a' leantainn na h-obrach air deasachadh Bile na Gàidhlig (Alba) gu dlùth bho thoiseach cùise. Nuair a nochd an dreachd conaltraidh den bhile an-uiridh, dheasaich am bòrd tagradh gu math mionaideach mar fhreagairt air a' chonaltradh sin. Bha sinn air leth toilichte, nuair a nochd an dreachd as ùire den bhile, gun robh an Riaghaltas air èisteachd a thoirt dhan mhòr-chuid de na puingeann a thog sinn, agus tha sin a' fàgail a' bhile seo a-nis gu math nas treasa ann am beachd a' bhùird.

Tha sinne air a bhith a' conaltradh leis an Riaghaltas mun dreachd as ùire seo cuideachd, agus tha sinn air a bhith ag èisteachd gu dùrachdach ris an fhianais a tha sibh fhèin air a bhith a' cluinntinn bho dhiofar bhuidhnean, nam measg Bòrd na Cuimris, a tha an sàs ann an raon a tha gu math faisg air an obair againne, agus tha fhios agam gun d'fhuair sibh deagh fhios bhon bhuidhinn sin. Tha am bòrd air leth toilichte an cothrom seo a bhith againn an-diugh a chur ris an fhianais a fhuair sibh gu ruige seo, agus tha fiughair orm gun tèid againn air freagairtean a thoirt dhuibh a riaraicheas ceistean sam bith a tha agaibh fhathast.

Aig fìor thoiseach a' ghnòthaich, dh'iarrainn dà phuuing a thog sinn anns an fhianais sgrìobhte a chuir sinn thugaibh a dhaingneachadh mar bhunait air an t-seòrsa feallsanachd a tha aig a' bhòrd a thaobh a' bhile, agus mar sin cuideachd a thaobh na fianais a gheibh sibh bhon bhòrd an-diugh.

Is e a' chiad phuuing sin gu bheil am bòrd air a mhisneachadh gu mòr le Bile na Gàidhlig (Alba) mar a chaidh sin a chur fa chomhair Pàrlamaid na

h-Alba. Tha am bòrd làidir anns a' bharail gu bheil sinn a-nis air starsnaich an t-seòrsa reachdais làidir air a bheil a' Ghàidhlig cho feumail agus a tha coimhearsnachd na Gàidhlig cuideachd a' sireadh. Tha am bòrd a' creidsinn gu bheil comas aig a' bhile misneachd agus fèin-spèis na coimhearsnachd Gàidhlig a thogail, agus an lùib sin buaidh mhòr a thoirt air neart a' chàinain ann an Alba agus air feadh an t-saoghail.

Is e an dàrna puing a tha agam gu bheil am bòrd gu mòr an dòchas gun tig soirbheachadh às an deasbad air a' bhile agus gun nochd an deagh rùn a bha follaiseach anns an dòigh anns an do fhreagair an Riaghaltas ri uibhir de na beachdan a chaidh thuca anns a' chonaltradh. Tha sinn cuideachd an dòchas gun nochd bunait feallsanachd a tha ag amas air reachdas a chruthachadh a bhios cho taiceil dhan Ghàidhlig 's a ghabhas.

Mar a thuirt mi na bu tràithe, tha am bòrd air a bhith dlùth air a' bhile seo bho toiseach a' ghnòthaich, agus tha sin mar a bu chòir, agus e na phàirt chudthromach de dhreuchd a' bhùird a bhith a' toirt comhairle agus beachd do mhinistearan air cùisean co-cheangailte ri Gàidhlig. Is e sin, gu dearbh, fear de na neartan sònraichte a tha aig a' bhòrd againn—gu bheil coimhearsnachd na Gàidhlig air feadh Alba air a riochdachadh agus gu bheil sin a' toirt lèirsinn fharsaing do dh'fheallsanachd agus obair a' bhùird.

Mar a chanas feadhainn aig toiseach gèam iomain, "Alea iacta est." Tha fhios agam gun còrd e ris an neach-gairm agaibh beagan Laidinn a chluinntinn. Tha an triùir againn an seo deiseil agus deònach airson na ceistean agaibh a fhreagairt. Tha sinn an dòchas gun toir sinn lèirsinn dhuibh an-diugh cuideachd leis na freagairtean againn, agus tha sinn taingeil dhuibh air fad airson èisteachd rinn. Gun robh mòran math agaibh.

Following is the simultaneous interpretation:

Three people are here to represent Bòrd na Gàidhlig, of which I am the chair. I am from Islay; I am a Gael who came back—I am sometimes called a recycled Gael—and I am the head teacher at Plockton High School. I am accompanied by the chief executive of Bòrd na Gàidhlig, Allan Campbell, who was a manager at the BBC for many years and thereafter was chief executive of Comunn na Gàidhlig for 11 years. He was also involved in the group that put together the report, "A Fresh Start for Gaelic", which led to the establishment of Bòrd na Gàidhlig. He is very knowledgeable about Gaelic. On my other side is a Canadian Gael, Rob Dunbar, who used to be a senior lecturer in law at the University of Glasgow and is now reader in law and Celtic studies at the University of Aberdeen.

I thank the members of the committee and the clerks for their work in gathering evidence and information in relation to the bill. I know that some members went to the Isle of Skye. I am sorry that I did not meet you when you came to my part of the country. I know that you visited Sabhal Mòr Ostaig, Portree Primary and Portree Secondary School and received a lot of information about Gaelic education at nursery, primary and secondary levels, and on up to the highest level. I am sure that we will return to education in our discussion. Yesterday, we received the good news that there will be a Gaelic school in Glasgow for pupils from age 3 to age 18. That is great news.

We are talking to the committee at a very hopeful time for Gaelic, after many years of striving to secure its status as a minority language. We are at a stage now at which we can use Gaelic, which will contribute to the success of Scotland as a whole. Therefore I thank the committee for giving us the opportunity today to talk to you. The bòrd is at the point when we will consider what will happen in the years to come. At a meeting in Edinburgh yesterday we talked about the width of the ocean—that is my Gaelic equivalent of blue-sky thinking.

Turning to today's events, members will understand that Bòrd na Gàidhlig has been following closely the work and the preparation of the Gaelic Language (Scotland) Bill from the start. When the draft consultation appeared last year, the bòrd presented a detailed submission to that. We were very happy, when the new draft appeared, that the Executive had been attentive to the points that we made. The bill is now much stronger than it was.

11:00

We have been listening carefully to the evidence that the committee has heard from different groups, including the Welsh Language Board, which is involved in an area that is very similar to our work. I know that the committee received good information from the Welsh Language Board. The bòrd is happy to have the opportunity to add to the evidence that the committee has so far received and I hope that we can give the committee suitable replies to its questions. At the start, I would like to raise two points that we raised in our written evidence to the committee. I will cover them as the basis of the bòrd's philosophy on the bill and the evidence that the bòrd will give the committee today.

First, the bòrd is greatly encouraged by the Gaelic Language (Scotland) Bill as it was presented to the Scottish Parliament. The bòrd is strongly of the opinion that we are at a threshold at which strong legislation is suitable for Gaelic, which is what the Gaelic community is searching

for. The bòrd believes that the bill can create and increase confidence and self-esteem in the Gaelic community, which will have a great impact on the strength of the language in Scotland and throughout the world.

Secondly, the bòrd is very hopeful that success will emanate from the debate on the bill, and that good will such as was evident in the way the Executive tackled the answers and opinions that have come forward in the debate will be shown. I hope that that will create legislation that will be helpful to Gaelic. That is how it should be. It is an important part of the remit of the bòrd that we should give advice and opinions to ministers on matters relating to Gaelic. Among the strengths of the bòrd are that the Gaelic community from throughout Scotland is represented on the bòrd, and that we offer a wide vision of the philosophy and work of the bòrd. As some people would say at the start of a shinty game, "Alea iacta est." I know that it will please the convener to hear some Latin.

The three of us are ready and willing to answer the committee's questions. I hope that we will give vision to the committee with our answers and we thank you for listening to us.

The Convener: Thank you. I echo your thoughts about Gaelic-medium education. In my modest capacity as a Glasgow member I have visited the Gaelic primary school and the secondary unit in recent months, and consider Gaelic through-schooling to be very worth while.

I will begin with the status of Gaelic which, as your submission rightly says, is of considerable symbolic importance. We heard about that from the Welsh Language Board last week and from individuals. Like you, we have struggled with what phrases such as "secure status", "official language" and so on mean in practice. I am interested in your suggestion that the principle of equal validity might be a way forward in that it would give symbolic recognition to Gaelic without tying people down to too-detailed requirements in respect of legal rights and duties that will flow from that principle. There could be acknowledgement that Gaelic is one of the historic languages of Scotland and that it should be recognised in such a way. Will you elaborate a little on any difficulties in or advantages to that approach?

Duncan Ferguson: Mar a thuirt thu, tha e air leth cudthromach gum bi na briathran a tha air an cleachdadh anns a' bhile seo a' ciallachadh tòrr dhan mhòr-shluagh, agus gu h-àraidh do dhaoine le Gàidhlig. Mar a chithear anns an tagradh againn, thug sinn sùil air iomadach dòigh a thigeadh mun cuairt air seo gus am biodh na briathran feumail. Iarraidh mi air Rob Dunbar, a tha eòlach air lagh nam mion-chànan, beagan

fiosrachaidh a thoirt dhuibh mun dòigh a chaidh sinn mun cuairt air seo.

Following is the simultaneous interpretation:

As you say, an important point is that the words that are used in the bill will mean a lot to the public—especially to people who speak Gaelic. Members will see from our submission that we have considered many ways in which we could make those words useful. Rob Dunbar, who is very familiar with the language, will give members information about how we did that.

Robert Dunbar (Bòrd na Gàidhlig): Tapadh leat, a Dhonnchaidh, agus tapadh leibh uile airson an cothrom a thoirt dhuinn a bhith an làthair an-diugh. Tha na h-aon thrioblaidean air a bhith againn leis na facail seasamh inbhe, inbhe oifigeil, inbhe àraid dhan Ghàidhlig no inbhe fhoirmeil air dòigh air choreigin. Mar a sgrìobh sinn anns an fhianais sgrìobhte againn, chan eil ciall sònraichte anns an lagh—lagh na h-Alba, lagh Bhreatainn no lagh eadar-nàiseanta—air cùlaibh gin de na facail sin, agus mar sin tha iad dualtach teagamhan a thogail. Bha sinn gu math draghail mu dheidhinn sin cuideachd. Tha e cudthromach a bhith cho soilleir ann an reachdas sam bith mu chiall nam facal. Mar sin, tha sinn a' tuigsinn nan duilgheadasan sin.

Ach anns a' chiad dol-a-mach, ge b' e cò na facail a mholas sinne no duine sam bith eile, bu mhath leam cur às dha na teagamhan mu bhuaidh nam facal agus gu seachd àraid dhan cheist am biodh gin de na facail sin a' cruthachadh chòraichean a' Ghàidhlig a chleachdadh ann an àite sam bith le duine sam bith, ge b' e suidheachadh na Gàidhlig ann an diofar cheàrnaidhean dhen dùthaich.

Is e fear lagha a tha annamsa agus cha chreid mi gum biodh a' bhuaidh sin aig gin dhe na facail sin, air iomadach adhbhar. An toiseach, mar phrionnsabal mineachaidh anns an lagh, feumaidh cùirt, no duine sam bith a tha a' làimhseachadh reachdas sam bith, a bhith a' mineachadh fhacail a rèir nan structaran aca fhèin, agus tha am bile gu math soilleir nach eil e a' cruthachadh chòraichean idir. Tha sin gu math soilleir ann an deasbaidhean a tha sinn a' cumail an-dràsta, ann am bun-notaichean an Riaghaltais air cùlaibh a' bhile agus cuideachd bhon structar. Tha an structar aig teis-meadhan a' ghnòthaich. Tha dòigh ann gus planaichean Gàidhlig a dhealbhadh a bhiodh riatanach agus iomchaidh do dhiofar sgìrean, agus nam biodh facail eile a' cruthachadh còir laghail airson a h-uile seirbheis a bhith tro mheadhan na Gàidhlig, cha bhiodh ciall sam bith ann an siostam phlanaichean a chur air dòigh. Mar sin, tha mi a' smaointinn gum biodh cùirt sam bith, no duine sam bith, gu math leisg ann a bhith a' toirt mineachadh sin dha na facail.

Cuideachd, mar phrionnsabal laghail, feumaidh còraichean a bhith air an coillionadh, agus chan eil e comasach seirbheisean a thoirt seachad anns gach àite air feadh na dùthcha tro mheadhan na Gàidhlig. Chan eil e comasach idir air iomadach adhbhar. Chan eil luchd-bruidhinn na Gàidhlig gu leòr ann; is e sin aon de na cnapan-starra as motha. Fiù 's nam bitheamaid a' bruidhinn air co-ionannachd Gàidhlig agus Beurla ann an sgìrean mar na h-Eileanan an Iar, bhiodh e doirbh andrasta fhèin a h-uile seirbheis a thoirt seachad tro mheadhan an dà chànan air stèidh cho-ionann, le gainnead luchd-obrach a tha ag obair anns an roinn phoblaich. A rèir sin, tha mi a' smaoinèachadh nach biodh e comasach an ciall sin a thoirt gu facal sam bith a chleachdamaid anns a' bhile.

Ach a dh'aindeoin sin uile, bha sinn a' feuchainn ri bhith a' seachnadh cuid dhe na duilgheadasan sin co-dhiù. An àite a bhith a' cur rudeigin air beulaibh a' bhile a dh'abradh gun robh seasamh oifigeil no co-ionannachd oifigeil aig a' Ghàidhlig—rud nach eil aig a' Bheurla, feumaidh sinn aideachadh—b' fheàrr dhuinn prionnsabal mìneachaidh a chur anns a' bhile a bhiodh a' toirt stiùireadh do bhuidheann sam bith no do dhuine sam bith a tha a' làimhseachadh a' bhile air cìmar a bu chòir dhaibh a bhith a' dèiligeadh leis na dleastanasan a thèid a chruthachadh fo na poileasaidhean agus fo na sgeamaichean Gàidhlig.

Tha mi a' smaointinn gun robh sinn dìreach a' feuchainn ri ràdh tro na facail co-ionannachd creideis, no "equal validity", nach bu chòir do dhuine sam bith a bhith a' coimhead air na sgeamaichean Gàidhlig agus na còraichean—no co-dhiù na cothroman—a bhios aig luchd-bruidhinn na Gàidhlig a thaobh sheirbheisean poblach no a bhith a' làimhseachadh iarrtasan reusanta mar sin ann an dòigh nach eil làn deagh rùn, mar gum biodh, seach droch rùn.

