

EDUCATION COMMITTEE

Wednesday 22 December 2004

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2005.

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

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Wednesday 22 December 2004

	Col.
PROTECTION OF CHILDREN (SCOTLAND) ACT 2003	1995
SUBORDINATE LEGISLATION	2019
Protection of Children (Scotland) Act 2003 Determination Regulations 2004 (SSI 2004/523)	2019
Police Act 1997 (Criminal Records) (Protection of Children) (Scotland) Regulations 2004 (SSI 2004/526)	2020
WORK PROGRAMME	2022
GAELIC LANGUAGE (SCOTLAND) BILL: STAGE 1	2031
ITEM IN PRIVATE	2037

EDUCATION COMMITTEE

28th 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:

Gordon McNicoll (Scottish Executive Legal and Parliamentary Services)

Euan Robson (Deputy Minister for Education and Young People)

Maureen Verrall (Scottish Executive Education Department)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Mark Roberts

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 6

Scottish Parliament

Education Committee

Wednesday 22 December 2004

[THE CONVENER *opened the meeting at 10:01*]

Protection of Children (Scotland) Act 2003

The Convener (Robert Brown): Good morning. I welcome members to this meeting of the Education Committee. As always, when we are in public session, people should make sure that their mobile phones and pagers are turned off.

We move to agenda item 1 and resume discussion of the arrangements proposed by the Scottish Executive for the implementation of some provisions of the Protection of Children (Scotland) Act 2003, which is scheduled to come into force on 10 January.

We heard evidence from officials last week, and I am pleased to welcome to the committee Euan Robson, the Deputy Minister for Education and Young People. Since the committee's meeting last week the minister has had discussions with representatives of some of the voluntary sector groups. I invite Euan Robson to make an opening statement about where we are on this complicated matter.

The Deputy Minister for Education and Young People (Euan Robson): Thank you for meeting today; I welcome the opportunity to be here. As you say, I have had discussions with the voluntary sector.

I will set out briefly how I think we should proceed. I appreciate the fact that the voluntary sector organisations have been available at short notice to discuss the act. I also appreciate the informal input of the convener and members of the committee.

As members will recall, the aim of Parliament in introducing the Protection of Children (Scotland) Act 2003 was to ensure that the most effective protection was available for children. I welcome a number of the statements made by voluntary organisations this week, saying that they are fully committed to that principle. I am sure that we all are. The act strengthens that protection and in doing so creates a number of new offences, as we know from when the act went through during the previous parliamentary session.

The Executive is keen to give effect as soon as possible to the additional protections for children that Parliament has agreed are necessary.

Because of the concerns expressed by the voluntary sector during the passage of the bill about the need to allow them time to prepare, we agreed not to implement the act for at least a year. We undertook not to implement it before spring 2004, but by 31 December 2004. Since laying the commencement order on 1 December 2004 to bring the act into force on 10 January 2005, 14 months after the passage of the act, we have listened to the concerns of some voluntary sector organisations that they need a further period of time to get ready for implementation. We have also listened to the concerns of MSPs and members of the Education Committee about the position of some voluntary sector organisations.

As the convener said, I met representatives of the voluntary sector on Monday afternoon and Tuesday morning. I understand from those discussions that the key concern is that some voluntary sector organisations are unaware of the requirement to check new appointees for the wide range of positions that are covered by the act. Was it the intention of Parliament that the act should be wide enough in scope to cover the voluntary sector? I believe that the former Education Committee took that view particularly strongly. However, we understand that there are some who are not aware of the implications of the requirement.

We therefore looked at the act in relation to that particular offence and proposed that we defer the offence element for three months only. In so doing, we want to ensure that the maximum protection available to children under the act is in place from the commencement date of 10 January. Under that proposal, from that date, individuals will commit an offence if they are on the list of those disqualified from working with children and they continue to work or seek work with children. The voluntary sector representatives were fully in agreement with that.

From 10 January, organisations will be required to make a referral to the list of those disqualified from working with children if they dismiss an individual or move them from a child care position because they have caused harm to a child or placed a child at risk of harm. All other requirements to refer will also apply from that date, for example, to those who the organisation would have dismissed or moved if they had not resigned before that could be done. Again, none of the voluntary sector organisations raised with me any particular difficulty with that.

All organisations that need to will be able to make checks against the list from 10 January, although they will not be at risk of committing an offence if they do not do so until the three-month preparation period is concluded. That is the key point that voluntary organisations made to me in

discussions in the past few days. Although the offence element is deferred, we know that many organisations are fully aware of the act and are ready to deal with its provisions, so it is not a uniform picture that we have discovered in the past few days. We expect that those organisations that are aware of the new requirement will check all new appointments from 10 January. Organisations will be able to make referrals retrospectively from any dismissals or moves made before the act entered into force if they wish to do so. There is no duty to make retrospective referrals, but it is open to organisations to do so if they consider it necessary.

The technical means to achieve deferral of the offence element are relatively simple. We would need to make one amendment to the commencement order to bring section 11(3)(a) of the 2003 act into force from 11 April. I understand that that is the day we return from the Easter recess and schools go back. In effect, there is a complete term before section 11(3)(a) comes into force. That gives a further three months for preparation. However, I emphasise that there will be no further change from that date and I hope that the committee will support that position. No date has yet been fixed for the implementation of section 11(3)(b) of the 2003 act, which would trigger the need for retrospective checking of existing staff or volunteers. As I have tried to make clear, that requirement will be subject to further consideration of how its implementation might best be managed. There was some discussion that that might be in April, but April would have been the earliest date that we could have considered. There is no date for the retrospective checking that will be brought about by section 11(3)(b).

The Protection of Children (Scotland) Act 2003 Determination Regulations 2004 (SSI 2004/523), which are the technical regulations that are currently subject to scrutiny, would remain as they are and enter into force on 10 January. They are needed from that date in order to set out the procedures under which the decisions and referrals will be made.

In summary, I hope that we have met the concerns that were expressed to me by the voluntary organisations in our two meetings and those that have been expressed to MSPs.

We have had some discussion about guidance. There are four parts to the guidance. Some 10,000 copies of the guide, the contents of which I have in this folder, are being printed and 6,500 will be distributed initially. There is to be some addition to that, but a summary will be produced and distributed. A voluntary sector leaflet has been finalised and has gone to the printers. There will be some additional guidance—two pages long—to help people make an initial assessment of whether

a position is covered and needs to be checked. That will be the subject of discussion with the sector during January. There will be a framework meeting on 25 January during which organisations will be able to raise their concerns again. I will continue dialogue with anyone who has further concerns, but I hope and think that we have now arrived at a situation in which, in practical terms, we can proceed to implement the act that Parliament passed.

The Convener: I would like to clear up one or two preliminary aspects. You have said that the retrospective checks are not coming in at the moment, but the committee has longer-term concerns about that because of the sheer numbers of people involved. Could you undertake to discuss the matter with the committee before the commencement order is laid?

Euan Robson: It is clear that we are going to have to have considerable discussion about retrospective checks. I intend to come back to the committee to explain what is eventually agreed.

The Convener: Can you share with us the names of the organisations that you met recently? In last week's evidence, an issue was raised about the appropriateness of some of the organisations in terms of how representative they were of the interest groups involved.

Euan Robson: On Tuesday, I met the Scottish Council of Voluntary Organisations. On Monday, I talked to a representative group comprising Mr Duffy from the Scout Association, Mr Thomson from Volunteer Development Scotland, a lady from YouthLink and two other groups—

Maureen Verrall (Scottish Executive Education Department): Children in Scotland and sportscotland.

Euan Robson: That group was as representative as we could make it, given that it was brought together at relatively short notice. However, the representatives brought with them the concerns of others.

The Convener: If I understand correctly the evidence that we have heard, the substance of the matter falls into two bits. As you rightly say, there was a concern that everything should be in place so that the organisations on the ground and the headquarters offices had all the information. It was also felt to be important to ensure that account was taken of any organisations that do not fit into clear categories. That is helpful. However, questions were raised about whether the information would be adequate and whether the guidance would be appropriate in relation to such issues as working under supervision pending disclosure and so on. Can you give us a clear indication, on the question of guidance in particular, of the position regarding agreement

with the voluntary groups on all of that? Is the voluntary sector pack in a finalised form?

10:15

Euan Robson: I tried to summarise the position at the end of my statement. Deferring section 11(3)(a) of the 2003 act until 11 April 2005 will help us to ensure the physical distribution of appropriate material. For example, a summary document will be prepared for the major training pack, which I believe all committee members have received. Therefore, rather than have to read the whole pack—it took me about an hour and a quarter to do so and I found it to be a particularly good document—people will be able to read the summary quickly.

I can leave a copy of the leaflet that is specifically for the voluntary sector with the committee for members to look at. The leaflet was prepared by the voluntary organisations themselves and is at the printers as we speak. About 70,000 copies will be available and more will be printed if necessary. There will also be additional guidance—an issue that the voluntary groups raised with me during my discussions with them on Monday and Tuesday—on roughly two sides of A4, but members should not hold me to that description. The guidance will help people to make an initial self-assessment of whether they are covered by the terms of the act.

The Convener: I want to press you on the key points for guidance. The two main issues that emerged in discussion at last week's meeting—and in private discussion with voluntary sector groups—were working under supervision and normal contact with children. One appreciates the variability of the circumstances for which additional guidance and help is required, particularly for small groups.

Euan Robson: Absolutely. That guidance issue is, as you say, a cause for concern. We intend, with voluntary sector colleagues, to ensure that guidance is incorporated in the two-page guide so that there will be a clear statement of how one should proceed in the circumstances under question. The issue was, as you said, raised by the voluntary sector groups. We will discuss it with them to ensure that we get the appropriate advice and information across.

The Convener: For the avoidance of doubt, can we be clear that those particular matters are to be discussed further and that the terms of the guidance are yet to be agreed?

Euan Robson: Yes. As I said, the two-page leaflet has not yet been produced, but it will be. It is a response to the points that were made in the two meetings to which you referred.

The Convener: I have a couple of further questions, but I have rather dominated questions so far. Therefore, I invite other members to ask their questions first.

Dr Elaine Murray (Dumfries) (Lab): I am sure that the committee is pleased to hear that progress has been made on the concerns that were raised during last week's meeting. Maureen Verrall advised me during that meeting that it would be necessary either to defer the whole act or not to defer it at all. Has the position shifted in terms of what is now possible?

Euan Robson: Yes. Having discussed with the voluntary sector its concerns, we have found the means of taking out until 11 April the element in the act that they found most difficult. We are, in effect, striking a balance between those groups' concerns, the desire of organisations that are ready to proceed to do so, and our wish to commence the act, given that it is now 14 months since the act was passed. It was Parliament's intention that we do so. Therefore, by means of an amending order, we will take out section 11(3)(a) until 11 April. That will take out the element that gave most cause for concern to the voluntary sector. When speaking to them about whether that would be a way forward, we found that they welcomed the proposal, which we now intend to implement.

Dr Murray: I also want to ask you about guidance. We were told last week that a separate set of general guidance was being produced for everybody. It was supposed to be on the Executive's website by the end of the week. Is that guidance there?

Euan Robson: It is there.

Dr Murray: We met representatives of Disclosure Scotland on 27 October, and we discussed guidance in respect of the Police Act 1997. It appeared that there was fairly little guidance about who needed to be disclosure checked and under what circumstances. It is clear that many authorities and other bodies are erring on the side of caution, owing to the lack of guidance. Brian Gorman told us:

"With the introduction of the Protection of Children (Scotland) Act 2003, some form of guidance to authorities and voluntary groups may well be provided."—[*Official Report, Education Committee, 27 October 2004; c 1661.*]

Is the guidance that is likely to be provided going to include guidance on the Police Act 1997 and on disclosure in particular? We have heard about issues involving people wanting to help out with a school disco or with walking buses and so on. At the moment, there seems to be a very strict application of disclosure provisions. Will the guidance that you intend to distribute include

guidance on when disclosure is appropriate and when it is not?

Euan Robson: Disclosure Scotland has been in regular contact with the Education Department, and has confirmed that it is in a position to proceed. For the purposes of accuracy, I will ask Maureen Verrall to give you some more detail.

Maureen Verrall: The guidance that we are producing and the question of which positions need to be checked relate to the interaction between the Protection of Children (Scotland) Act 2003 and the Police Act 1997. The 1997 act effectively gives us the power to set aside the Rehabilitation of Offenders Act 1974 for certain positions in order to disclose information about spent convictions under certain circumstances.

The 1997 act provides the technical means to enable the checks to be done; it is the 2003 act that requires the checks to be done. The 2003 act makes it an offence to employ anybody in a child care position who is on the list, and it is the definition of that child care position about which we understand that some people are being extremely pure, in that they are saying that anybody who works in an organisation that has anything to do with children must be checked, even if they themselves never come into contact with children. The legislation does not say that.

The two-page guidance that we are working on will tell people that there is a connection between different parts of the 2003 act. First, it must be asked whether an organisation is likely to be covered, and examples may be given of the sort of organisations that would be caught under the legislation. Secondly, it must be asked whether the organisation is employing somebody in a child care position, as defined under the act. A detailed description of child care positions is provided under schedule 2. We need to make it clear that the positions falling under that schedule are the kinds of posts that organisations need to consider. If the answer to those two questions is yes or highly probable, the organisations concerned need more detail and specific guidance on the posts in question. I reiterate that it is the Protection of Children (Scotland) Act 2003 rather than the Police Act 1997 that contains the requirement for checking.

Dr Murray: I appreciate that, although people have been getting disclosure checked for some years now. The 2003 act brings in additional concerns, because there is a new criminal offence involved. The procedure for checks has been in place for some time, however, and there has been a fairly rigorous application of disclosure checks in some parts of the country. It is that additional anxiety, on top of people's experience of disclosure, that has created a problem.

Maureen Verrall: The Police Act 1997 does not require anybody to be checked; it enables checks to be done if people consider that necessary. It is not the regulations under the 1997 act that define the positions that need to be checked; it is the 2003 act that does that.