Air cùlaibh nan deasbaidhean seo uile tha an t-eagal a tha aig luchd-bruidhinn na Gàidhlig. Tha fhios againne gu bheil an t-uabhas dhaoine anns an dùthaich aig a bheil deagh rùn dhan Ghàidhlig, ach feumaidh sinn aideachadh cuideachd gu bheil cuid de dhaoine ann an diofar àiteachan—chan ann dìreach air a' Ghalldachd, ach air a' Ghaidhealtachd agus anns na h-Eileanan an Iar cuideachd—aig a bheil mì-rùn no droch rùn air a' Ghàidhlig. Cha bu chòir poileasaidh agus libhrigeadh poileasaidh a bhith stèidhichte air—mar a chanainn fhìn ris—crannchur deagh rùn no droch rùn nan seirbheiseach a tha a' toirt seachad sheirbheisean. Mar sin, tha mi a' smaointinn gur e prionnsabalan mìneachaidh, seach prionnsabalan farsaing, air beulaibh a' bhile aon dhe na dòighean air adhart agus aon dhe na dòighean a-mach às an staid anns a bheil sinn leis na facail a tha a'

dol air adhart agus air ais fo bheulaibh na comataidh.

Following is the simultaneous interpretation:

I thank the committee for the opportunity to give evidence.

We have had the same problem with words. As our submission says, phrases such as "official status", "special status" and "formal status" do not have a special meaning in legal terms in British or international law. Therefore, they tend to raise doubts, which we were quite worried about. It is important to be clear about the meaning of words in legislation, and we understand such difficulties.

I would like to dispel doubts about the effects of the words that we would recommend. The words should create rights to use Gaelic in any place at any time. I am a lawyer and do not think that such an effect would be created by any of words that have been used. I will give a legal explanation. Anybody who uses legislation must explain words according to their structure. Rights would not be created, which is clear in the debates that we are having, in the Executive's accompanying documents and in the structures that are at the centre of the plans. There is an essential and appropriate way of developing Gaelic for many regions. If other words could create a legal right to give services using Gaelic, there would be no tie and no point in making plans. Any court or any person would be quite lazy to give such definitions. As a legal principle, we must give rights to achieve rights. For many reasons, it would be impossible to provide services everywhere in the country using Gaelic—a major setback to doing that is that there are not enough Gaelic speakers in many places. Even if we were talking about equality in places such as the Western Isles, it would be difficult at this point to provide every service using Gaelic on an equal footing, especially for people who work in the public sector. Therefore, we should not give that meaning through the words that are used in the bill.

In spite of that, we have been trying to avoid some of the difficulties. Instead of putting something in the bill that says that Gaelic has official status—which, I have to say, English itself does not have—or official equality with English, we would prefer that there be an explanatory principle in the bill to give guidance to any group or person using the bill on how to deal with the duties that will be created under the Gaelic policies and schemes. We are trying to say through the words "equal validity" that nobody should look at the Gaelic schemes and at the rights—or the opportunities—for Gaelic speakers in relation to public services, or handle reasonable demands, other than with good will. There should not be bad will.

Many people feel good will towards Gaelic, but we also have to confess that there are many people in different places—not only in the lowlands, but in the Highlands and in the Western Isles—who feel bad will towards Gaelic. Policy and delivery of policy should not be based on a lottery of good or bad will on the part of those who deliver services. Explanatory principles will be important in helping us through the situation that we are in and through the confusion over words.

The Convener: Thank you very much. You have made the point that to be guided

“by a principle of generosity and good will to the language and the aspirations of its speakers”—

as the implementation of Welsh language schemes has been—is a good principle.

Lord James Douglas-Hamilton: I understand that the bòrd will work with other bodies that have a remit for developing education. I presume that you will give them guidance. Are you happy with that?

Duncan Ferguson: Tha sinn air a bhith a’ bruidhinn ris a’ mhinistear mar-thà mu dheidhinn seo agus tha sinn gu math toilichte a bhith ag obair gu h-àraidh còmhla ri comhairlean ionadail mu dheidhinn an seòrsa foghlam a bhiodh iad a’ toirt seachad agus na seirbheisean eile a bhiodh iad a’ dèanamh. Tha sinn gu math cofhurtail le sin, agus tha sinn a’ sùileachadh gu h-àraidh gur e ri co-obrachadh a bhios sinn. Tha e cudthromach mar phrionnsabal againne gum bi sinn ag obair le comhairlean. Tha iomadach comhairle—21 dhiubh mar-thà—an sàs ann am foghlam Gàidhlig gu ìre air choreigin. Leis an sin, chan eil sinn a’ tòiseachadh aig “ground zero”, mar a chanadh tu. Tha sinn a’ dol a bhith a’ togail air na rudan a tha a’ tachairt mar-thà, ach cuideachd a’ toirt stiùir agus comhairle dha na comhairlean sin air an dòigh a bu chòir dhaibh a bhith a’ toirt seachad sheirbheisean, agus gu h-àraidh foghlam.

Following is the simultaneous interpretation:

We have been talking to the minister about that; we will be happy to work with local councils on education and other services that they provide and we hope that there will be co-operation. One of the principles will be that we will co-operate with many councils. Twenty-one councils already work with Gaelic-medium education, so we will not be starting at ground zero, as one might say, but will build on what has been happening. We will give advice and direction to councils on how they should provide services, especially education.

Lord James Douglas-Hamilton: Are you confident that, through the use of good guidance, you will get United Kingdom bodies and private sector bodies to co-operate where there is a reasonable case to be made?

Duncan Ferguson: Iarraidh mi air Ailean Caimbeul freagairt a thoirt dhuibh air a’ cheist sin.

Following is the simultaneous interpretation:

I ask Allan Campbell to answer that question.

Allan Campbell (Bòrd na Gàidhlig): Is e am beachd a tha againne gu bheil deagh rùn gu bhith cho cudthromach ri dad sam bith eile ann a bhith a’ coilladh amasan a’ bhile. Mar a bha Donnchadh MacFhearghais ag ràdh a thaobh a bhith a’ toirt comhairle agus ag obair còmhla ris na comhairlean a thaobh foghlam, is e co-phàirteachas agus co-obrachadh a bheir piseach, agus tha mi a’ smaoineachadh gu bheil an aon rud gu bhith fìor a thaobh nam buidhnean nàiseanta. Tha fhios againn nach eil iad, mar a tha an suidheachadh an-dràsta, a’ tighinn fo bhuaidh rùn a’ bhile, ach is e am faireachadh a tha againne gu bheil eisimpleirean againn mar-thà de bhuidhnean nàiseanta a tha ag obair ann an Alba agus a tha, dhe an roghainnean fhèin, air iomairtean Gàidhlig a chur an gnìomh. Tha sinn a’ smaoineachadh gun obraich sin anns a’ chiad ghreis co-dhiù.

Following is the simultaneous interpretation:

Our opinion is that good will is going to be as important as anything else in achieving our aims. As Duncan Ferguson said, working with the councils on education is the kind of co-operation that will help. In the present situation, we already have examples of national bodies in Scotland that have, by themselves, made provision for Gaelic.

Lord James Douglas-Hamilton: Is it fair to say that you expect progress by way of persuasion through guidance rather than legislation?

Duncan Ferguson: Gun teagamh. A-rithist, is e a bhith ag obair le daoine eile. Mar eisimpleir, tha am BBC, nach fheum a bhith a’ dèanamh càil le Gàidhlig, fìor làidir ann a bhith a’ toirt seirbheis tro mheadhan na Gàidhlig do dh’Alba.

Following is the simultaneous interpretation:

We must work with other people. For example, the BBC does not need to do more with Gaelic—it is especially strong in providing Gaelic services throughout Scotland.

11:15

Mr Adam Ingram (South of Scotland) (SNP): We heard evidence—particularly when we went to Skye—of difficulties with bodies such as the Royal Mail, which refuses point blank to allow Gaelic addresses or stamps. Because the bill contains no presumption that the language will have equal status, such bodies can say that the bòrd does not have the same powers as the Welsh board has to promote the Welsh language and to ensure that it has equal validity, for example. Perhaps you

assume too much about the good will of all public bodies.

Duncan Ferguson: Is dòcha gu bheil thu ceart, Adam, ach chan eil fhios agam. Ailein, an toir thu freagairt dhan cheist, gu h-àraidh mu dheidhinn an Royal Mail?

Following is the simultaneous interpretation:

Perhaps you are right.

Allan Campbell: Tha e fìor a ràdh, nuair a thig am bile dhan lagh, nach bi an aon seòrsa amasan aig a' bhile seo 's a tha aig suidheachadh na Cuimris anns a' Chuimrigh an-diugh, thoradh tha iad ag obair a dh'ionnsaigh dùthaich a tha gu bhith dà-chànanach ann am beagan bhliadhnaichean. Tha fhios againn nach urrainn dhuinne an t-amas sin a chur romhainn ann an Alba, ach aig an aon àm tha sinne agus a' choimhearsnachd Ghàidhlig gu math mothachail gum bi suidheachadh na Gàidhlig ann an Alba nas treasa agus nas misneachail na bha i a-riamh roimhe nuair a thig am bile dhan lagh. A' togail air a' bhunait sin, nuair a bhios sinn a' dol a chonaltradh dè bhios sinn a' dèanamh le buidhnean dhe gach seòrsa—Albannach agus nàiseanta—bidh sinn a' cur dhachaigh orrasan gu bheil a' Ghàidhlig ann an suidheachadh eadar-dhealaichte. Tha e fìor gu bheil buidhnean air a bhith ag ràdh nach eil an aon inbhe laghail aig Gàidhlig 's a tha aig Cuimris, agus tha mi cinnteach gun can iad sin rinn fhathast. Ach an dèidh grunn math bhliadhnaichean a chur seachad ann an saoghal leasachaidh na Gàidhlig, tha mise misneachail gun toir sinn iompachadh air a' mhòr-chuid aca agus gun atharraich an dòigh anns a bheil iad a' coimhead air Gàidhlig. Tha mi làn mhisneachail a thaobh sin.

Following is the simultaneous interpretation:

It is true that the bill does not have the same aims as Welsh legislation. Wales is working towards being a bilingual country in a few years; we cannot establish such aims here. However, we and the Gaelic community are aware that when the bill becomes law, the Gaelic situation will be stronger and more encouraging than it has ever been. By building on the foundation of consultation with other bodies throughout the country, we will bring it home to them that Gaelic is in a new world now.

It is true that groups have said that Gaelic does not have the same status as Welsh; they will still say that. However, after a good few years of Gaelic development, I am confident that we will convert most of them, and that the way in which they approach Gaelic will change.

Duncan Ferguson: Iarraidh mi air Rob Dunbar facal a ràdh a thaobh seo.

Following is the translation:

I will ask Rob Dunbar to answer that question.

Robert Dunbar: Tha mi a' smaointinn gu bheil sinn aig ìre gu math ìosal ann an dòigh. Mar is trice, bidh buidhnean a' smaointinn gum biodh e uabhasach fhèin doirbh seirbheisean a thoirt seachad tro chànanan eile, ge b' e cò an cànan a bhios sin, agus is e sin pàirt dhen duilgheadas. Chan eil mòran cleachdaidh againn ann an Alba no ann am Breatainn air fad, seach anns a' Chuimrigh, ann a bhith a' toirt seachad sheirbheisean tro chànanan eile. Air an adhbhar sin, bidh daoine a' smaointinn gu bheil an rud anabarrach fhèin neo-àbhaisteach agus cuideachd duilich, ach tha sinn a' faicinn anns a' Chuimrigh nach ann mar sin a tha e.

Is ann à Canada a tha mise, agus sin mar a bha cùisean nuair a bha mi fhìn òg. Bha a h-uile duine a' smaointinn gum biodh e uabhasach fhèin doirbh seirbheisean a thoirt seachad tro mheadhan dà chànan, agus aig toiseach gnothaich bha, ach anis tha eachdraidh gu math fada ann an Canada agus anns a' Chuimrigh, mar a bhios againne an seo leis na planaichean. Às dèidh beagan bhliadhnaichean, tha mi cinnteach gum bi buidhnean anns an roinn phrìobhaidich agus buidhnean nàiseanta a' coimhead air an obair a rinn sinne—agus cuideachd air na comhairlean ionadail agus buidhnean poblach a bhios air poileasaidhean dà-chànanach no poileasaidhean Gàidhlig a dhealbhadh—agus bidh fios aca an uair sin gun gabh cùisean a dhèanamh aig prìs reusanta agus èifeachdach gun a bhith a' cur cus dhuilgheadasan air na buidhnean sin idir.

Tha pàirt cudthromach aig Bile na Gàidhlig (Alba) agus aig an dòigh dealbhachaidh a bhios againne gus eisimpleirean a thoirt seachad agus a shealltainn do dhaoine gu bheil e comasach agus nach eil e cruaidh ann an dòigh sam bith. Tha mi a' smaointinn gun cruthaich sin cultar eadar-dhealaichte timcheall air libhrigeadh sheirbheisean a bheir buaidh chan ann dìreach air seirbheisean tro mheadhan na Gàidhlig ach air seirbheisean tro mheadhan chànanan eile far a bheil feum aig buidhnean na seirbheisean sin a thoirt seachad, ge b' e cò an cànan air a bheil sinn a' bruidhinn. An uair sin, bidh sinn ann an suidheachadh mòran nas fhasa agus mòran nas tuigsiche air na cnapan-starra ach cuideachd air na cothroman a bhios ann.

Following is the simultaneous interpretation:

In a way, we are at a low ebb. Groups often think that it will be awfully difficult to deliver services through other languages, whatever they are. That is part of the problem. We have not had much practice, other than in Welsh, in delivering services through other languages. For that reason, people think that to do so is unusual and difficult. It is not like that in Wales.

I am from Canada where, when I was young, people thought it would be awfully difficult to deliver services using two languages. At first it was, but now Canada and Wales have a long history of doing that. I hope that the same will happen with our plans here. After several years, private and national groups will examine the work that we have undertaken and local councils and other public bodies will produce bilingual policies. They will know then that services can be provided at a reasonable price and effectively without our loading too many difficulties on them.

The Gaelic Language (Scotland) Bill has an important part to play in showing people, for example, that it is possible and not too difficult to use Gaelic. The bill will create a new culture in the delivery of services that will affect not just Gaelic-medium services, but services in other languages. The bill will put us in a much better situation because we will learn not only about the difficulties, but the opportunities that will be available.

The Convener: We are perhaps drifting a little from the question that we began with and I am conscious of the time.

Dr Murray: First, I thank the bòrd for a particularly helpful written submission that dealt with some of the issues with which we have been wrestling.