Dr Murray: So why have people been getting disclosure checked for several years?

Maureen Verrall: There are of course some requirements under the Police Act 1997. However, in relation to the concerns that members are raising, the guidance that needs to be issued relates to the definition of child care positions under the 2003 act. It is the 2003 act that is relevant for people who are asking whether, when the act enters into force, they will have to check, for example, everybody organising walking buses, every member of a parent-teacher association—even if they never come into contact with children in that capacity—every member of a scout group or anyone who runs a disco at a school youth club, even if they are just there as a disc jockey, for example. As I understand it, what is being asked for is the guidance relating to the 2003 act coming into effect. The two acts are connected but I am not sure that separate guidance on the Police Act 1997 is what is required.

Dr Murray: What I am proposing is general guidance for the lay person about when they need to be disclosure checked, and that the guidance should be in a relatively simple form so that people know if they need to be disclosure checked, whether they are in a local authority or a voluntary group or whether they are people such as councillors and MSPs who go to talk to children about their jobs. People are asking for a clear and simple form of guidance that indicates what needs to be done and when it might be a criminal offence not to have a disclosure check done. If that sort of guidance could be made available to everyone, it could prevent some of the rather ridiculous stories that we are hearing at the moment about people not being allowed to do things.

Euan Robson: Indeed, and it is precisely that type of point that a number of the voluntary bodies have raised with me in the past three or four days. The purpose of producing what I characterise as two-page guidance is that that will be one of the objectives that the guidance will cover.

There will have to be discussion about the precise detail of the guidance. We will have to have those discussions with the voluntary organisations in early January. If it is helpful to the committee, we can keep it informed by letter or, if you want me to come back, we can have further discussions so that you can see the process as it develops into the eventual end product. We have to start that work and that is the undertaking that I

have given to the voluntary sector organisations that I have met.

Dr Murray: In the lift on the way up to this meeting, one of our colleagues told me and Wendy Alexander about a constituent who had a knife in his car when it was serviced, and now he is not allowed to go into his children's school. That is the type of thing I am talking about; people are getting over-anxious because they do not understand how the legislation should work. It is a crazy situation.

Euan Robson: Indeed. There have been some headline-grabbing stories—some of which have involved Santa Claus—and we are well aware of those.

Lord James Douglas-Hamilton (Lothians) (Con): I have two questions for the minister. First, he will be aware that there is no motion to annul the order before the committee this morning, as far as I know. Does he accept that, in the past, ministers have often refused to interpret the law, saying that that is a matter for the courts? However because this is such a sensitive matter, does the minister accept that there is a case not just for guidance, but for guidance as to best practice? The danger is that local authorities, charities and voluntary bodies might be inconsistent in how they interpret the law. They might interpret it in several different ways. If guidance can be given as to best practice, that might be of considerable assistance.

Euan Robson: I entirely agree with Lord James. Ultimately, it is up to the courts to decide as to scope and who is covered. However, I reassure him that we are talking to the Convention of Scottish Local Authorities directly about interpretation and we will address the points that he makes. We seek to ensure that the eventual guidance will point to how to proceed and, of course, to best practice. That must be the objective. Lord James is correct that it is up to the courts. In any legislation, it is the courts that will make the final decisions as to scope.

Lord James Douglas-Hamilton: I thank the minister for his response.

Secondly, in light of the great concern expressed by local authorities, voluntary bodies and charities, could he review, in due course and in light of experience, what has happened and, if necessary, come back with revised guidance or a revised order?

10:30

Euan Robson: Part of what we must do, moving ahead, is keep in close contact with all those organisations and their representatives, as we tried to do previously. The engagement will need

to continue because of the retrospective checks and how we implement the will of Parliament in that regard. You can be assured that there will be development over the course of the next year.

On the point about COSLA, we are trying to get information from that organisation about what local authorities are doing in a number of instances. The discussion with COSLA will continue after we have gained a more clear understanding of different interpretations that are currently being applied.

There will be on-going dialogue and on-going developments. You can be assured that we will keep the committee closely informed in relation to that.

Ms Rosemary Byrne (South of Scotland) (SSP): I appreciate the minister's efforts to meet the voluntary organisations and discuss the issue, but I am sure that I am not the only member who has been contacted by volunteer centres that have concerns that I do not think are being answered. I will raise a couple with you.

Do adults who work in charity shops in which there are young volunteers have to go through this process? People do not know and are concerned about their legal position. I am also told that there is confusion about who to risk assess and who not to. Apparently, officials have told organisations that it will be up to groups to determine who they should assess. It seems that it has been left to individual organisations to interpret complex legislation.

The legislation is extremely complex. I started to feel hopeful when you were talking about delaying implementation of section 11(3)(a) of the 2003 act until 11 April. However, as happened last week, I felt my heart sink at the thought of the sheer confusion that exists around this matter.

The situation that some voluntary organisations are being placed in concerns me. I do not think that I am hearing anything that reassures me in that regard.

The Convener: What is your question, Rosemary?

Ms Byrne: My question is: what do I say to the organisations who come to me? What guidance do I point them to? What reassurances can I give them?

Euan Robson: At the outset, I should say that we all value the immense contribution that the voluntary sector makes. The examples that you give are important and we would want there to be continuing clarity about how to proceed. That is why, at the request of the voluntary organisations, we have agreed the action that we are about to take—to suspend section 11(3)(a), to provide a three-month period in which there is no offence.

Equally, that will give time for the leaflet that the voluntary sector has prepared to be distributed. It will also give time for the training pack to be distributed. Further, it will enable us to send out the additional leaflet that will assist people to make the initial assessment as to whether people are covered by the act.

Many voluntary sector organisations have told me that they need more time and I have accepted that. When they have had the chance to read the packs, leaflets and so on, I think that some of the confusion will disappear. Clearly, that must be the objective.

The other thing that came out of the discussions with voluntary organisations was that some of them felt that they had not had enough opportunity to discuss matters with what you might describe as their local branches. Some have managed to obtain the information, digest it and talk to their regional organisations, but they have not yet had time to talk to their local branches.

We do not want there to be difficulty and confusion for volunteers: we value the work they do. That is why we are taking the actions that we are proposing this morning.

The Convener: The substance of Rosemary Byrne's point goes a bit further than that. The letter that I have had from the Volunteer Centre Edinburgh, which I think is the one Rosemary was referring to, says specifically that the centre is concerned about taking on young volunteers to help in the charity shop.

The general idea, I suppose, is that those young volunteers might work a morning a week or a Saturday. The fear is that if those volunteers have to be disclosed as well, such organisations might feel that it is not worth their while getting into this complex morass and they will not take on volunteers aged under 18. It may be that you are bound by the act in that regard—it does sound as if there is regular contact as part of the normal job—but are you or your officials able to give specific guidance to us on that kind of general situation, which is fairly common?

Euan Robson: We are bound by what the act says, and it is my understanding that the act would cover that particular situation.

The Convener: Is there anything we can do to have further discussions with people and to help them understand the situation? We could speak to representatives from YouthLink Scotland, for example, which is not one of the usual organisations.