During the collection of evidence, certain problems have been brought to our attention, including recruitment of Gaelic-medium education and Gaelic-language teachers, the lack of an established career structure and the problem of continuity of education to different levels when people have had primary Gaelic-medium education and then found that it is much more difficult to access Gaelic-medium secondary education. Another problem is that teaching materials are often photocopies of English teaching materials that have Gaelic superimposed on them rather than materials that are produced in Gaelic. How do bòrd members feel that, in conjunction with the bill, they can help to improve some of those conditions? It is obvious that you are not responsible for training teachers and so on, but how would you contribute to the improvement of the current position?

Duncan Ferguson: Is e sin ceist cho bunaiteach 's a tha againn ann a bhith a' toirt na Gàidhlig air adhart. Tha sinne a' creidsinn gu mòr gum faigh sinn misneachd às a' bhile agus gun dèan sin feum. Bidh sinn a' cluinntinn ann an ceann mìos gu bheil an àireamh a tha a' faighinn foghlam tro mheadhan na Gàidhlig anns na bun-sgoiltean a' dol thairis air 2,000 airson a' chiad uair, ach tha sinn a' tuigsinn cuideachd gu bheil sinn a' call mòran oileanach an dèidh na bun-sgoile nach eil a' dol air aghaidh dhan àrd-sgoil.

Ann an dòigh, tha sinne a' faicinn gum bi e air leth cudthromach gum bi sinn ag obair còmhla ris na ministearan, còmhla ri roinn an fhoghlaim aig an Riaghaltas, còmhla ris na h-oilthighean agus còmhla ris na comhairlean. Tha sinn fortanach gu bheil againn air a' bhòrd fear a tha an sàs aig ìre oilthigh agus tè a tha an sàs aig ìre comhairle, a bheir fiosrachadh dhuinn mu dheidhinn an t-suidheachaidh sin airson a bhith a' dèanamh cinnteach gum faigh sinn tidsearan a-staigh.

Cuideachd, tha Stòrlann Nàiseanta na Gàidhlig againn—seirbheis a tha a' dèanamh stuth airson teagasg tro mheadhan na Gàidhlig—ach tha sinn ag aideachadh nach eil an siostam cho math 's a bu toil leinn fhathast. Tha sinn a' faicinn stuthan air an cleachdadh ann an clasaichean tro mheadhan na Gàidhlig nach eil cho math ris na tha iad a' faotainn ann an clasaichean tro mheadhan na Beurla. Bidh sinne ag amas air gum bi sin fada nas fheàrr. A bheil thu airson cur ri sin, Ailein?

Following is the simultaneous interpretation:

That is one of the most important questions today. We believe that the confidence that will result from the bill will be beneficial. We will hear in a month's time that, for the first time, the number of people receiving Gaelic-medium education is more than 2,000. We appreciate that, after primary school, we lose many students because they do not go on to Gaelic-medium high school. It will be very important for us to work alongside the ministers and the Education Department, the universities and the councils. We are fortunate that we have on the bòrd members who are involved with universities and councils and who will give us information about the position in those organisations to ensure that we have the teachers. Although we have Stòrlann Nàiseanta na Gàidhlig, which has resources for Gaelic, we admit that the system is not yet as good as we would like it to be. We see being used in classrooms Gaelic resources that are not as good as resources are in English classrooms. However, we aim to improve on that.

Allan Campbell: Is e glè bheag a dh'iarrainn a chur ris an sin, ach tha e cudthromach a chomharrachadh na puing a bha aig Donnchadh MacFhearghais a thaobh na tha sinn a' call dhen òigridh an-dràsta eadar a' bhun-sgoil agus an àrd-sgoil. Tha sinn a' call suas ri ochd às gach 10, agus tha sin a' ciallachadh, nuair a ruigeas an òigridh sin an t-siathamh bliadhna anns an àrd-sgoil, gu bheil nas lugha againn mu choinneimh an fheadhainn a dheigheadh, is dòcha, gu teagasg. Tha duilgheadas againn an sin, agus chan e duilgheadas a tha ann a thèid a rèiteach ann an cabhaig, ach is e duilgheadas a tha ann a dh'fheumas sinn a rèiteach. Mar a bha Donnchadh MacFhearghais ag ràdh, nì sinn sin le a bhith a' co-obrachadh le ionadan foghlaim agus leis an Riaghaltas cuideachd.

Following is the simultaneous interpretation:

I add to Duncan Ferguson's important point about the number of children whom we lose from Gaelic-medium education between primary and high school. We lose eight out of 10 pupils, which means that by the time those young people reach sixth year in high school, we have many fewer people available for teaching purposes. That is a difficulty that cannot be sorted out quickly, but we have to sort it out. As Duncan Ferguson said, we will work it out through co-operation between us, education units and the Executive.

The Convener: I am conscious of time. The minister will give evidence in the not-too-distant future, so I ask members to be a little snappier with their questions.

Alex Neil (Central Scotland) (SNP): I will be brief.

My question is about an area that is not covered in your submission. You might be aware that, after considering the financial memorandum that is attached to the bill, the Finance Committee expressed some concern about resources. The assumption in the financial memorandum is that you will prepare 10 plans a year, at least initially. Have you given some thought to the criteria that you will use for prioritising in the early years and the likely resource implications? Secondly, are the estimates of the resources that the bòrd will require in the early years satisfactory? Will you have sufficient resources to perform your statutory duties?

Duncan Ferguson: Tha sinn air a bhith a' leantail beachdan Comataidh an Ionmhais gu math dlùth agus a' smaintinn orra. Tha sinn a' sùileachadh gum bi sinn ag iarraidh phlanaichean bho 10 buidhnean gach bliadhna. Feumaidh sinn cuimhneachadh gu bheil buidhnean an sàs mu thràth ann an cur air dòigh planaichean Gàidhlig. Minichidh Ailean Caimbeul beagan a bharrachd air sin dhuinn.

Following is the simultaneous interpretation:

We have been following the Finance Committee's discussions. We hope to ask 10 public authorities every year to prepare a plan. Some bodies have already been involved in preparing Gaelic plans, which will help us.

Allan Campbell: Air a' chiad rud, a thaobh co mheud buidheann a dh'fheumas plana a dheasachadh agus cò iad, cha bhiodh e iomchaidh a bhith a' comharrachadh cò na buidhnean gu sònraichte a bhios sinn a' cur anns a' phrìomh àite. Is urrainn dhomh a ràdh le cinnt, ge-tà, gu bheil sinn a' sùileachadh gur e na buidhnean leis a bheil sinn ag obair an-dràsta a bhios am measg nan ciad buidhnean ris am bi sinn a' dèiligeadh. Bidh sinn a' leantainn air adhart

leotha airson dà adhbhar: an toiseach, gu bheil an obair sin a' dol air adhart cheana; agus, anns an dara àite, gu bheil sin gu bhith na dheagh eisimpleir dha buidhnean eile. Am measg nam buidhnean leis a bheil sinn ag obair mu thràth, tha Comhairle na Gaidhealtachd, Comhairle nan Eilean Siar, Ùghdarras nan Croitearan agus buidhnean dhen t-seòrsa sin.

Tha e cudthromach a ràdh a-rithist, mar a thuirt Donnchadh MacFhearghais na bu tràithe, nach eil sinn a' tòiseachadh as ùr. Cha bhi leasachadh na Gàidhlig a' tòiseachadh nuair a thig am bile a-steach dhan lagh. Cha bhi am bile ach a' cur neart ris an obair a tha air a bhith dol gu ruige seo agus bidh e a' ceangal nan sreangan ri chèile.

A thaobh chosgaisean, gun teagamh sam bith cha bhi airgead gu leòr gu sìorraidh mu choinneimh na tha ri dhèanamh, ach tha deagh bhunait tòiseachaidh againn leis an t-seòrsa airgid a tha air a bhith air a chomharrachadh. Tha e cudthromach a ràdh cuideachd, mar a chuala sibh mu thràth bho leithid Comhairle na Gaidhealtachd, nach bi e na impidh air a h-uile buidheann oifigeir fhadhadh no oifigeir a chur ann an dreuchd an dara cuid airson sgeama Gàidhlig a dheasachadh no a chur an gnìomh. Tha caochladh dhòighean air sin a dhèanamh. Tha buidhnean a-muigh an sin an-dràsta le sgilean as urrainn a bhith air am fastadh pàirt-ùine airson seirbheis a thoirt do dh'iomadach buidheann. Sin an seòrsa co-obrachadh a dh'fheumas tachairt, agus sin mar a tha mise a' faicinn na h-obrach a' dol air adhart. Gabhaidh fìor obair mhath a dhèanamh le sporran is dòcha nach eil cho mòr 's a dh'iarraim, ach tha mi a' smaoineachadh gun gabh an obair a chur air adhart.

Following is the simultaneous interpretation:

On the question of how many authorities we will ask to prepare a plan and which authorities they will be, it would not be appropriate to state which ones we will approach first. However, I can say with certainty that the bodies with which we are currently working will be among the first group, for two reasons: first, so that the work can continue and secondly, so that we can provide good examples for other bodies. We are working with bodies such as Highland Council, Western Isles Council and the Crofters Commission. That work will continue and set an example for others.

As Duncan Ferguson said, Gaelic development will not start anew when the bill is passed. The bill strengthens the work that has been done up to now and ties up the loose ends. We will never have enough money for what we want to do, but the money that has been earmarked will provide a good foundation. As Highland Council and others have said, public bodies will not be under pressure to employ Gaelic officers in relation to development or implementation. There are bodies

that have those skills that can be used part time and we should work with such organisations—that is how I envisage that work will progress. Great work can be done with a purse that is not quite as big as we might like it to be.

Duncan Ferguson: Bidh £1.4 millean againn, ach cha bhi sin air a chleachdadh dìreach airson rianachd agus rudan biurocratach ach airson feum a dhèanamh airson leasachadh a' chànain. Tha sinn an dòchas nach e dìreach airson oifigearan no dìreach airson piosan pàipeir a chur air dòigh a bhios an t-airgead air a chleachdadh.

Following is the simultaneous interpretation:

The £1.4 million that will be allocated will be spent not just on employing Gaelic officers and on bureaucracy and producing bits of paper, but on developing the language.

Mr Frank McAveety (Glasgow Shettleston) (Lab): Witnesses from the Welsh Language Board said that the best approach is an incremental one and that a number of initial concerns in Wales—some of the evidence that we have received reflects similar concerns—did not materialise when the set-up had been established and constructive relationships had been developed. How do you envisage the bòrd's role in creating a space for reasonable and thoughtful consideration, as opposed to extreme positive or negative views?

The number of members would be increased from eight to 12. A number of submissions have considered how the bòrd might be made more representative of the Gaelic community. What are your views on that?

Duncan Ferguson: Tha sinn a' sùileachadh gur ann beag air bheag a bhios sinn a' toirt a-staigh na buidhnean a dh'fheumas sgeamaichean no planaichean a dhèanamh dhuinn. Bidh sinn mothachail air dè cho làidir 's a tha a' Ghàidhlig anns gach sgìre—is e “incremental” am facal ceart, mar a thuirt thu—agus a' gabhail ri mar a tha an suidheachadh anns na coimhearsnachdan.

Following is the simultaneous interpretation:

We hope that, little by little, we will involve organisations in producing plans and we will be conscious of how strong Gaelic is in each area. “Incremental” is the right word; we will consider the situation in each community.

11:30

Allan Campbell: A-rithist, tha e cudthromach gum foghlaim sinn bho eisimpleir na Cuimrigh. Anns an dol seachad, bu toil leam a ràdh gum bi duilgheadas mòr againn ma chleachdas sinn am facal “plana” fad an t-siubhail, thoireadh bidh sinn uile a' dol iomrall. Bha an aon trioblaid aig daoine anns a' Chuimrigh, ach thagh iad am facal

“sgeama”, no “language schemes”. Tha mi a' smaoineachadh gum bi sinn a' moladh an aon rud an seo los gum bi e nas fhasa tuigsinn an t-eadar-dhealachadh eadar am plana nàiseanta agus na language schemes.

Co-dhiù, a' dol air ais chun na ceiste, nuair a bhios planaichean Gàidhlig—no sgeamaichean Gàidhlig—gan deasachadh, bidh sin a' tachairt ri linn aonta agus ri linn conaltraidh. Feumaidh conaltradh a bhith ann eadar am bòrd agus a' bhuidheann a bhios ga dhèanamh, agus eadar a' bhuidheann sin agus an fheadhainn a tha a' bhuidheann a' frithealadh. A-mach às an sin, thig aonta air na h-amasan agus air dè is urrainn dhan bhuidheann a dhèanamh leis a' mhaoin a tha aige.

Tha e uabhasach cudthromach a ràdh gur e, mar a chanamaid ann am Beurla, “facilitation, not coercion” an fheallsanachd a tha aig a' bhòrd. Tha sinn a' moladh gur e gum bi sinn a' cuideachadh rudan gu tachairt seach a' sparradh rudan air duine sam bith.

Following is the simultaneous interpretation:

It is important that we learn from the experience in Wales. We will have great difficulty and go astray if we constantly use the word “plan”. In Wales people faced the same difficulty, so they chose to use the word “scheme”. We would like that word to be used, because it would enable us to distinguish between the national Gaelic language plan and Gaelic language schemes.

Gaelic schemes will be prepared through discussions between us, the organisation that will prepare the scheme and the people that the organisation represents. From those discussions will emerge agreement on the aims of the scheme and what can be done for the resources that are available. It is important to emphasise that the philosophy of the current bòrd is facilitation, not coercion. We should help in the preparation of schemes rather than just impose requirements on organisations.

Duncan Ferguson: A' tighinn chun na dàrna ceiste mu àireamh ballrachd a' bhùird, tha fhios agam gun tuit Bòrd na Cuimris gu bheil ballrachd de 12 ro mhòr. Thòisich sinn le sianar ach chaidh sin suas gu ochdnar. Tha mise gu math fosgailte air a' cheist. Cha mhòr nach eil a h-uile sgìl a dh'iarraidh tu aig ballrachd a' bhùird an-dràsta. Is dòcha nach eil duine sònraichte eòlach air dòighean ionmhais no cunntasachd no rudan mar sin. Tha sinn gu math fosgailte air a' cheist, ach shaoilinn gur e 12 an àireamh as àirde gun teagamh.

Following is the simultaneous interpretation:

Frank McAveety asked about the membership of the bòrd. The Welsh Language Board says that 12 members would be too many. Bòrd na Gàidhlig

started with six members and increased the number to eight. I am quite open-minded about the number of skills that are currently reflected on the board, although perhaps people are not especially acquainted with finance. There should certainly be no more than 12 members.

Robert Dunbar: Am faod mi dìreach facal a ràdh? Tha deagh eisimpleirean againn bho Bhòrd na Cuimris agus tha mi a' smaointinn gum bi sinn a' leantainn orra sin. Tha cruth na h-achd Cuimris gu math coltach ri cruth a' bhile againne agus tha mòran againn ri ionnsachadh bho Chuimrigh. Feumaidh an fheallsanachd a tha air cùlaibh leasachadh cànan sam bith a bhith gus piseach a thoirt air cleachdadh a' chànan anns a' choimhearsnachd. Mar sin, anns a' chiad dol-a-mach, bidh sinn ag amas gu seachd àraidh air èifeachd nam poileasaidhean air cleachdadh is ionnsachadh na Gàidhlig ann an coimhearsnachdan. Bidh sinn ag amas air coimhearsnachdan anns an gabh leasachaidhean a dhèanamh gu h-èifeachdach agus gu simplidh, no nas simplidh na ann an sgìrean eile. Tha sin gu math stèidhte aig Bòrd na Cuimris, agus tha mi a' smaointinn gu bheil sin gu math cudthromach.

Cuideachd, gu ruige seo, anns an fhianais sgrìobhte a chuir sinn seachad gach cuid an t-seachdain a chaidh mu dheidhinn a' bhile agus aig toiseach na bliadhna mu dheidhinn na ciad dreachd den bhile, tha sinn air a bhith a' feuchainn ri bhith gu math reusanta agus, ann an dòigh, gu math cruthachail. A thaobh cuid dhe na duilgheadasan, feumaidh sinn cuimhneachadh gur e Bòrd na Gàidhlig fhèin a mhol gum bu chòir cothroman a bhith aig na comhairlean ionadail agus buidhnean poblach ath-agairt a dhèanamh, mas e is gu bheil iad a' smaointinn gu bheil am bòrd air a bhith mì-reusanta ann an dòigh sam bith. Mar sin, tha sinn air a bhith ag èisteachd mu thràth. Tha sinn a' feuchainn ri bhith a' nochdadh gu bheil sinn a' dol air adhart ann an dòigh gu math reusanta. Tha sinn ag èisteachd chan ann dìreach ri feumalachdan luchd-bruidhinn na Gàidhlig ach ri teagamhan agus duilgheadasan nam buidhnean poblach agus an riaghaltais ionadail ann a bhith a' libhrigeadh sheirbheisean tro mheadhan na Gàidhlig.

Following is the simultaneous interpretation:

The Welsh Language Board's experience offers good examples for us to follow. The Welsh Language Act 1993 is similar in shape to the Gaelic Language (Scotland) Bill, so we can learn from the Welsh with regard to implementation. The philosophy behind Gaelic development is to secure improvement in relation to the use of the language in the community, so in the first instance we will aim to put in place effective policies on the use of Gaelic by organisations and in the Gaelic community. We will target communities in which

such developments can be achieved more effectively and easily than in other areas. That is important.

As we said at the start of the year after we saw the first draft of the bill and in the written submission that we sent to the committee last week, Bòrd na Gàidhlig has tried to be reasonable and creative in considering some of the difficulties. Members should remember that the bòrd recommended that local councils and other public bodies confirm to ministers that the bòrd has not been at all unreasonable. We have tried to make progress in a reasonable way and we have listened not just to the needs of Gaelic speakers but to the doubts and difficulties that public bodies have in distributing Gaelic resources.

Mr McAveety: Your submission includes a section on enforcement and notes that the Welsh Language Act 1993 takes a different approach from that of the bill to securing parliamentary authority for ministerial intervention, should public authorities choose not to reflect the aspirations of the bill. In the latter part of your submission, you suggest that there should at least be a "fixed time scale" in which action must be taken by the bòrd or the minister—given how the bill is currently framed, it would be for the minister to intervene. How might that kick in?

Duncan Ferguson: Anns a' chiad àite, tha sinn an dòchas nach tachair sin ma tha sinn reusanta aig an toiseach. Cha tig sinn gu buidheann sam bith agus iarraidh orra sgeama a chur air dòigh gun a bhith gu math cinnteach gu bheil a' bhuidheann airson sin a dhèanamh. Mar a thuirt sinn anns an tagradh againn, aig a' cheann thall bidh sinn ga fhàgail aig an Riaghaltas—aig na ministearan—a dhèanamh cinnteach gun tachair e. Mar a thuirt cuideigin rinn mu thràth, aig a' cheann thall bidh ùghdarras aig an ombudsman ma thig an achd a-steach. Dh'fhaodadh an t-ombudsman a thighinn ann mura robh sinn toilichte leis na thàinig às.

Following is the simultaneous interpretation:

In the first place, we hope that that will not happen if we are reasonable at the start. We would not go to any group and tell it to implement a scheme without being sure that it wanted to do that, but, as we said in our submission, we would, at the end of the day, leave it to ministers to ensure that that happens. As somebody said to us, the ombudsman will have authority if the bill is passed. The ombudsman could become involved if we were not happy with the outcome.

Robert Dunbar: Nì mi puing eile. Tha mi a' dol gu mòr leis na thuirt Donnchadh MacFhearghais. Cha tig piseach sam bith à iomairt no easaonta eadar Bòrd na Gàidhlig, ministearan agus buidhnean poblach. Anns a' Chuimrigh, cha tàinig

cùisean chun na h-ìre sin a-riamh bhon thòisich an lagh ann an èifeachd. Tha mi smaointinn gum bitheadh a' leantail an eisimpleir sin.

Tha sinn mothachail air gum bi cumhachdan aig ministearan crìoch a thoirt air easaonta nam biodh easaonta ann, ach chan eil e soilleir cuine a tha sin a' dùnadh, mar gum biodh. Bidh cumhachd aig ministearan òrdugh a thoirt seachad dhan bhuidhinn phoblaich no beachd a chur air beulaibh na Pàrlamaid los gum bi cothrom aig a' Phàrlamaid rudeigin a dhèanamh, ach is dòcha nach tachradh rud seach rud. Ann an suidheachadh mar sin, far a bheil a h-uile duine ann an sgleò gun aonta no co-dhùnadh aig a' cheann thall, is dòcha gum biodh daoine buailteach cùisean fhàgail mar sin. Ged a bhiodh cuid dualtach easaonta fhàgail agus, is dòcha, beagan teas fhàgail anns a' ghnòthach, b' fheàrr dhuinne an rud a thoirt gu crìch. Nam biodh ministearan den bharail gun robh a' bhuidheann phoblach a' coilladh an dleastanasan, bhiodh sin glè mhath, ach feumaidh cùisean a thighinn gu crìch. Tha sinn a' moladh sin.

Ach, mar a thuirt mi roimhe, tha sinn airson a bhith a' seachnadh shuidheachaidhean mar sin. Cha dèan iad feum do bhuidheann sam bith—do Bhòrd na Gàidhlig, do mhinistearan no do bhuidhnean poblach.

Following is the simultaneous interpretation:

I agree strongly with Duncan Ferguson. No improvement would come of any campaign or disagreement between the bòrd and a public body. In Wales, nothing has ever reached that stage since the law came into effect. We would like to follow that example.

We are aware that ministers can bring an end to disagreement, if there is any, but it is not clear when that would happen. Ministers can give orders to a public body or bring the issue before the Parliament so that the Parliament can do something about it. Perhaps neither will ever happen. In such a situation, everybody would be in the clouds; there would be no agreement or conclusion. We would be likely to leave matters in a mist, which would also leave disagreement and some anger in the matter. If ministers were of the opinion that the public body was doing what it was meant to do, things could be settled, but we would like to avoid that situation, because it would not be of any use to anybody—us or the public bodies.

The Convener: It might be helpful for me to say to members that we have spoken indirectly to the minister and we will try to get him for about 5 minutes to 12, so I hope to finish questions to Bòrd na Gàidhlig at about 10 minutes to 12. I appreciate that that is fairly tight, but I ask members and witnesses to be crisp with their questions and answers if they can.

Mr Ingram: There is not much in the bill about Gaelic broadcasting. Would Bòrd na Gàidhlig be able to deal with broadcasting by having a plan for the BBC, or are there other means by which you would like to influence Gaelic broadcasting? It is clearly an important feature of the promotion of the language.

Duncan Ferguson: Bidh fhios agaibh gun tàinig mòran tagraidhean a-staigh anns a' chiad dol-a-mach—aig a' chiad chonaltradh—a bha a' togail air craoladh. Mar a thuirt mi na bu tràithe, tha am BBC na dheagh eisimpleir, a chionn 's chan fheum am BBC a bhith a' dèanamh càil a thaobh na Gàidhlig—no a thaobh sgeamaichean an-dràsta co-dhiù—ach tha e a' toirt seirbheis dhuinn tro mheadhan na Gàidhlig.

Tha riochdachadh aig a' bhòrd air Seirbheis nam Meadhanan Gàidhlig tron cheannard againn, Ailean Caimbeul. Leis an sin, tha seasamh againn ann an craoladh fon lagh, mar a tha an lagh an-dràsta. Mar a tha fhios agaibh, chan eil cumhachd aig Riaghaltas na h-Alba air craoladh, ach bu toigh leinn smaoinichadh gum b' urrainn buaidh a bhith againn air craoladh gun teagamh, oir tha craoladh cho fìor bhunaiteach ann an toirt air aghaidh ar cànan.

Following is the simultaneous interpretation:

As you know, a lot of submissions to the initial consultation included points about broadcasting. As I said earlier, the BBC is a good example of a body that is not required to do anything about Gaelic but which has still given us an excellent Gaelic-medium service.

The board has a representative on the Gaelic Media Service—Allan Campbell. We have a standing in broadcasting, although, as the law stands, the Scottish Executive has no power over that area. However, we like to think that we would have some impact on Gaelic broadcasting, because broadcasting is basic for bringing on the language.

Allan Campbell: Tha a h-uile rioghachd, mion-chànan is bòrd cànan ag aontachadh gum feum plana airson cànan a leasachadh agus a thoirt air adhart a bhith a' toirt a-steach dà rud a tha bunaiteach: foghlam agus craoladh. Tha iomadach rud eile ann cuideachd, ach tha an dà rud sin bunaiteach agus tha sin fìor airson Gàidhlig.

Feumaidh mi ràdh, às leth a' chànan agus às leth coimhearsnachd na Gàidhlig, mura b' e na rinn leithid am BBC fad iomadach bliadhna airson a' chànan, is dòcha nach biodh an cànan cho làidir an-diugh 's a tha e. Mar sin, ged nach bi craoladh mar dhleastanas fon phlana nàiseanta a bheir am bòrd air adhart fon bhile, ma tha am plana sin gu bhith dha-rìribh na phlana nàiseanta dhan Ghàidhlig, feumaidh sinn sealltainn ciamar a tha craoladh gu bhith a' cur ris a' phlana. Bidh sinn

a' dèanamh sin le bhith ag obair cuide ri Seirbheis nam Meadhanan Gàidhlig.

Tha e cudthromach a ràdh aon rud eile. Tha am bòrd a' cur a làn thaic ri amas Seirbheis nam Meadhanan Gàidhlig airson seirbheis digiteach a bhith fo smachd coimhearsnachd na Gàidhlig. Tha sinn a' faicinn sin mar rud a tha uabhasach bunaiteach ann a bhith a' toirt air adhart amasan a' bhile agus amasan coimhearsnachd na Gàidhlig.

Following is the simultaneous interpretation:

Every minority language group and every language board would say that two things—education and broadcasting—are basic to developing the language. Many other things are involved, but those two things are important. I should say, on behalf of the language and the Gaelic community, that if it were not for what the likes of the BBC have done over many years, perhaps the language would not be as strong as it is. Therefore, although broadcasting is not part of the national plan for Gaelic that the board will develop as a result of the bill, I envisage that, if the plan is indeed to be national, we will have to consider how broadcasting adds to it. We will do that by working with the Gaelic Media Service.

The board fully supports the Gaelic Media Service's aim for digital services. We see such services as important in meeting the objectives of the bill and the Gaelic community.

Ms Byrne: In relation to dealing with disputes, we have received evidence from organisations that would prefer an independent review mechanism and from people who think that the public services ombudsman could play a key role. Are you happy with section 5(4) and other sections of the bill that pertain to ministers' intervention in dealing with disputes, or should there be other aspects to the proposals?

Duncan Ferguson: Mar a thuirt sinn na bu tràithe, tha sinn a' faireachdainn gu bheil sinn toilichte nach tìgheadh sinn dhan t-suidheachadh sin. Nam biodh duilgheadasan is easaonta ann, bhiodh na gnothaichean àbhaisteach a' tachairt is an t-ombudsman air a thoirt a-staigh. Leis an sin, mar a chithear anns a tagradh againn, tha sinn gu math toilichte gun tig a' chùis gu ministearan aig a' cheann thall agus dhan ombudsman mura dèan sin feum. Tha sinn toilichte gu leòr leis an t-suidheachadh mar a tha e.

Following is the simultaneous interpretation:

As we said, I think that we are happy that we will not arrive at such a situation. However, if there were difficulties and disagreements, the usual course would be followed and the ombudsman should be involved. I think that we are happy to allow the ministers such powers. If that does not

help, the matter should go to an ombudsman, but we are quite happy with the situation as it is.

Robert Dunbar: Tha mi a' smaointinn gum biodh e comasach dhan ombudsman sùil a thoirt air duilgheadasan ann a bhith a' toirt seachad seirbheisean tro mheadhan na Gàidhlig. Cha do mhol sinn coimiseanair teanga no obair eile mar sin aig an ìre sa. Tha a leithid a-nis ann an Èirinn agus ann an Canada, ach tha eachdraidh gu math fada anns an dà àite sin. Cuideachd, tha còraichean gu math stèidhichte aca anns gach àite le àrainneachd laghail agus àrainneachd eachdraidheil gu math eadar-dhealaichte. Nan robh sinn an dùil gum biodh an t-uabhas ghearanan ann agus trioblaidean eile, is dòcha gum biodh e riatanach agus iomchaidh smaointinn air a leithid, ach bidh sinn a' leantainn eisimpleir na Cuimrigh gu dlùth. Mar sin, cha chreid sinn gum bi uimhir de dhuilgheadasan ann a dhèanadh e riatanach oifis air leth a bhith ann. A-rithist, leis nach bi an t-uabhas airgid againn, b' fheàrr leinn airgead a chosg air a bhith a' toirt seachad seirbheisean na a bhith a' stèidheachadh oifis cosgail aig nach biodh mòran obair ri dhèanamh.

Following is the simultaneous interpretation:

I think that it would be possible to allow an ombudsman to consider difficulties in delivering services in Gaelic. That could be done through a language commissioner or somebody similar. We have not recommended that, but there is such a person in Canada, which has a long history of such things. There are definite rights in each place. Canada has a very different legal and historical environment. If we were expecting a lot of complaints and trouble, thinking about a commissioner might be important and appropriate. However, from the example of Wales, which we will follow, we do not believe that there will be many problems. I do not think that there will have to be a separate office. I would prefer to spend money on delivering services than on establishing an office that will not have much work to do.

Fiona Hyslop: I have a number of questions for which yes or no answers would help. I am conscious of the time.