Euan Robson: I am happy to meet it early in the new year and to work on the way forward. However, you must understand that Parliament

passed the act and that the Executive must implement the intention of Parliament.

Fiona Hyslop (Lothians) (SNP): I am stunned by the complacency that is being exhibited here and by the fact that the meeting that was hastily arranged in the past few days has resulted in a change that we were told only last week was legally and technically impossible.

Can you confirm that the advice that we were given last week—that it was an all-or-nothing implementation—was wrong? Can you also address the question where that leaves children? We now find ourselves in the worst of all worlds: delay in legislation that is meant to protect children and confusion in the voluntary sector about what is required. We are in limbo, which is creating a great deal of confusion. We need to bring some common sense to bear.

The guidance that we were told would also cover the Police Act 1997 is not ready yet. It needs to be made ready. What will you do differently, having made a mess of the implementation of the legislation over the past two years? When are we likely to see progress? What will you do differently to ensure that the concerns of front-line volunteers who have been caught up with that problem are addressed—rather than have hastily arranged meetings to come up with a fix to something that should have been sorted months ago?

Euan Robson: I reject a number of the points that you have made. The first and most important thing is that officials, in all good faith, gave you advice and evidence last week. In fact, a way was found to address the specific concerns that were raised with us. That required some detailed work, research and legal advice, which was sought after last week's committee meeting and after the discussion with the voluntary sector. I would like to make it clear, as I did before, that a number of voluntary sector organisations—indeed, a number of organisations overall—are ready for 10 January. We have been able to achieve implementation of the act from 10 January, but with a suspension of the criminal offence element under section 11(3)(a). That is a simple, straightforward means of addressing some of the voluntary organisations' main concerns.

There has been a period of some 14 months since the passage of the act. There have been detailed and on-going discussions with the voluntary sector over that time. Indeed, the voluntary sector helped to produce the pack. All that took time. There are obviously some general lessons to be learnt, not only by the Executive but by other organisations, about how to address a new piece of legislation. We shall pick those up, take them forward and use them throughout the Executive in future.

Fiona Hyslop: What lessons have you learned?

Euan Robson: We have now reached a position where we will achieve implementation of the act from 10 January. We have addressed the concerns of some voluntary organisations, found a way forward and understood how we need better to engage with the voluntary sector, just as the voluntary sector needs to engage better with the process of implementing the legislation.

Fiona Hyslop: What specific lessons have you learned, minister? In particular, concerns were raised last week that volunteer-led organisations seemed to be missing from some of the debate and consultations that you have been having. Bearing in mind that we have been told by Disclosure Scotland that it anticipates one Scot in eight being caught by retrospective checks, the scale of our current concerns will be as nothing compared with what you have put off with regard to retrospective checking. So we need to—

Euan Robson: Forgive me, but I am not quite clear about your line of argument. Is your proposal that we should not do what we have done and that we should implement the whole thing, including retrospective checks, from 10 January? What is your suggestion? I think that we have taken a sensible way forward. As I said, given what Parliament passed, the retrospective checks will be the subject of considerable further work. We have undertaken to do that with the voluntary sector. We always knew that some further discussion would be necessary. We also have to take on board the recommendations of Sir Michael Bichard. We shall need to factor those in as far as retrospective checks are concerned, and we intend to do that. I think that the way forward that we have come to is one that has commanded widespread support from the Scout Association, youth clubs and Girlguiding Scotland—those who are represented around the table.

The Convener: I do not want to drift too much into the retrospective checks, to which we shall return on a future occasion, but I take the point that has been made.

Mr Kenneth Macintosh (Eastwood) (Lab): I am pleased with the actions that the Executive is taking this week. In fact, I think it is slightly unfair of members to criticise the Executive for doing exactly what we have asked it to do, to try to cut through the confusion and ease some of the anxiety. Given that the Executive has shown some movement, I think that it should be congratulated rather than condemned. However, we are obviously in a difficult situation, and I and other members of the committee are worried about the anxiety and concerns that have been created. It is a difficult task that the Executive is engaged in. The act introduces a series of potentially severe penalties on the voluntary sector. We are trying to

put those protections in place while not putting off volunteers from their efforts. There is undoubtedly a tension there.

I am trying to explore whether there are a number of things that we can do, apart from the steps that the minister has already taken. Last week, we heard Maureen Verrall's evidence about who in the voluntary sector would be penalised and bear the brunt of a criminal prosecution or conviction if they were found to be in breach of the law. I think that that should be spelt out, because there is obviously huge anxiety among small groups—we have heard one or two examples of that this morning—about who exactly would be punished and criminalised.

Elaine Murray expanded on the point, which we developed in committee at a much earlier stage, about the need for further guidance on implementation of the Police Act 1997. In other words, although there is guidance, which will obviously help all those in the voluntary sector, the whole sector is concerned about who needs a disclosure and under what circumstances. I am not saying that it will be an easy task; we have heard the example this morning of the Volunteer Centre Edinburgh. The example of young people in further education colleges has also come up before. There are several grey areas. Nobody wants an overly bureaucratic and, in the end, slightly meaningless exercise that does not offer the protection it is supposed to offer.

We definitely need to work on guidance. To do that, I think the Executive should work directly in consultation with the voluntary sector. I would like to hear that the Executive will develop guidance and that it will do so through the formal basis of the joint working group, or perhaps through other mechanisms that allow the smaller, more individualised and more compartmentalised parts of the voluntary sector to make their contribution.

10:45

I do not want to ask too many questions all at once, but I have one final question. It is difficult to produce guidance without knowing exactly what the impact of the Police Act 1997 and of the Protection of Children (Scotland) Act 2003 has been. We talked about whether the committee could carry out an inquiry in that area, but I would certainly like to hear that the Executive is exploring that issue. We need evidence on whether the disclosures that are being carried out under the Police Act 1997 are putting off volunteers. There is a general anxiety that what we are doing to try to offer protection, guidance and support to the voluntary sector is actually having the opposite effect and is putting off adults and young people from being active citizens. The only way in which we can address that is by having some hard,

empirical evidence that we can use to inform our guidance. I would like to hear that the Executive has got some work under way on that, or is willing to undertake such work, because only the Executive can really do that in a thorough way.

Euan Robson: There were a number of points in that question, and I shall try to cover them all. Volunteer Development Scotland reports in a recent survey that 83 per cent of people surveyed would not be put off by the need for the checks. I understand that the total number of volunteers actually went up last year, and that must be borne in mind. However, we will clearly look at the effects of the legislation. As I said to another member, the Executive fully values, as we all do, the immense contribution that volunteers and the voluntary sector make, so we will clearly have regard to on-going work to check the impact on volunteering numbers.

As to what might be described as further suggestions for incorporation into the guidance, I shall take away the points that Ken Macintosh and Elaine Murray have made about interaction with the Police Act 1997 to see how that can be covered appropriately within the short guidance that is being prepared. Equally, if further issues emerge that no one had foreseen, you can be assured that we shall look at those further issues and work with the voluntary sector, as we have been doing in relation to the training pack and in discussions over some considerable length of time. We shall continue to do that and to pick up new issues as they arise.