The Convener: I do not think that there are words for yes and no in Gaelic.

Duncan Ferguson: We can use “tha” and “chan eil”, which are the present tense forms of the verb “to be”.

Fiona Hyslop: I will ask all my questions at once. First, we have been told that there are fewer than 30 Gaelic-medium secondary teachers in Scotland. Is that correct?

Secondly, there is nothing about teacher training in the bill, although teacher training is obviously critical to the language. In housing legislation, for

example, there are instructions to the Government to have a fuel poverty or homelessness strategy. Would it be appropriate for the bill to require a teacher training strategy?

Thirdly, we heard from the Welsh Language Board about phasing in plans. If the bill is passed, what priority will you give to authorities? Will you phase organisations' needs for plans, as was done in Wales? Will you produce guidance on plans? Do you intend to produce templates?

Finally, we have heard evidence that we should make a criterion for plans the potential to develop Gaelic, rather than the extent to which Gaelic is used. Places such as Dumfries and Galloway are concerned that the bill is an imposition when there is no demand. The criterion of the potential to develop Gaelic might help in my part of the country—I represent the Lothians—but it might be inappropriate in the Highlands and Islands. However, considering the extent to which the language is used might be too much of a cap and a ceiling. Would there be merit in considering a definition that combined the potential for development in areas of not much development with the extent to which the language is used?

11:45

Duncan Ferguson: Tha mi a' toirt taing dha Fiona Hyslop airson tòrr cheistean.

Ag obair air ais, tha thu ceart gum bu chòir dhuinn a bhith a' toirt sùil air dè is urrainn tachairt. Mar eisimpleir, tha an sgoil ann an Obar Pheallaidh a' teagasg Gàidhlig ach chan eil an sgoil ann an Ceann Loch Gilb ann an Earra-Ghaidheal. Air sàilleabh eachdraidh, chan eil Gàidhlig air a teagasg ann an aon sgìre seach sgìre eile. Leis a' chruinn-eòlas sin, tha thu ceart gum feum sinn a bhith faiceallach nach eil sinn a' sparradh Gàidhlig air coimhearsnachdan far nach eil iarrtas ann air a son. Tha thu ceart cuideachd gum bu chòir dhuinn sùileachadh gum bi an cànan a' fàs. Mar a fhreagair sinn mu thràth, bidh sinn a' toirt sùil air chan ann dìreach ciamar a bheir sinn a-staigh sgeamaichean airson bhuidhnean a tha an sàs anns a' chànan an-dràsta ach ciamar a dh'fhaodadh sinn cothrom a thoirt do bhuidhnean nach eil a' dèanamh càil an-dràsta, is dòcha, anns na sgìrean far nach eil Gàidhlig làidir an-dràsta.

Dhèanainn a' phuuing gu bheil luchd-ionnsachaidh air leth cudthromach. Ged a tha an àireamh luchd-bruidhinn na Gàidhlig gu math ìosal, tha fìor ùidh gu nàiseanta agus gu h-eadar-nàiseanta ann a bhith ga h-ionnsachadh. Leis an sin, ma dh'fhaodas mi cleachdadh am facal a chleachd thu fhèin, tha potential fìor mhòr ann airson ionnsachadh, ma bheirear daoine an cothrom ann an clasaichean-oidhche is cùrsaichean-bogaidh.

Ma dh'fhaoidte gun cuir Ailean Caimbeul ri sin. Bha cus ceistean ann, agus chan eil cuimhne agam orra air fad.

Following is the simultaneous interpretation:

I thank Fiona Hyslop for all those questions.

You are right: we should consider what can happen. For example, a school in Aberfeldy teaches Gaelic, but Lochgilphead High School does not. The teaching of Gaelic in one area but not another is a matter of history. You are right that we must be careful not to impose Gaelic on communities with no demand. However, we should expect and hope that demand will grow.

We said that we will consider having schemes for existing organisations. Perhaps we can work on organisations that do nothing at the moment or those in areas where Gaelic is not strong. Gaelic learners are important. Huge interest is felt in learning Gaelic, so there is potential—you used that word. Great potential for learning exists if people have the chance of a nightclass or an immersion course.

You asked too many questions—I do not remember them all.

Allan Campbell: Bheir Donnchadh MacFhearghais freagairt dhan cheist air luchd-teagaisg anns an àrd-sgoil, ach bu toil leam dìreach cur ris na thuirt Donnchadh mu dheidhinn nan sgeamaichean.

Is e èaladh a nì sinn. Bidh na sgeamaichean air an toirt a-staigh gu socair, mar a thachair anns a' Chuimrigh. Chan eil mi a' smaointinn gu bheil an còrr dòigh air a dhèanamh. Chanainn a-rithist nach eil e na amas no na rùn aig a' bhòrd a bhith a' sparradh sgeamaichean air duine sam bith. Thèid na sgeamaichean air adhart ri linn aonta agus conaltradh eadar sinn fhìn agus na buidhnean. Bidh am bòrd a' deasachadh liosta air cò na buidhnean leis a bheil sinn airson a bhith ag obair an toiseach, ach chan eil an liosta sin againn air a dheasachadh aig an ìre seo. Gun teagamh, bidh sinn a' deasachadh iùil dha na buidhnean ach, ged a tha sinn air a bheachdachadh air mu thràth, chan eil sin deiseil againn a bharrachd.

A thaobh am bi sinn a' toirt template no dealbh de phlana dha na buidhnean, bithidh. Bidh sinn a' sealltainn dhaibh na planaichean aig buidhnean eile ach, cha bhi sinn ag ràdh riutha, "Seo an rud a dh'fheumas sibh a dhèanamh." An àite sin, their sinn riutha, "Seo an rud a tha feadhainn eile a' dèanamh. Dè a tha sibh a' smaoinneachadh a bu chòir dhuibhse a dhèanamh?" Is ann mar sin a bhios sinn ag obair cuide riutha.

Is e ceist uabhasach inntinneach am bu chòir dhuinn a bhith a' leantainn iarrtas no a bhith a' leantainn a' cothruim iarrtas a leasachadh. Tha mise a' smaoinneachadh gum feum pòsadh a bhith

ann eadar an dà rud. Nam biodh sinn ach a' leantainn iarrtais—mar a thuirt cuideigin roimhe, nam biodh sinn a' strì dìreach airson preservation den chànan—bhiodh sin a' ciallachadh gum biodh i a' fuireach mar a tha i, mar chrogan jam, agus gum biodh i gu bhith marbh. Mar sin, feumaidh sinn a bhith a' coimhead air seòrsa de leasachadh agus airson pòsadh dhen dà rud.

Chanainn gu bheil aon rud eile ann a tha cudthromach. Tha mi fhìn air a bhith ag èisteachd ris an fhianais a thug a' chomataidh bho thoiseach agus tha mi air Elaine Mhoireach a chluinntinn iomadach turas ag ràdh, “Dè tha dol a thachairt shìos ann an Dùn Phris is Gall-Ghaidhealaibh? Dè an ìre aig am bi rudan air an sparradh air a' chomhairle sin?” Tha mi a' smaointinn gu bheil e cudthromach a ràdh nach bi rud air a sparradh oirre.

Tha rudeigin uabhasach inntinneach eile—rud a tha misneachail—romhainn cuideachd. Nuair a chuirear an gnìomh am plana reusanta a thèid aontachadh eadar sinn fhìn agus Dùn Phris is Gall-Ghaidhealaibh, is dòcha gun tig an uair sin na daoine bho VisitScotland leis a' phlana acasan. Bidh iadsan a' coimhead air an t-uabhas dhaoine a tha a' tighinn à Èirinn a dh'Alba airson saor-làithean agus bidh iad airson na daoine sin a bhrosnachadh. Nuair a thig iad sìos gu ruige Dùn Phris, bidh iad a' coimhead air na h-aiseagan an sin is bidh iad airson rudeigin gu math làidir a dhèanamh shìos anns an sgìre sin. Bidh a' chomhairle an uair sin a' cur fàilte air a' chothrom airson leasachadh eaconomach agus bidh a' chomhairle deònach obrachadh còmhla ri VisitScotland ach am faighear feum a thoirt às a' phoileasaidh. Mar sin, tha chemistry gu bhith ann agus tha pòsadh gu bhith a' dol eadar na sgeamaichean aig na buidhnean fa-leth mar a thèid gnothaichean air adhart.

Following is the simultaneous interpretation:

Duncan Ferguson will talk about teachers in high school and I will add to what was said about schemes. The schemes will be implemented slowly, as in Wales. There is no other way to proceed. I repeat that it is not the bòrd's objective or wish to impose on any area or anyone. Schemes will be proposed for agreement and discussion. The bòrd will prepare a list of the organisations with which it wishes to work initially. We are thinking about that list, which is not ready. We will prepare direction for those organisations. We are thinking about and working on that, but that is not ready either.

We will create a template—a picture of how a plan should be worked out. We will show organisations the plans that other areas have and we will not say that they should have such plans. We will say that those plans show what others are doing and ask what organisations think that they should do. That is how we will work with bodies.

Whether we should follow demand or the opportunity for development is an interesting question. Those two aspects must be married. As has been said, if demand alone is considered, that just preserves Gaelic as it is. It is like a jar of jam—it is dead. Therefore, some development must be considered.

I have listened to the evidence from the beginning of the process and I have often heard Elaine Murray ask about the situation in Dumfries and Galloway and the extent to which things could be imposed on the council. It is important to say that things will not be imposed on councils.

Another interesting thing that is before us, which is encouraging, is that when a plan is put into action, it has to be reasonable. That is the sort of plan that would be agreed between the bòrd and Dumfries and Galloway Council. VisitScotland is also to come up with its plan. For example, it could say, “Many people from Ireland want to come to Scotland on holiday.” VisitScotland will want to encourage those people to come to Scotland. When its officers came to Dumfries and Galloway, they would look at things such as ferry links—indeed, VisitScotland might want to do something significant in that area. If that were to happen, Dumfries and Galloway Council would look at the opportunities that the VisitScotland plan offered and assess the economic benefit to the area. It would say that it should work with VisitScotland to get a benefit for the area from the VisitScotland plan. As things progress, a chemistry will have to develop between the different organisations—indeed, one could almost call it a marriage.

Duncan Ferguson: Thig mi air ais chun na ceiste fìor chudthromaich a dh'fhaighnich Fiona Hyslop mu dheidhinn tidsearan anns an àrd-sgoil. Tha thu ceart gur e, tha mi a' smaointinn, 40 an àireamh a tha ann. Tha sin a' cur bacadh air leudachadh air cuspairean tro mheadhan na Gàidhlig anns na h-àrd-sgoiltean. Ghabhainn ris a' bheachd gu bheil feum againn air sgeama sònraichte airson trèanadh tidsearan a tha ann an dreuchd an-dràsta a bharrachd air trèanadh na feadhainn a tha a' tighinn a-staigh dhan phroifeisean airson teagasg tro mheadhan na Gàidhlig. Tha sin na amas fìor chudthromach dhuinne mar bhòrd.

Following is the simultaneous interpretation:

I will answer the important question on the subject of Gaelic-medium education teachers. The number of teachers is 40, which prevents subjects from being taught in Gaelic at secondary level. I share the member's view that we need a special scheme to bring teachers in to the profession and to implement teacher training. Such a scheme could be offered to current teachers and to those who are entering the profession. One of the bòrd's important aims and objectives is the training of Gaelic-medium teachers.

Fiona Hyslop: Does that need to be on the face of the bill? Does the Executive need to make a commitment to its strategy in that area, either in the Gaelic Language (Scotland) Bill or in the appropriate education legislation? We are dealing with that issue in our scrutiny of the bill.

Duncan Ferguson: Bhiodh e na bu fhreagarraiche ann an reachdas eile, chan ann anns a' bhile. Tha am bile gu math farsaing air taobh na Gàidhlig. Is dòcha gum biodh e nas iomchaidhe a bhith ann an reachdas eile.

Following is the simultaneous interpretation:

It would be more appropriate if the provision were to be introduced in another piece of legislation, as the bill deals in general with the Gaelic language. That said, I hope that the provision can be included in another bill.

Ms Alexander: As most of the questions on matters of finance have been dealt with, I will follow on from Fiona Hyslop's question. The bill does not make reference to the costs that would be involved if the provision of Gaelic-medium education were to increase. If the bill is successful, surely there is likely to be a rise in demand for Gaelic-medium education. What are the financial implications of such a rise in demand and how could additional demand be met?

Duncan Ferguson: Tha sinn an dòchas, agus cha mhòr gu bheil sinn cinnteach, gum faigh pàrantan misneachd às an achd a thig bhon bhile agus gum bi barrachd iarrtais ann airson foghlaim tro mheadhan na Gàidhlig. Feumaidh sinn cuimhneachadh gu bheil cosgaisean a' dol sìos air an taobh eile nuair a tha pàiste a' faighinn foghlaim tro mheadhan na Gàidhlig a chionn 's nach eil iad a' faighinn foghlaim tro mheadhan na Beurla. Tha fhios agam gu bheil eadar-ama ann far nach eil e furasta sàbhaladh a dhèanamh, ach bidh a' chomhairle a' sàbhaladh airgid aig a' cheann thall—mar eisimpleir, ann an Sgoil Ghàidhlig Ghlaschu—oir cha bhi a' chlann sin ann an sgoil eile.

Following is the simultaneous interpretation:

I hope—indeed, the bòrd is almost certain—that parents will take encouragement from the act. We believe that many more parents will want Gaelic-medium education for their children. However, we must remember that, whenever a child goes into Gaelic-medium education, other costs go down. The child will no longer take up a place in an English-medium school. It is not easy to make financial comparisons. At the end of the day, however, Glasgow's Gaelic school saves money for the council because the children who attend that school are not in another school.

Ms Alexander: Given our time constraints, I will not pursue the matter further. However, partly

because we have been impressed by the quality of your evidence, I invite you to look at the late submission from Highland Council, which addresses the issue of Gaelic-medium education and where the additional costs may fall. The committee would welcome any comments that you might want to make in writing on the validity, interest and helpfulness of Highland Council's suggestions on that subject. That would be helpful to the committee.

Duncan Ferguson: Is deagh bheachd sin agus nì sinn sin. Tapadh leat, Wendy.

Following is the simultaneous interpretation:

I thank Wendy Alexander for that suggestion. It is a good idea.

Mr Kenneth Macintosh (Eastwood) (Lab): Thank you for the quality of your written submission, which has been very helpful. Many of the questions that I wanted to ask on teacher supply and the bill's potential have been asked and answered. I simply say, tapadh leat.

Duncan Ferguson: Tapadh leatsa, a Choinnich. Is math a rinn thu.

Following is the simultaneous interpretation:

Thank you, Kenny—very well said.