I think that I have covered the main themes of what you said, but if you have any specific questions I am happy to answer them.

Mr Macintosh: I had a point about who is penalised.

Euan Robson: That is covered by section 20 of the act. I am advised that offences by bodies corporate, not by individuals, are covered and would be affected. However, because this is a legal matter, Mr McNicoll may be able to help us out on that specific point about section 20.

Gordon McNicoll (Scottish Executive Legal and Parliamentary Services): If an offence appears to be committed by a body corporate, section 20 of the act specifies who within that organisation is responsible for the offence. If the body is a local authority, partnership or association, the act sets out in each case which individual would be held responsible for the actions of the organisation. That is laid out in the act, it has clearly been determined by Parliament and is not open for change by way of regulations.

The Convener: For the avoidance of doubt, could we be clear about what a body corporate is in that respect? It does not sound like the

voluntary sector, although I am sure it is included in some shape or other. What is a body corporate?

Gordon McNicoll: The voluntary sector would be covered by the unincorporated associations. The section tries to cover every organisation that could conceivably be covered, and it starts off with a body corporate. However, you are quite correct to say that the provisions relating to unincorporated associations are probably the ones that are most applicable to the voluntary sector. Again, the act sets out who is responsible when an offence is committed by that association.

Mr Macintosh: The point I was trying to get at is that there is a role for the Executive in sending out a message that, although it is a serious matter and the act creates a serious offence, the act is not aimed at penalising or criminalising members of the voluntary sector or volunteers who give up their time to work with young people or others. It is a difficult task to do, but I feel that there is room for guidance there. People who give up their time to volunteer do not have the energy to look through the legislation in detail and they may be slightly scared by the fact that they are getting themselves into deep water or unfamiliar territory, and they could fall foul inadvertently—because ignorance is no excuse before the law—of a very serious offence. There is room for the Executive to produce guidance that encourages people to volunteer and suggests to them that, although it is a serious matter, it is not looking to prosecute them for doing a very good job. I shall leave that point there.

I am pleased that the Executive is going to develop the guidance further, particularly to look at the balance of risk and to produce a guide, if it is at all possible, to what is beyond the pale and what is not a risk to children. The example that we have heard several times is that of the walking bus. As Judith Gillespie of the Scottish Parent Teacher Council suggested, there is more danger of a child being run over by a car than of being abused by the person leading the walking bus. We need to get that idea of proportion into the guidance.

Finally, I would like the minister not only to look at the impact of the legislation but to confirm that he will undertake a scoping exercise to find out what kind of impact assessment or research could be done to give us the firm, empirical evidence that we need to see to establish whether the disclosures are putting off volunteers. You have given us some encouraging figures, minister, showing that the number of volunteers has gone up and that 83 per cent of people, when asked, said that they would not let those disclosures put them off, but we would obviously like to have further work done. If it is possible, could you go away and consider the sort of research that could

be carried out, either by the Executive or by independent academics?

Euan Robson: That final point is an important one. In essence, it is the kind of concept that was put to me by the Scottish Council for Voluntary Organisations. I told the SCVO's chief executive that we could look at that kind of point in discussion with that organisation, and that we would then be better placed to carry out the sort of exercise that you are postulating. I would like to discuss with the voluntary sector in more detail the sort of concepts that are at issue and the practicality behind that. If it is helpful, convener, I could write to the committee or come back to report on our progress in the new year when I have had those discussions. One of the lessons that we can learn from all this would be about having a good process or template for future legislation. The SCVO is well placed to do that.

Mr Macintosh: I have one technical point. The amendment that you are introducing to defer section 11(3)(a) is very welcome, but does it actually have to appear before us as a piece of subordinate legislation?

Euan Robson: It is a commencement order, which any minister can sign. I believe that it is in draft form, and it has not been signed because I wished to come to the committee first to explain the proposal to you before any signature was applied to any piece of paper. It will be done either later today or tomorrow.

The Convener: Before we leave the research point, I would like to be clear about what is being suggested. The committee had in mind some in-depth research of its own, but I think that we would be keen to encourage the Executive to undertake not just general research of the kind that shows that 83 per cent of volunteers hold a certain view, but in-depth research that involves discussion with parent-teacher groups, youth organisations and the like, to find out whether there have been examples on the ground of the different sorts of situations in which people might be put off. Charity shops have been mentioned this morning: that, too, is an area that could also be important.

Euan Robson: Forgive me. I was not trying to pre-empt any work that the committee wanted to do. Nor did I want to pre-empt discussions with the SCVO. However, if the committee would like to involve a couple of members in that discussion, I am sure that the SCVO would be happy to include them.

The Convener: It is actually the other way round. We were wondering whether the Executive proposes to do that kind of research at its own hand. You are better equipped than we are for that sort of process, and it clearly has to be done.

Euan Robson: I have an open mind on that. I would like to have an initial discussion with the SCVO and then come back to you, either by letter or in person, to discuss that specific point.

Ms Wendy Alexander (Paisley North) (Lab): Like other members, I welcome the delay, which will offer welcome relief to the brown owl who, among other things that she is meant to do tomorrow, will no doubt have to go to a post office to pick up a copy of the details, but at least she will discover that it does not have to be implemented before we return from our Christmas holidays.

I turn to the substance of things. We are all aware that guidelines are the mechanism whereby we implement legislation in a way that does not have adverse consequences for those working at the coalface. In the spirit of the season, I wonder whether you might be willing to acknowledge that it was deeply unfortunate that not a single volunteer-led organisation was in the group that drew up the guidelines and that that sent an unfortunate signal about the value that the Executive places on the activities of such groups. What assurances can you offer us that that will not happen again?

Euan Robson: Just so that we can be clear, YouthLink Scotland, Volunteer Development Scotland, the SCVO, Children in Scotland and the Scout Association were involved, and we felt that that was a fair cross-section. I take the point that you make. Hindsight is a perfect science. There was no intent to exclude or to downgrade the efforts of the voluntary sector. It was simply a process whereby people were available who represented national bodies, and one hopes that they represent—I am sure that they do—the broad interests around the table, but there was no intent to exclude anybody from that process. I take the point, and in future discussion others are welcome to be included if they wish to be included. If you have specific suggestions and feel that certain people have been excluded, please let me know.

Ms Alexander: The issue was that there should be a volunteer-led organisation. We heard last week that sportscotland, a non-departmental public body, was on the committee. We were just looking for an assurance that, in future, given the anxieties that have been expressed and the purpose of guidelines, a volunteer-led organisation would have a place in those discussions.

Euan Robson: I think the person from sportscotland volunteered their services and others assented to that. I do not know; I was not party to the detail of that. However, your point is well made and completely taken.

Ms Alexander: I am happy to let that rest.