Allan Campbell: I intended to make one further submission to the committee and I apologise for not having not done so, as it will be helpful to you. I will submit a copy of some research that Bòrd na Gàidhlig commissioned about a year ago in partnership with the BBC. We asked Market Research UK Ltd to conduct an attitudinal survey, using a scientific, non-random sample, into attitudes to Gaelic in Scotland. We were hugely encouraged by the results, and I am sure that the committee and the Parliament will also be hugely encouraged. The research found that, broadly speaking, 80 per cent of people in Scotland support Gaelic and think that the language should be made available to children whose parents want them to learn the language at school.

The Convener: That is welcome. I am conscious of the fact that we have short-circuited the debate. I do not think that we have missed any key issues. If members have areas that they would like to pursue further, perhaps they could advise the clerks. Equally, if the witnesses from Bòrd na Gàidhlig have anything further to tell us or if they want to add to their evidence, I invite them to come back to us quickly. That offer is additional to the homework that we have given you, of course.

Duncan Ferguson: Tha dìreach aon fhios fiosrachaidh agam a fhreagairt na ceiste a bha aig Fiona Hyslop. A rèir coltais, tha 60 tidsear ann a' dèanamh cuspairean tro mheadhan na Gàidhlig; chan e 40, mar a thuirt mi. Tha 40 tidsear Gàidhlig

anns na h-àrd-sgoiltean, ach tha 60 tidsear a' dèanamh chuspairean tro mheadhan na Gàidhlig. Tha deagh ùghdarras airson sin, oir tha e air tighinn bho Bhoyd Robasdan. Mar sin, is fheudar gu bheil e fìor.

Following is the simultaneous interpretation:

We have one additional piece of information to correct an answer that we gave to Fiona Hyslop. The number of teachers in Gaelic-medium education is 60, not 40. There are 40 teachers in secondary schools, but the overall number who are involved in subjects that are taught through the medium of Gaelic is 60. The information comes from Boyd Robertson, so it must be true.

The Convener: I thank the witnesses.

Duncan Ferguson: We thank you. I expected that it would be absolutely terrible to be faced by 10 MSPs. Seeing our 300 pupils at assembly tomorrow will be a doddle by comparison. I thank everyone very much.

The Convener: I suspend the meeting for a five-minute comfort break before we take evidence from the minister.

11:56

Meeting suspended.

12:02

On resuming—

The Convener: I resume the meeting, with apologies to the Minister for Education and Young People for taking a little bit longer than expected. I am conscious of the time pressures on ministers. We are pleased to welcome Peter Peacock, who is supported by a number of officials.

We have a reasonable handle on many of the issues that arise from the bill and we want to bring back to the minister some considerations that have emerged in the process. I understand that the minister does not want to make an opening statement, which is helpful, so I will begin with a question about secure status, equal validity and other matters that relate to the status of Gaelic. We have had useful evidence about the meaning of those terms from the Welsh Language Board and, today, from Bòrd na Gàidhlig. Many people have argued that the bill should contain some sort of symbolic recognition of the language. Is that possible? Perhaps the bòrd's suggestion of using equal validity as the basis might appeal to the ministerial team and officials.

The Minister for Education and Young People (Peter Peacock): I thank the convener for his helpful remarks about my opening statement.

I suspect that there are difficult legal aspects to the issue. The bòrd's submission was extremely

helpful in setting out clearly what lies behind its views on what it calls equal validity, a concept that is sometimes expressed as equal status, secure status or official status.

The bòrd's written submission was good at balancing the Gaelic community's concerns—which are based on historical experience of prejudice towards the language and the fact that many Gaels are suspicious about people's real intent and whether they wish to help the language to move forward—with a recognition of the practical and legal difficulties. I felt that its arguments were very mature.

I very much share the feelings outlined in the bòrd's paper that it is legitimate for individuals to aspire to use Gaelic as normally as possible in their lives; that Gaelic should not suffer from a lack of respect at individual and corporate level; that there should be parity of esteem for the languages; and that Gaelic is as legitimate a language as any other spoken anywhere in the world. Indeed, I strongly associate the Executive with the bòrd's comment that we should approach dealing with the language with "generosity and good will".

That raises the question whether we can accommodate such sentiments in the bill. We think that we can capture them in the bill's guidance rather than in the bill itself. In expanding that point, I should perhaps differentiate between terms that are sometimes used interchangeably.

As the bòrd's paper acknowledges, secure status is not a legal concept. Instead, it describes the broad range of measures that people want to secure the status of language. As for the term "official status", the Executive has already made clear its belief that the language has such status and has introduced a variety of touchstones to support that. Indeed, a response to a parliamentary question at Westminster explicitly states that Gaelic has official status as a language in Scotland and the UK. The fact that we incur spending on the language; that there is a minister with responsibility for it; that various acts of Parliament refer to it; that the Gaelic Language (Scotland) Bill has been introduced; that we answer parliamentary questions in Gaelic; and that we have debates in Gaelic in the chamber points to its official status. We have tried to allude to that even more strongly in the bill's long title.

As we believe that the terms "equal status" and "equal validity" are probably exactly the same legal concept, putting either into the bill somewhere beyond the long title—if I can put it that way—might have some legal effect or meaning. If I had included those terms in the bill, the committee would be asking me about their legal meaning and whether I could deliver on such a provision. The bòrd itself acknowledges that it is difficult to pin

down the legal meaning of those terms. For example, if a court interpreted “equal status” or “equal validity” as exactly what those terms say, it would have practical implications that could not be dealt with in the short term, as the bòrd recognises. Any provision in the bill that implied that the language should have exactly equal status with regard to public service delivery, the law of contract and all circumstances across Scotland might well be unenforceable.

Because of those legal difficulties, we have decided to try and capture in the bill’s accompanying guidance and the guidance on language planning all the sentiments about equal validity that the bòrd expressed so well in its written submission and to do so with a generosity of spirit towards the language. I point out that people will have to have regard to that guidance, which will capture what the bòrd and others want us to capture without getting us into any future difficulties with the court interpreting the provisions either in a very narrow way, which would not help Gaelic, or in a very broad way, which might mean that we would not be able to deliver the provision in public services, the courts, contracts or any other dimension of our lives.

We feel that we have set out the best formulation of the way in which we want to proceed. As I have said, we have tried to construct the long title in such a way as to allude to some of that spirit without explicitly setting it out in the bill’s detailed provisions and perhaps giving rise to all sorts of uncertainties and complications later on.

The Convener: It is fair to say that this is one of the most difficult areas to get a handle on, but the bòrd seems to recognise—as does the Welsh Language Board, from whom we heard last week—that using Gaelic as a normal part of life should be an aspiration rather than a practical aim. I do not think that either board intends that specific legal rights should flow to individuals from the principle of equal validity. They regard that principle as setting the direction of travel. Given that, I wonder whether the Executive would consider being guided by the bòrd’s point in its written submission about the principle of the Gaelic and English languages having equal validity. That is perhaps not something to respond to today, but we will probably all want to ponder it a little over the next week or two.

Peter Peacock: I am happy to reflect on that point, but I do not want to mislead the committee into thinking that putting the phrase “equal validity” into the bill would provide a simple solution or would be a panacea. I understand and accept the bòrd’s point about the symbolism of the phrase and the desire to have an aspiration. However, the challenge for me, and I suspect for the Parliament at the end of the day, is to consider what the legal

effect of putting the phrase “equal validity” into the bill would be. If we included that phrase in the bill, we would get into huge legal complications, which is why we chose to go down the route that we did. However, we can perhaps ponder how we could capture the spirit of equal validity within the bill’s framework, if not necessarily within the long title.

The Convener: We heard from the Welsh Language Board that the Welsh Language Act 1993 managed to ensure that the English and Welsh languages were treated on a “basis of equality” through the use of the phraseology

“so far as is both appropriate in the circumstances and reasonably practicable”.

Lawyers have a substantial ability to produce phraseology that could move us forward on the point of equal validity. We heard that no legal cases have arisen in Wales because of the wording in the 1993 act. There has been no need to interpret the “basis of equality” provision in practice and the bill’s phraseology has caused no difficulty; it has simply set the direction and is just there in the background.

Peter Peacock: I considered the Welsh example before we drafted the bill, partly because I wanted to be as helpful as I could in capturing the spirit of the principle of equal validity. Of course, there is a danger that the 1993 act’s phraseology could be interpreted as offering an opt-out from the principle of equality. In my earlier thinking, before the bill was drafted, I reflected in particular on the number of Welsh speakers compared with the number of Gaelic speakers, and on the distribution of Welsh speakers in Wales compared with the distribution of Gaelic speakers in Scotland. I thought that, on balance, we could achieve everything that people wanted to achieve without having a compromise formulation in the bill that might provide an opt-out for certain parts of Scotland in the future. I believe that, rather than use similar phraseology to the 1993 act’s, the best strategy is to use the guidance that will accompany the bill. I do not think that the context for Gaelic in Scotland is as strong as that for Welsh in Wales.

The Convener: I take that point. Does anyone want to come in on that issue, or are members happy to leave it and move on to other areas?

Fiona Hyslop: Will the minister comment further on the convener’s specific point about the potential for using the phrase “equal validity” in the bill?

Peter Peacock: If that phrase were put into the bill, it would have a legal meaning. If the phrase were taken literally, it would mean that the English and Gaelic languages would have to be regarded as being absolutely equal in all circumstances; they would have to have equal validity for usage in courts, public service delivery and all dimensions

of our life. Frankly, we could not deliver such equality of status. The bòrd recognised that that could not be done in practice. Delivering equal validity status might be possible in certain pockets of Scotland because of the concentration of Gaelic speakers there, which would allow a high proportion of services to be delivered through Gaelic.

If the courts' ultimate interpretation of the bill was that we had to deliver equal validity status across the board in Scotland, we simply could not do so; therefore, equal validity would be simply symbolic, because it would be meaningless in legal terms. Equally, the courts could interpret equal validity differently and could narrow the interpretation by finding that, because equal validity was not achieved in practice, Gaelic did not have equal validity. Frankly, rather than put ourselves in such a position, I believe that we should try to accommodate all the concerns by other mechanisms that we can put in place.

Fiona Hyslop: So the phrase "equal validity" could be defined broadly or narrowly in law, according to a court's interpretation.

Peter Peacock: Yes. Frankly, I would rather have certainty on language planning in the bill and allow for greater flexibility in the guidance, which can use different language. The guidance must be such that people will have to have regard to it in their language planning.

The national language plan and the guidance on agency planning can also be used to express and capture some of those concepts. We can capture the spirit without giving ourselves the legal complications that would arise with specific provisions in the bill. Having said that, I am happy to reflect on the point that has been made, and to examine possible formulations that do not give us legal complications.

12:15

Mr Macintosh: Does the minister accept that the issue is not just about aspirations, but about the lack of confidence that the Gaelic community has developed over the years, which is stopping the development of Gaelic, particularly when coupled with the lack of Gaelic-medium teachers at secondary? That is stopping people pursuing the language for their children. What is needed is an element of comfort. Will he examine not only the equal validity argument, but the statement in the Welsh Language Act 1993? It does not introduce a rights-based approach; it is clearly qualified. We could take a practical step to give some comfort to the Gaelic community.

Peter Peacock: I understand the point. My worry is that applying the Welsh formulation in a Scottish context might have a different effect than

it has in Wales, because of the number of speakers. It might become a way for people to opt out of their responsibilities, rather than to opt in, which is what we want to happen.

I take the point about people's sense of injustice about the history of the language. As I recall, an act of the former Scottish Parliament referred to Gaelic having to be "abolishit and removit" from the land. There is a long history of prejudice towards the language. I hope that we are living in much more enlightened times. The very fact that the Parliament is debating the bill—which, I hope, will become an act of Parliament—taken with all the things that we are doing to strengthen and support the language, and the major decision that was taken by Glasgow City Council yesterday, with our financial support, to have a Gaelic secondary school for the first time in Scotland, are examples of the confidence that is beginning to grow.

We have to do an awful lot more, but we have turned the situation round significantly, and the bill will help further when it becomes an act of Parliament. We have to be careful that what we put in the bill does not prejudice the development of Gaelic in ways that we cannot anticipate. However, I will happily reflect on the proposition that has been made.

Lord James Douglas-Hamilton: I notice from the bill that

"The Scottish Ministers must ... approve the guidance with or without modifications".

I have two questions on the guidance. First, would it be appropriate for the bòrd's guidance to cover such issues as the best practices to be adopted by United Kingdom bodies and private sector bodies, such as Royal Mail? Secondly, could the guidance cover court cases? We know that the rules of the Court of Session cover the situation in the Western Isles and the north-west of Scotland. We wonder whether that is an appropriate area on which to give guidance.

Peter Peacock: There are several points there. On your point about the courts, when approached by the bòrd, the Scottish Court Service would have to consider having a language plan for its service. Within that context, the service would consider how it could provide equality for Gaelic in parts of the court service, hopefully on a wider basis than currently exists, and grant within its administrative practices equal validity to Gaelic in certain settings. For example, in the civil courts in Portree, Stornoway and Lochmaddy, people can conduct their case in Gaelic. Potentially, that could be extended through the Scottish Court Service's language plan. In that context, the guidance that the bòrd issued would apply to the service and how it considered its language planning.

At the moment, I am not sure whether there will be a specific bit of guidance about the courts; I do not rule that out. In my view, the guidance that the bòrd establishes on language planning will cover a range of agencies and will invite them to consider a range of issues as they develop their language plans.

There is nothing to prevent the bòrd from engaging with UK bodies and inviting them to produce language plans. The guidance that it produces for language planning generally will be just as helpful to UK bodies. The bòrd has powers to assist voluntary sector and private sector organisations that might wish to develop language plans. To an extent, that is already taking place. The general guidance on language planning that will be available will help people to structure any language planning that they might want to undertake. The guidance that the bòrd issues will cover all those circumstances.

Lord James Douglas-Hamilton: We have heard how the Welsh Language Board intends to make use of the most modern innovations in high technology and videoconferencing. What is the prospective timescale for the group that you have set up to report to you on that subject? Its work will mean that the best use of videoconferencing and high technology can be progressed expeditiously in the best interests of those who wish to take advantage of it.

Peter Peacock: As you have indicated, during the course of the year, I set up a group to consider the advanced technology that is now available, to ensure that we could develop a range of education services—although the potential uses of the technology go beyond education. We want to be able to use modern technology to create a virtual secondary school, using video streams and so on. The director of education of Highland Council, who I think has given evidence to the committee during its evidence taking on the bill, is chairing that group, which includes representatives of the General Teaching Council for Scotland, Learning and Teaching Scotland and a range of local authorities. I am told that it hopes to start piloting services next year, in 2005. We will see where that takes us. We have given the group a budget to help it to get on with its work. From my point of view, the quicker we can make progress on that, the better.