I move to the substance of the matter, on which I have two questions. You and your officials have

properly stressed that the act is the will of Parliament. That is true, but it is also a tautology, in the sense that it applies to everything that we consider at this stage. I want to try to get to the essence of our objectives. Political leadership is about persisting only if you believe that legislation both is fit for purpose and does not have unacceptable unanticipated consequences. My question, therefore, is this. Over the past year, have you or your officials, in attempting to implement the act, and in full knowledge of the experience of the Police Act 1997, ever reached the conclusion that any aspect of the legislation either is unfit for purpose or has unacceptable unanticipated consequences?

11:00

Euan Robson: No. If we had, I think that we would have come to the Parliament or to this committee, or we would have sought a means of doing so through the appropriate channels. As we go forward in the light of experience, in circumstances that are as yet unforeseen it is always possible that we may choose to take an opportunity to do that. The committee itself could also recommend changes to Parliament.

The answer is no, but I do not say that it will always, in all circumstances, continue to be no.

Ms Alexander: Thank you. I shall leave it at that.

Lord James Douglas-Hamilton: I would like to ask the minister a quick question, to which I do not necessarily expect an answer this morning. Will he consider the possibility of establishing the equivalent of a helpline for local authorities, charities and voluntary bodies, so that, in cases where there is doubt as to the most appropriate way forward, effective guidance on best practice can and will be given?

Euan Robson: I am happy to say that there is a helpline, and I can give you the number: 01786 849777. There is also an e-mail address, which is on the leaflet. I shall leave the proof with the clerk and we shall distribute copies in due course.

The Convener: We received this morning from the Scottish Parent Teacher Council a bundle of correspondence between Judith Gillespie and a number of local authorities. It is quite varied, but the issue of gold bottoming the legislation appears to arise out of it. The legislation is one thing, but what councils do in terms of allowing council lets, their attitude to boards and what they advise organisations to do is another matter.

I would like to read out one or two quotations. For example, East Dunbartonshire Council says that the position applies to

"Parent volunteer helpers in schools ... Parents and co-opted members of school boards ... Parent members of local parent-teacher associations ... Any other individual working in a voluntary 'childcare' position",

which is fine. It goes on to state:

"The EDC draft policy points towards occasions where the voluntary helpers duties involve unsupervised contact with children."

That does not suggest the regularity that we hear about in the act.

North Ayrshire Council's letter states:

"many of our Head Teachers are currently seeking checks on any helper involved in extra-curricular events, so that maximum flexibility is available in emergencies, such as a child having to be taken home or a child feeling unwell."

Again, I do not think that the element of regularity comes through that.

There are a number of similar letters. Dumfries and Galloway Council states:

"we do ask that parental volunteers should be Disclosure Scotland checked where they are undertaking activities on behalf of the school ... (e.g. transporting groups of children)."

Again, there is a difference with regard to regularity.

East Renfrewshire Council stated:

"I have to say though, if asked about a Hallowe'en or any other party in East Renfrewshire, 'I would say yes.'"

We are getting into the Santa Claus situation a little bit with some of these advice things. I can understand where the councils are coming from, but it seems to me that the broad issue that arises is that different approaches are being taken by different local authorities.

Euan Robson: Indeed.

The Convener: You mentioned a discussion with COSLA and I wonder whether there is any way of resolving the issue in a way that is compliant with the terms of the act, that gives due recognition to the duties of councils, such as they are—I do not think that they have duties under the act in that context—and that allows sensible decisions to be made by groups such as parent-teacher associations.

Euan Robson: You quoted a number of examples and I am advised that we are also aware of those examples. In the areas that you mentioned, some local authorities are not taking the line that is suggested. As I said, we are trying to establish a map across the 32 authorities that can tell us precisely who is doing what. We are in discussion with COSLA about that and we will develop those discussions to try to iron out some of the particular procedures that are in place and some of the formulations that certain authorities

have placed on the way in which they need to proceed. That work with COSLA is developing to try to ensure greater consistency of approach.

The Convener: I am a great believer in local authorities' discretion and independence, but in the context that we are discussing it seems ludicrous that there should be major differences of approach in different parts of Scotland. Does the Executive have the power to give instruction or guidance to local authorities on the matter? If you cannot enforce the approach and make it happen, there will be on-going difficulties.

Euan Robson: I am pretty sure that we do not have powers to enforce, but I need to give that a bit more consideration. The discussion with COSLA will focus on exactly what you suggest and try to ensure that there is consistency of approach across the 32 local authorities. It is obvious that there is currently no such consistency and I want to ensure that there is, because inconsistency of approach will cause confusion, as you said.

The Convener: The Scottish Parent Teacher Council might usefully be involved in the discussions. There are quite a lot of organisations that do not provide children's services in the way that the Scout Association or other youth groups do, which should nevertheless probably be involved.

Fiona Hyslop: Will the minister explore insurance and include insurance companies in the discussions? Organisations that seek lets from local authorities or other bodies are concerned about what is happening on the ground. Regardless of the legislation, organisations cannot secure insurance for what they do, because insurance companies' interpretations are tighter in practice than is required by the law. That is another barrier to progress on volunteering.

Euan Robson: Issues to do with insurance obviously involve commercial decisions. I think that the matter has been raised with Executive colleagues outside the context of the 2003 act. The matter has certainly been raised with the Department of Trade and Industry, because insurance is a reserved matter. As you suggest, there have been rather strange examples—in one instance, a Santa Claus needed insurance and Disclosure Scotland checks. If it would help to have discussions with the insurance industry, we can talk to the Association of British Insurers—I knew the association's chairman, although I do not know whether he is still in post. I would be happy to engage with the current Scottish chairman if that is helpful. Ultimately, we cannot intrude into commercial decisions, but your point is well made and we will see what we can do.

The Convener: Thank you for your evidence. In fairness, I should say that the agenda item has again generated somewhat lengthy and involved investigation by the committee. I do not think that anyone doubts that the issue is tricky. On one hand we are faced with the implementation of the 2003 act, which was passed in the first session of the Parliament and must be taken as the starting point for such matters. On the other hand, there is genuine concern in the committee about the implications of the act and its possible detrimental effects on volunteering and voluntary organisations in the youth field. The committee wants to leave you with the message that anything that can be done to reassure people, avoid unnecessary hassle and simplify the situation—we did not consider multiple checks this morning—would be extremely welcome. Thank you for the efforts that you have made on the matter and for your attendance. I also thank your officials, Maureen Verrall and Gordon McNicoll, for coming.

Euan Robson: Thank you for giving me the opportunity to speak to the committee. I welcome our helpful discussions. For the purposes of accuracy, I should say that the deferment of section 11(3)(a) of the 2003 act would apply not just to the voluntary sector but to all sectors.

The Convener: Under the next agenda item, the committee will continue its consideration of the Protection of Children (Scotland) Act 2003 Determination Regulations 2004 (SSI 2004/523), which we considered at last week's meeting, and consider another relevant instrument. Do members want to take further action as a result of the evidence that we heard this morning? We have received an assurance from the minister that various things will happen in relation to discussions on guidance and that he will come back to the committee to discuss the provisions on retrospective checks before they are implemented. We will have an opportunity then to take up particular issues. We could consider the matter at our meeting on 12 January, which is technically the final day on which we could deal with the subordinate legislation. However, the committee might think that we have had a good exploration of the issues today and at our previous meeting and that we could defer consideration until the minister reports back to us on retrospective checks and further guidance. Is that approach acceptable to members?

Fiona Hyslop: That would be an appropriate approach. The issue is not the content of the regulations but the process and management of the implementation of the 2003 act and the commencement order that we discussed at our meeting last week. The Executive has now offered an alternative route.

The Convener: It might be sensible to put the matter on the agenda of one of our meetings in January or February, before the February recess, so that we can ascertain what has happened. Euan Robson promised to report to us on the provision of guidance, which might provide a useful opportunity for us to review the situation on what is a difficult issue.

Ms Alexander: The minister seemed to leave his options open on a number of areas—I think that any one of us would have done the same thing in the circumstances. Will the clerks take a careful look at his evidence and note for us, as an aide-mémoire, the issues on which the minister said that he would reflect or come back to us? I note that he said that the 2003 act is fit for purpose in all respects and will have no unanticipated consequences. At the root of the matter is the fact that large parts of the voluntary sector do not share that understanding, but at least the Executive's position is clear on that as well as on a variety of other matters. A brief aide-mémoire compiled from the *Official Report* would be enormously helpful.

The Convener: I presume that the *Official Report* of the meeting will be available at some point during the Christmas recess, so we will be able to consider it in detail.

Dr Murray: Your suggestion that we put the matter on our agenda is a good one, because otherwise such matters can slip. We should make a commitment to come back and consider the guidance.

The minister pointed out that the 2003 act is an act of the Scottish Parliament, which was guided to some extent by the opinions of the Education, Culture and Sport Committee in the first session of the Parliament. I do not suggest that the act is unworkable, but if it would have unintended consequences or deter adults or young people from becoming active citizens, this committee has the responsibility to reconsider it and recommend amendments.

The Convener: That would be appropriate, but it might best be done in the context of the potential research that we or the Executive carry out, whereby we can drill down into the issues. Euan Robson said that 83 per cent of people said that they were not put off volunteering by the act—

Dr Murray: That means that one in six people is put off.

The Convener: Quite. We should drill down behind the figures, but we must have more than just anecdotal evidence and we should seek evidence at a later stage, when implementation has begun and we can see where we are going. If there have to be amendments to the act, the process will take a little time.

Dr Murray: Some committees carry out post-legislative scrutiny.

The Convener: Absolutely. I am just suggesting the context of our consideration of the 2003 act, which would fit in, first, with the minister's report to us and secondly and perhaps more relevant, with the research that we propose to undertake—under one heading or another—to give us material with which we can work. We are all struggling with the implications of the act.

All sorts of different situations have emerged from the woodwork, some of which I confess I had not thought about before we received letters about them. The legislation is complex and interrelates with other legislation and situations that are happening in England. We need to get the full flavour of the situation. There are no two ways about it: we have to return to the subject, which will remain on our agenda for some time to come.

For the time being, let us agree to look at the matter again before the February recess when we have enough information to make it worth our while. That would give us six weeks before the April date to iron out any of the problems that will emerge and to look at the retrospective checks again with the minister, in the context of the research. I think that it was suggested that those checks would not come in before April at the earliest, although unless I am very much mistaken in the impression that I got today, it will happen much later than April.

I hope that the proceedings of the committee this week and last have been of some help to the voluntary sector and to those who will be involved with the legislation. I echo what Ken Macintosh said before in that I hope that the voluntary sector will be encouraged by some of the evidence that we have heard to work its way round some of the difficulties and to ensure that that aspect of caring for children is not damaged—and is in fact enhanced—by the legislation. It is intended to protect volunteers and children in the way in which the volunteers go about their duties.

Subordinate Legislation

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

11:16

The Convener: We move on to subordinate legislation. We will consider under negative procedure the Protection of Children (Scotland) Act 2003 Determination Regulations 2004, which we considered last week. We have among the papers a helpful note from the clerks about the duplication and there is a report from the Subordinate Legislation Committee.

Fiona Hyslop: Ordinarily, would we not have the Executive officials here to question about those points?

The Convener: We have had them here already.

Fiona Hyslop: Yes, but should they not have stayed for this item so that we could question them about the Subordinate Legislation Committee's points?

The Convener: Is this not one of those occasions when we can take guidance from the clerk because the Subordinate Legislation Committee is making a technical point about the regulations? That committee's report says that the regulations are technically incorrect, but it is not suggesting that we do anything with them; rather it is a note for Executive officials to consider in the context of future subordinate legislation. I am not sure whether anything else can be added, but perhaps Martin Verity can guide us.

Martin Verity (Clerk): I do not think that much more can be added. The Subordinate Legislation Committee made its point to the Executive and got responses to its questions. That committee's report is the normal kind of report that we would expect to receive from it.

Fiona Hyslop: There is nothing wrong with the report. When we have looked at statutory instruments previously, we have asked the officials for responses. If the Subordinate Legislation Committee has already done that, it is fine, but normal practice dictates that the officials should have stayed for this item.

The Convener: The issue is whether there is a substantive point that anybody wants to check on. We could continue consideration until 12 January if we had to. I do not think that that is necessary, but what do others think?

Lord James Douglas-Hamilton: I do not think that that is necessary because the duplication

might assist the voluntary bodies, the charities and the local authorities. It should be seen as a one-off occurrence and not taken to be a precedent.

The Convener: I am inclined to agree.

Fiona Hyslop: It would have been nice to have the Executive officials here so that we could ask them to confirm that point.

The Convener: With great respect, we can have the Executive officials at the next meeting if you want them. However, I suggest that that is not necessary based on the relatively limited point that we are considering. Is that all right?

Fiona Hyslop: Yes, I just think that they should have stayed.

The Convener: To finish off our consideration of the regulations, the instrument is to be made under negative procedure. The advice is that unless there are strong objections, the committee should agree that it does not want to make any recommendation in its report to Parliament. Is that agreed?

Members indicated agreement.

Police Act 1997 (Criminal Records) (Protection of Children) (Scotland) Regulations 2004 (SSI 2004/526)

The Convener: We will now consider the Police Act 1997 (Criminal Records) (Protection of Children) (Scotland) Regulations 2004 under the negative procedure. We do not have Executive officials to question about the regulations, which are before us for the first time.

Martin Verity: The lead committee on the regulations is the Justice 2 Committee and the Education Committee is secondary to that committee.

Dr Murray: So we should make no recommendation to that committee.

The Convener: From the documentation before us, it is not immediately obvious that there is anything particularly at issue with the regulations, which merely prescribe details for the list arrangements and for how directions should be dealt with. All of that seems fairly obvious. Does anyone want to raise any points about the terms of the documentation?

Fiona Hyslop: We should ensure that the Justice 2 Committee is aware of our concerns, which are, as Elaine Murray said, not so much about the content of the regulations as about the interpretation of the Police Act 1997 in relation to the Protection of Children (Scotland) Act 2003. It might be helpful to refer that committee to our discussions this week and last week, which could

provide background information for that committee's deliberations.

The Convener: We can indicate that we have been considering the wider issues surrounding the 2003 act so that the lead committee is aware of our concerns. I think that that would be acceptable.