On the wider responsibilities, the development of a virtual secondary school for Gaelic-medium education is giving us a better understanding of what we might be able to do in English-medium education to make classes, in particular at upper-school level, more viable than they might otherwise be. That is especially important given falling school rolls and the remoteness of some of our communities. The project is exciting and

innovative and we hope that it will bring significant benefits in due course.

Alex Neil: I will ask about two aspects. You were right to refer to the small number of people who speak Gaelic in Scotland relative to the number of people who speak Welsh in Wales. As you will know, it is estimated that the difference between the number of Gaelic speakers who die and the number of Gaelic speakers who come on stream every year amounts to a net loss of nearly 1,000 Gaelic speakers. Has any assessment been carried out of what impact the bill—if it becomes law in its current form—will have on the number of Gaelic speakers in Scotland and, if not, do you intend to carry out such an assessment?

My second question is related, but different. You have no doubt had time to study the Finance Committee's comments on the bill. What is your response to them?

Peter Peacock: On your first point, the worrying thing about the demographics of Gaelic is that, as you suggest, existing Gaelic speakers are dying out more quickly than new Gaelic speakers are emerging. However, it is encouraging that many more new speakers are emerging because of the rapid expansion of Gaelic-medium education in recent years. I do not have a precise numerical assessment of the bill's impact, but it was stated explicitly that one of the purposes of setting up the bòrd was to grow the number of Gaelic speakers. The bòrd will work on what that means and will consider whether to set targets, how to achieve them and so on. I would expect further work to be done on that.

Alex Neil: Do you envisage that targets will be set?

Peter Peacock: To be honest, I do not have a view on that. The setting of targets could be helpful, and I am not against that in any way, but, equally, setting targets is not always helpful, because it can sometimes divert attention from other forms of activity. We just have to take a balanced view. The Executive has targets to grow the number of young people in Gaelic-medium education by, I think, 20 per cent by 2009—I will confirm that position for you. We have a target for Gaelic-medium education, but I hope that the bòrd will also be active in supporting others to enable people to learn Gaelic as an adult or at any stage as a second language, not necessarily through the medium of Gaelic. That will grow the numbers, too. We need to do more work on that and I am sure that the bòrd will keep the Parliament informed as we go forward.

The big constraint relates to teacher numbers, not the provisions in the bill per se. The bill cannot provide for getting more teachers into the system, which is the critical challenge that we face to

enable us to liberate the supply of young people who want to study Gaelic through the medium of Gaelic or by other means.

Obviously I paid attention to the Finance Committee's report and discussed it with officials and representatives of the committee. We are confident that the figures that we gave the Finance Committee were as good as we could get them. I notice from the evidence that you have been taking from a range of bodies that there are different views about the costs of implementing the bill, particularly in relation to language planning. In the financial memorandum, we stated that the cost of creating a language plan would be £10,000. The evidence that you have taken from those who have created such plans is that the cost could be significantly lower. What the language plan will cost depends on what is put in it. We have scoped the cost from a range of nothing at one end right up to significant expenditure, depending on people's aspirations in the short term. We thought that that was a fair way of representing the costs.

When we printed our headed paper and made it bilingual, we were going to reprint it anyway, so it did not cost us any more; there was a nil cost. When we change road signs that we were going to change anyway, to make them bilingual, there is no public expenditure. Therefore, costs can range from zero to however much we want to spend. I understand completely the Finance Committee's anxieties about the potential for costs to escalate without the necessary transparency and scrutiny, as it saw it. The committee made a number of suggestions to ensure that we get out to parliamentarians the guidance on language planning during stage 2. We will be happy to do that if we can. Largely, the ability to do that relates to work that the bòrd is doing, and I am not going to commit it to providing the guidance at that stage, because it is complex and we want to ensure that it is right and that we do not mislead Parliament about it. Even if we do not get it produced for stage 2, we will get the principles of the guidance elucidated to the committee so that members can see what we mean about the nature of the guidance. It will not be a cost driver of itself.

The Finance Committee has also asked that, through the corporate planning arrangements between the Executive and the bòrd, we consider ensuring that we have clarity about what bodies will be approached to prepare language plans. We want to make that transparent, and we can do it as part of the corporate planning process. It has also asked us to consider applying to the bodies who are recipients of an invitation to create a language plan from the bòrd some sort of reasonableness test. By definition, public bodies cannot act unreasonably; they can be challenged if they do so. I am sure that that is a principle to which members adhere. Nonetheless, we will consider

all the Finance Committee's suggestions. I have an open mind on that. If its suggestions help to provide transparency and clarity, I am quite happy to consider them all. I will make that clearer when we come to the stage 1 debate.

Dr Murray: I turn to the issues of teacher supply and resource. We have heard evidence, of which you will be well aware, about the number of teachers who are able to teach in Gaelic medium and the number of Gaelic language teachers. Issues have also been raised about lack of career progression, which can be a disincentive to people becoming Gaelic-medium education teachers. Problems were also raised in relation to the continuation of Gaelic-medium education; children who have GME in primary school might not be able to receive it in secondary school and they are even less likely to be able to receive it in further and higher education.

We have also received evidence that the resources for Gaelic teaching are not really adequate—often, they are photocopies of English teaching resources with Gaelic superimposed on them. Can you tell us a little about how the Executive will address the issues of teacher supply and curriculum materials and whether you will consider any incentives to encourage teachers either to become Gaelic-medium education teachers or to learn Gaelic in order to be able to do some teaching in the medium of Gaelic?

12:30

Peter Peacock: It is clear to me that the key thing for us to do as we move forward— notwithstanding everything in the bill that will help to move Gaelic forward—is to keep redoubling our efforts to get more Gaelic teachers generally and more Gaelic-medium teachers in particular. If we do not do that successfully—this takes us back to Alex Neil's point—we will not generate enough new Gaelic speakers to offset the number of Gaelic speakers whom we are losing and the language will be in serious trouble in the future. It is a critical element of what we need to do.

We have been doing quite a lot recently. We continue to tell the funding councils that this is a priority area for us and that they should fund places at the teacher training institutions for Gaelic-medium teachers. In 2005, we will run a recruitment campaign; I am just waiting for some advice from the local authority joint group that considers Gaelic matters in the local authorities, which are the employers of teachers. Once I have that group's recommendations and action plan, I will be more than happy to spend money on ensuring that we raise the profile of teacher recruitment. There have been more graduates in Gaelic-medium education over recent years, but they have not all gone into Gaelic-medium teaching.

We are doing a range of things. A new part-time open learning course is being run by Highland Council and the University of Aberdeen, whereby people can stay at home and train to be a teacher over two years while they continue working. That is showing real promise, and I would like to see much more of that. A similar course is being run by the University of Strathclyde and other local authority partners, and another course is being run by Lews Castle College and the UHI Millennium Institute to produce more Gaelic-medium teachers. Additionally, Sabhal Mòr Ostaig has always had an interest in helping existing teachers to develop a higher level of language skill to allow them to teach in Gaelic.

As I have said, one of the problems is the fact that not all the graduates who are coming through the Gaelic-medium teacher training system are choosing to teach in Gaelic. There is a bit of attrition happening. That brings us back to your point. In the final analysis, it is a matter of personal choice for individual teachers on the basis of their career prospects. As Ken Macintosh hinted, one of the factors is a lack of confidence that Gaelic-medium education is for real and will be there in 10 or 20 years' time. People need to know that we are serious about it and that we are going to invest in it; why would they choose to develop their career in that way if they were not sure of the future of it? Also, inevitably, because of the geographical distribution of Gaelic-medium schools and Gaelic-medium teaching units that are attached to schools, it is difficult for Gaelic-medium teachers to see a career path in the same way as English-medium primary school teachers, as the pupil numbers have not yet reached a level to allow that. Therefore, for a variety of reasons, people make individual career choices to go into English-medium teaching, which potentially enhances their career prospects.

The work that we have done recently, including the work on the bill, ought to give people confidence that we are deadly serious about promoting Gaelic. I hope that the things that we are doing to try to get more Gaelic-medium teachers are also giving people confidence. Additionally, we are discussing with local authorities guidance whereby we will require local authorities to set out clearly, under the terms of the Standards in Scotland's Schools etc Act 2000, their plans for Gaelic-medium education; what they interpret as reasonable demand for Gaelic-medium education and how they will meet that demand; and what entitlement they will give at a local level to parents who ask for Gaelic-medium education. That is all designed to give greater strength to the system, to promote confidence and to encourage people to opt into Gaelic-medium teaching as a career.

The work that we have been doing on Gaelic-medium secondary education in Glasgow, to which I alluded earlier, is likewise designed to give more strength to the system—not just to create secondary school education in Gaelic, but to create in secondary school teaching a career structure in Gaelic-medium education that we have not had before. What we are doing with the Gaelic-medium virtual school—if I can describe it in that way—is also designed to promote that confidence. We are on the way on this, but there is still further to go. We need to keep our effort level up and encourage people to think about Gaelic-medium teaching as a career by creating the flexibility for people to train as teachers in a way that they have not been able to in the past.

All that work is in place and I want to keep pushing it forward, as it is the key to the future success of the Gaelic language. We must keep redoubling our efforts. I have no barriers in my mind about other things that we might need to do to help to finance changes in the way in which we recruit teachers, and so on. That is something that I am prepared to consider.

Your specific point about incentives takes us into challenging territory. Ultimately, it is not for me but for the individual local authorities, which are the employers, to decide on incentives. The difficulty with any incentive system within any recruitment pool is the fact that distortions are created in the marketplace. We have seen that recently in social work. Because certain local authorities have been offering cash incentives for social workers to work for them, there are now vacancies in other local authorities and people are moving away again after a period of time. It is not a certain process. Equally, in the wider education sphere, we have a shortage of teachers in maths, English, home economics and other subjects. If we started to incentivise wherever there was a shortage, all that we would do is lift the general salary levels; we might not impact on the marketplace. There are some real difficulties with that. However, some councils are considering offering incentives, and they are free to do so. Highland Council, among others, has been considering what it might do about that and will come to its own decision.

On your point about Gaelic resources, I suspect that I know where you got your evidence from—he keeps saying that to me, as well. However, what you say is not strictly true. There was a period when a lot of second-hand photocopied material was kicking around. That was not good enough, which is partly why we have been funding Stòrlann Nàiseanta na Gàidhlig to produce good Gaelic resources. On a number of occasions recently, when we have had bits of money that have not been spent on their original purpose, I have been able to boost the funding that Stòrlann receives for new books and other materials for Gaelic-medium

teaching. In the Gaelic-medium schools that I have visited in the recent past, I have seen good modern, colourful materials that would not have been there a few years ago. We need to keep making progress in that way.

Part of the problem in the past—and I used to receive representations about this—was that if a Gaelic-medium unit in a school had photocopies but the school had decent modern materials in English, that made a statement about the value of Gaelic-medium education. We are trying to sort that, so that people do not see a difference between the resources that are available for the two. We need to keep moving forward on that.

Dr Murray: I would like to elicit your response to what seems to be becoming the Dumfries and Galloway question in relation to Gaelic. The argument is made by Dumfries and Galloway Council and others that very few people in Dumfries and Galloway speak Gaelic or have a Gaelic background. However, many of those who now reside in the lowlands have ancestors who came from Gaelic-speaking areas and might have an interest in learning Gaelic or in learning more about the Gaelic language because of that family connection. What sorts of things might be in the Gaelic plans of areas such as Dumfries and Galloway?

Peter Peacock: That is a good question. I see the potential for different approaches being taken throughout Scotland. I have never been a believer in ramming Gaelic down people's throats, as that would have the exact opposite effect to that which we want, which is to encourage the growth of Gaelic. I do not want there to be any counter reaction because we are perceived as trying to force people to do things against their will. I foresee that the Gaelic language plan in the Western Isles will be very different from the Gaelic language plan in Dumfries and Galloway—if there is one there—in the short to medium term.

It takes us back to the points that the bòrd has made on the evidence of the BBC's survey over the past 18 months. The BBC has conducted a survey of attitudes towards Gaelic. Over 70 per cent of Scots have empathy with the language even though they have no connection with it. They recognise that it is part of Scotland and Scotland's heritage—it might be part of their own family heritage without their being aware of it. There is no animosity towards Gaelic. I hope that people in Dumfries and Galloway or in other parts of Scotland who do not currently have a strong association with Gaelic will enter into the spirit of the language as the bòrd set out in its paper about validity. The paper talked about a generosity of spirit and about recognising that there is an empathy with the language.

The Gaelic plan in Dumfries and Galloway might simply open up opportunities such as evening

classes for adults. It could provide opportunities for people to develop a better appreciation of the culture and learn about the structure of the language and about all the poetry, literature and music that flows from it. That would give them a chance to share in the culture, which is much more widely available than the language alone.

Dumfries and Galloway Council might want to set out in its policies the option of offering Gaelic-medium education where there is reasonable demand. The council could then see what that demand was and decide how it would go about providing Gaelic-medium education. The council might be able to use some of the modern electronic mechanisms that are available to connect kids and families who want to learn Gaelic and use Gaelic-medium education to schools that are delivering that education in the Highlands or in other parts of Scotland. Alternatively, the council could open up the range of resources through the library service and allow people the choice to opt in, which is not currently possible.

There are a variety of ways to use Gaelic. I was even speculating yesterday that, as one heads north out of Dumfries and Galloway, there could be the odd bilingual road sign because one would be heading in a direction where the language is more widely spoken. I do not want to force people into such measures, but there are all sorts of opportunities to allow folk to opt in, to grow appreciation of the language incrementally and to grow the possibilities for people to participate in a way that they want to. Those are a few thoughts that are not very threatening; they are liberating for people.

In 10 years' time, if those measures were taken in the first language plan, the second language plan in Dumfries and Galloway could go significantly further, depending on the reaction of people in the area. If there were more Gaelic speakers, a momentum would begin to develop, as we have seen happen in the Highlands and Islands. I hope that the next version of the language plan would then go further and open up those opportunities incrementally and strengthen the language. That would allow people to feel involved.

The Convener: The resources might be improving, but we saw examples even in Portree of exactly what has been described—the translation of teaching materials from English. Key problems with the more technical matters have yet to be overcome in their entirety. For example, we have to get the language in the teaching materials right and not get academics to write them for primary school pupils. Many issues are outstanding, although progress is being made.

Peter Peacock: I am interested in what you say. I know that we are making progress, but I will look

into those matters and I am happy to help to make more progress.

The Convener: Absolutely. Are there further questions on this crucial area?

Fiona Hyslop: Minister, you mentioned recently that the guidance to local authorities should contain information about Gaelic-medium education. Do you agree with Highland Council's representations that there needs to be some kind of statutory connection between the bill and the Standards in Scotland's Schools etc Act 2000 with regard to the delivery of Gaelic-medium education? The Welsh Language Board spoke about including information about Gaelic-medium education delivery in the bill. What are your reflections on that?

Peter Peacock: I will deal with those points in reverse order. I have thought very hard about what could be stated in the bill about Gaelic-medium education and I will return in due course to your first question about how we have tried to connect the 2000 act to the bill.

I have listened carefully to arguments about rights to Gaelic-medium education and what is meant by that. I have had many conversations about that, but I am no further forward about how we could establish those rights in a legal sense in the bill. It would be immensely complex legally to do that, hence the direction of travel that we have chosen. I have read some of the evidence that the committee received about rights to Gaelic-medium education. We have to ask questions about what those rights mean. Are they deliverable in the short term? Not delivering something that is stated in a bill is challengeable, so we have to be clear that such a provision is deliverable. Are we talking about rights at nursery, at nursery and primary, or at nursery, primary and secondary? Are we talking about rights at the tertiary level or in training situations? We have to be very clear about that before we put things into the bill.

12:45

The biggest growth of Gaelic-medium education has been in primary schools, so would those rights be expressed at the level of the catchment area of an individual school? If a group of parents within that one catchment area asked for Gaelic-medium education for their children, would it have to be granted? All these positions would have to be considered. Could it be a cluster of schools or a group of clusters of schools that would be able to exercise the right, or would the rights just be given at the local authority level? There is a range of questions that would be difficult to answer in legal terms.

Some people also qualify rights immediately. They say that they do not want an absolute right to

something; they want a qualified right to something when there is reasonable demand. We then get into questions such as who decides on what is reasonable demand. Do I decide that? Should it be put on the face of the bill? What number constitutes a reasonable demand? Should that be decided by regulation outwith the bill? Again, there is a range of complications. We looked at all of that and asked whether there is a formulation that we could put in the bill that would strengthen rights to Gaelic-medium education in the way that people want.

To address Kenny Macintosh's earlier point, members of the Gaelic community have said that we can give Gaelic-medium education but we can just as easily take it away. There is a fear that people might be sending their children to Gaelic-medium education just when it is about to disappear. I hope that we have got beyond that and people believe that we are committed to doing this.

There are a lot of legal complications, which is why we have chosen the route that we have. The 2000 act gave us quite a lot of powers to move on with Gaelic-medium education. We have sought to use the powers in the 2000 act to issue statutory guidance to which people must have regard. I have done that and we are currently consulting local authorities. We are using the guidance to tell local authorities that they have to be explicit about their plans for Gaelic-medium education. As part of their reporting process, they have to determine what reasonable demand means in their area, and determine parents' entitlement. That language is used in the guidance for Gaelic-medium education. I can use those powers to create all the circumstances that we need to make progress without getting into the legal complications that arise when we try to define everything in the bill.

We have also linked those powers to guidance powers that we are giving to the bòrd under the bill. In a sense, we are creating a bridge between the 2000 act and the bill. The bòrd will police that bridge and issue future guidance on Gaelic-medium education. Ministers will have to sign that guidance off, but the initiative will be with the bòrd to keep strengthening the provisions. That is a good way of handling these issues. We link the two pieces of legislation in that way and we can move on with Gaelic-medium education while giving local authorities some discretion in what they decide to do locally.

Fiona Hyslop: That is not quite what I meant although I appreciate your explanation. You are linking the two pieces of legislation by the guidance, which can be arbitrary, but I am trying to explore the statutory and legal linkage on the face of the bill. I am bearing in mind Highland Council's concerns that pupils receiving Gaelic-medium

education should be receiving education that happens to be through the medium of Gaelic. The standards of that education should be determined by the education authorities and not necessarily by the bòrd, which has a far wider remit and does not focus mainly on education.

Peter Peacock: I am not sure that I am with you. We are linking the two pieces of legislation. I am sure that my officials or I can find the explicit reference to the 2000 act in the bill.

Fiona Hyslop: I am talking about the bòrd.

Peter Peacock: I am coming to that. Frankly, I have purposely given the bòrd more authority than we would give other non-departmental public bodies. That is partly because the Gaelic community has been flattering me by saying, "We can trust you, Peter, because you believe in Gaelic, but what about your successors? Are they going to be as committed as you are?" That is very flattering, but I am trying to make sure that the Gaelic community does not have to trust future ministers. I am giving the Gaelic community the initiative, and the bòrd will represent the community and have the power to initiate further guidance in the future. It will always have to sign that off with ministers, as no minister will have guidance flying into schools without having some idea about what that guidance is, but the initiative should be with the Gaelic community. Therefore, the proposals are purposefully designed to strengthen its hand.

However, I would not expect the bòrd to behave in any way that cuts across matters in which local authorities have legitimate interests and for which they are responsible. From my work with the bòrd so far, I know that it wants to work in a spirit of co-operation with people and to take people with it—I hope that that came across in what the bòrd said earlier. I fully expect the bòrd to consult local authorities and the Executive on guidance that it wants to issue under the powers and to recognise that the educational expertise in such matters lies in local authority hands. However, in a sense, that is no different from what currently happens. We are simply putting the bòrd in a more powerful position in the equation. Ministers would normally have such a relationship with a local authority in any event, but the bòrd will arbitrate, police and support in a different way from what would otherwise be the case.

The Convener: We will move on to another subject.

Mr Ingram: Members of the bòrd suggested that education is one pillar on which development of the Gaelic language can be built. The other pillar that they highlighted was broadcasting. Of course, many legal and statutory issues to do with Gaelic broadcasting are reserved matters, but a number

of submissions have suggested that we must do something about funding levels for Gaelic broadcasting, which is a devolved matter. There is a frustration at the split between reserved competence and devolved funding arrangements. What discussions about Gaelic broadcasting have you had with your counterparts in the United Kingdom Government? Did you consider including something in the bill about broadcasting?

Peter Peacock: You raise two or three issues. I completely agree with the point that you make about Gaelic-medium education being one pillar and broadcasting being another pillar. There are other pillars too, but it is clear that broadcasting is a major part of the future.

As you say, there are complex interrelationships between devolved and reserved broadcasting matters. However, I am very aware of concerns about the potential for a new Gaelic channel. Many discussions have taken place between Scottish ministers and their UK counterparts over a period of time to try to find a way through that matter. Patricia Ferguson carries the principal responsibility in the Executive for broadcasting in her tourism, culture and sport portfolio, and I know that her officials, the BBC, SMG and the Gaelic media service had discussions last month about these issues to try to move them forward. Further work has been commissioned as a result of that meeting to try to find the key that we are all looking for but have not yet quite found. We await the outcome of that work, but members can be assured that a lot of attention is being paid to trying to move the issues forward in a practical way.

That said, we did not consider putting specific matters to do with broadcasting in the bill, partly because we were not clear about what we could add to what is already in existence at the UK level by way of the statutory framework. The problem is not the statutory framework but practical answers to the funding streams and so on. We are earnestly trying to resolve such issues.

Mr McAveety: Submissions that we have received have dealt with your authority compared with that of the bòrd. The bòrd has said that one issue is how there can be intervention if a public body has not dealt with concerns that have been raised with it on meeting the aspirations of the bill. The bòrd suggested having a time limit within which bodies must respond, after which the minister could intervene. Would you feel comfortable having those powers or should the bòrd have them in future?

Peter Peacock: Ultimately, ministers should have a role in helping to resolve matters that the bòrd has not been able to resolve. That is an important role. If a language plan is created and the bòrd is dissatisfied with the way in which it is

being pursued, the bòrd will have the right to ask for reports on the matter. Depending on whether the bòrd is satisfied with the report, it can report the matter to me, after which I can either report the matter to the Parliament or issue a direction to the public authority concerned to take the actions that are necessary to implement the plan. It is right that those pretty strong powers should be held in ministerial hands. Given that the Executive has a huge set of relationships with local authorities and the public agencies that work at arm's length from us, it is entirely appropriate that ministers should have those powers to bring about the progress that we want as a result of the bill. However, the powers will be used on the bòrd's initiative, after it has brought the matter to our attention.

Fiona Hyslop: It has been suggested that the criteria for requiring an authority to develop a plan should include the potential to develop Gaelic rather than the more limited criterion of

"the extent to which the Gaelic language is used",

which the witnesses from the bòrd described as a preservation approach.

Peter Peacock: That takes us back to the Dumfries and Galloway question. If we act only on the basis of the number of Gaelic speakers, we will stand still. One challenge is how we break out from the areas in which Gaelic speakers are concentrated at present. The bòrd will have to achieve a balance—it will have to have regard to the number of speakers in an area, but also to the representations that it has received and to the national policy of trying to make progress with the language. The issue is not purely about the number of speakers in an area; it is also about trying to create opportunities for more people to become Gaelic speakers, such as those that I described in relation to Dumfries and Galloway.

The key is to push out the boundaries incrementally, grow the number of speakers and, over time, move the territory from the Gàidhealtachd across more of Scotland, but we must do that sensibly and practically. As part of the bòrd's decision on which bodies to approach, it will have to think in a sensible and balanced way not just about the number of speakers in an area, but about the potential for growing the number of speakers, which Fiona Hyslop mentioned.

Fiona Hyslop: We all have sympathy with that, but section 3(3)(a) talks about

"the extent to which the Gaelic language is used".

We might want to reflect on that wording at stage 2.

Peter Peacock: That is only one of the criteria, as I recall. Point me to the section again.

Fiona Hyslop: Section 3(3)(a) mentions

"the extent to which the Gaelic language is used".

That wording could be used as the lowest common denominator—an authority might decide not to do much because, regardless of anything else, hardly anyone speaks Gaelic in its area. We want to open up the criteria and introduce the notion of the potential to develop Gaelic. A wording change may be appropriate.

Peter Peacock: Under the further paragraphs in section 3(3), the decision will not be based only on the number of persons who speak the language, but on representations that are made to the bòrd on the use of the language and on guidance that the Scottish ministers give. As I said, my intention is that the language should grow incrementally. The section already embraces the thinking that you mention, but if there is an unnecessary limitation, I will happily reflect on it.

The Convener: I have a question on the money front. We have discussed the cost of the planning procedure, which will be minimal in the overall scheme of things, and we have heard evidence about the way in which mainstreaming over time will not add additional costs in the long-term. Whether mathematics is taught in English or Gaelic, the process should ultimately be the same. What money will be available from the Executive beyond the existing Gaelic development fund to deal with the bill's development implications? I am talking about the funding not for the bòrd, but for the activities that the bòrd's guidance will stimulate, which is probably the nub of the bill's slightly longer-term financial implications.

13:00

Peter Peacock: You are right. Specific costs are attached to the bill and set out in the financial memorandum. I am keen that all the money should not be spent on the bureaucracy around preparing plans. I expect agencies themselves to pick up a large part of those costs, although there might be some dimensions to the plans on which they will be given some assistance. The key purpose of the money that will be available will be to encourage activity to grow and promote Gaelic.

Over the years, ministers have consistently responded to growth in demand for Gaelic spending in whatever dimension demand has arisen—hence the money that we give to Bòrd na Gàidhlig that it did not get three years ago. We also give money to Sabhal Mòr Ostaig and Stòrlann Nàiseanta na Gàidhlig and we provide specific grant funding for Gaelic-medium education—all that has been growing, as the area is one of ministers' priorities. I expect further growth to be accommodated in the way that any change in overall expenditure is accommodated. We want there to be progress and we want the

language to develop, so we will make resources available as things progress, just as we would do in relation to other dimensions.

The Convener: The approach will emerge from the process, rather like local authority plans, rather than through announcements of further moneys during the passage of the bill—or do you anticipate making such announcements?

Peter Peacock: That is a nice invitation, but I do not anticipate making the specific announcements that you describe during the passage of the bill. We have put in place the budget that we think is necessary to implement the bill in the short term and when spending reviews come along—or as we adjust our priorities within spending review periods—we will make such announcements.

The Convener: I think that we all agree that the issue of teachers is central. Fiona Hyslop suggested that the bill could place a duty on the Executive to have a teacher training strategy. Whether or not that is the right approach, it is clear that there is a problem. A number of measures are being adopted, but can more be done? The policy will stand or fall on the success or otherwise of the approach to teacher training.

Peter Peacock: As I said, a range of measures are in place and I am waiting for advice on the recruitment strategy that we will have, which we will vigorously pursue. More broadly, our teacher workforce planning exercise, which we continually refine, considers all our teaching requirements, identifies shortages in particular areas and addresses supply needs—I mean “supply” in the broader sense—by approaching the universities to open up the number of places for teacher training. Our problem with Gaelic-medium education is not the number of available places but getting people to choose to work in that sector. I do not envisage any limit in the number of places at university for training Gaelic-medium teachers. We want to fund places, but the challenge is to get people to sign up for them. That is why we must consider recruitment.

We identify Gaelic as a specific element in the workforce planning exercise. We know about the long-term trends, retiral rates and age profiles for all the different parts of the workforce, so that we can plan ahead.

The Convener: There will be a need for association and partnership between the Executive, the teacher training establishments and the Highland Council and Western Isles Council in particular, to deal with the package of issues around promotion prospects, stability and so on. There should be a strong focus in the Executive on making that happen.

Peter Peacock: I agree. On the back of the recommendations that I am awaiting on the

recruitment strategy, we expect to have deeper discussions about such issues than we might have had in the recent past with local authorities, teacher training institutions and the General Teaching Council for Scotland. The GTCS offers much interesting thinking about how we might make progress on those matters.

The Convener: It might be worth thinking about how the approach might be targeted, made more effective and given a bit more drive, because if it does not work, it will cause immense problems.

We have had a fairly wide discussion. If members do not want to raise further matters, I thank the minister for his attendance. I am conscious that the committee is eroding around me—a bit like the Gaelic language, perhaps. There are two more items on the agenda, but given that—[*Interruption.*] May we have a bit of silence in the room, please? The committee is still in session.

Under agenda item 3 we were going to consider the scope of our stage 1 report on the Gaelic Language (Scotland) Bill, because we need to give the clerks a little guidance in advance of the drafting of the report, and under item 4 we were to discuss the committee’s forward work programme. However, given that we hope to meet next week, it would seem to be sensible to defer consideration of those matters until next week. Is that in order? Would it cause problems for the clerks?

Martin Verity: Not particularly.

The Convener: I ask members to give some thought in the meantime to priorities for inclusion in the stage 1 report, because we must give the clerks guidance before they draft the report during the Christmas recess, when we go off to eat mince pies and poor Mark Roberts will be stuck here writing the draft report.

Alex Neil: Will next week’s meeting be taken in private? If that happens, people such as me who are not members of the committee will not be able to participate.

The Convener: The committee has not yet made a decision on that. Item 3 would have been taken in public today, so I suggest that we consider the matter in public next week. After that we can consider what to do at future meetings.

I thank everyone for their patience and diligence. I wish everybody a—no, I cannot do that now; I will do that next week.

Meeting closed at 13:05.

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