Apart from that recommendation, I think that, unless there are strong objections, we have no recommendation to make on the regulations in our report to the lead committee. Is that agreed?

Members *indicated agreement.*

Work Programme

11:21

The Convener: The next item on our agenda is our forward work programme, for which I refer members to re-issued paper ED/S2/04/27/7, which contains a helpful annex that provides the draft agenda for the committee's meetings for the forthcoming period from the beginning of next year. Have members any comments on the contents of the paper?

The paper suggests several issues, but let us start with the key issue of early-years learning, which is dealt with in the Scottish Parliament information centre briefing. Among other things, we might want to consider the extent of current provision—where it is provided, whether it is accessible and whether it costs what it should. We could consider whether we perhaps need a case manager to ensure that people can access different bits of the provision so that it is convenient for those who have child care and educational needs. Another issue is the content and quality of the curriculum, in so far as such a thing exists in that context. Funding is another issue. We could also consider the extent to which early intervention is successful and whether it has the effects that we believe instinctively that it ought to have or whether alternative approaches should be considered. Those seem to me to be the general areas that we might want to consider, but there is a wide range of potential issues. Let us focus on early-years learning for the moment. Do other members have any comments?

Ms Alexander: I want to mention three issues. First, given that much of the research evidence talks about the importance of providing parallel support for parenting, we should look at the extent to which that is currently provided in early-years provision. Secondly, there is an issue to do with the start date of collective caring for children, as opposed to individual caring for children. The compulsory right to nursery care has been extended in England to cover all two-years-olds—or, at least, to all such children in deprived areas—but there are issues about children bonding to one adult rather than to a collectivity. We need to consider what sort of care we should most support for children who are between the ages of zero and three and beyond. We need not go into that issue in great detail, but it should be on our agenda. The third issue is flexibility, which is again being addressed elsewhere. At the moment, we are pretty restrictive about how people can take their two and a half hours. That makes it more difficult for people to provide wrap-around care over an extended day. Therefore, support for parenting, the optimal form of care for zero to three-year-olds

and the extended day are the three issues that I think should be included in our future agendas.

Dr Murray: The SPICe briefing lists the partnership commitment to provide flexible and more available child care that is accessible to all. We need an update from the Executive on what progress is being made on that. We could then home in on any issues that arise from that.

The Convener: It might be helpful to give advance written notice of that to the Executive officials who will provide us with a briefing on 19 January. Do members have any other comments?

Mr Macintosh: I would echo some of the points that Wendy Alexander raised, particularly with regard to our ability to look ahead at the costs and benefits of extended wrap-around care, not just for children but for families. I would like to explore the crossover between child care and education, because that is a slightly tricky issue. We have a clear educational policy, but child care is just as important in many families' lives, and I would like to know whether it has the bigger impact. It would be good to have some evidence on the early-years policies and people's interpretation of them. We need an idea not only of the numbers but of how effective the early-years policy is on people's lives and of whether it is the education element or the child care element that needs to be developed.

The Convener: I have a sense, to some degree, that the complexity of the provision at the moment could mean that there are savings to be made in making things more efficient and more suitable to people's needs, but an expansion of care is obviously needed as well.

Mr Macintosh: That is right. One of the areas that I would like to explore is the idea of greater choice in child care provision generally and in early-years education. I would like to know whether the Executive has those figures. With the Government supporting a big expansion in child care, we have seen the playgroups, which were extensive, moved slightly to the side and replaced by state-provided education. That may or may not be a good thing, but it slightly restricts choice. Some people want their child to start quite early on with a relatively formal curriculum in a more structured and disciplined environment, whereas a playgroup is a much more relaxed environment. I would be interested to know what the picture is across the country, as opposed to in my own experience, and whether playgroups have shrunk hugely across Scotland and been replaced by formal nurseries attached to primary schools. If that has happened, I would like to know what the advantage or cost has been.

Fiona Hyslop: Surveys are available. Children in Scotland has conducted surveys and we could find out about that.

The Convener: The SPICe briefing indicates that there has been a shrinking of playgroups. My impression is that there has also been a refocusing of their role, to some extent. Playgroups have had to look to new business in slightly different ways from before, and one would not want to lose the volunteer experience that has been built up over some years if it can be refocused effectively.

Mr Macintosh: Indeed. That is what has happened to playgroups. In such situations, playgroups often refocus their energies in different areas as a way of surviving, and they are following the funding. Playgroups exist for a purpose, but if the funding is skewed in a certain way, they will skew their activities to get that funding, and that is not necessarily to everyone's advantage. I just want to explore that area.

The Convener: We rely on you and Fiona Hyslop for expertise in that area.

Mr Macintosh: The difficulty is that we are aware of our own circumstances, but we are not necessarily experts on the situation throughout the country.

Fiona Hyslop: It is very difficult to be a full-time MSP and take your child to a daytime playgroup. That is my advice and expertise.

The Convener: Are there any other comments on early-years learning? I think that what has been said will give Ken Macintosh and Fiona Hyslop some guidance.

On the other issues, I would like to say two things. First, following the discussion that the clerks and I had with the minister about trying to get more precise information on the budget figures, the suggestion emerged—and I think that it is a good one—that the committee might want to focus, as part of the budget discussions or more generally, on one specific aspect of the budget. We could focus on teacher numbers, the school-building programme or other issues. Each year, we could take a specific angle, as well as putting any general questions that we might have, to look in a bit more depth at the financial and other implications of specific areas of the Executive's policy. That seemed to me to be a decent idea and one that we should fit into our programme in some shape or other. Teacher numbers and distribution, areas of shortage and what will happen in future, for example, might be areas that we could usefully examine.

11:30

Ms Byrne: I do not know whether this would fit in with what you suggest, but when I examined the forward work programme I thought that we should include updates from the minister on reduction of

class sizes and the proposal to reduce class sizes by 2007. Such updates would be useful and might be incorporated into a broader report on recruitment and retention.

The Convener: That would be one aspect of the general area. My belief is that class sizes can be a bit misleading, because there could be several teachers in one class or a variety of different formulations to arrive at the same end. Greater flexibility, with more experts giving teachers a bit more freedom in terms of class-contact time, is also an aspect of the issue. There are a number of ways in which to arrive at the same objective; examining class sizes is one.

Ms Byrne: Reductions have been promised specifically in secondary 1 and S2 maths and English, and in primary 1, so it would be useful to have updates on those.

Fiona Hyslop: Class sizes and teacher numbers are discrete schools issues that we should examine in the context of the budget. We should also—we have done so, but we could be better at it—include scrutiny of the budget in our early-years inquiry or our child protection inquiry, which we could do as we make progress.

The Convener: That is absolutely right.

Lord James Douglas-Hamilton: I support the call for an investigation of teacher numbers, which have a bearing on the curriculum and on shortage subjects and which are—of course—relevant to Gaelic, which we are considering now. It may not be possible, but perhaps our inquiry could be widened to include the McCrone settlement and devolved school management, which are related subjects.

The Convener: I do not see quite how McCrone is related. Devolved school management, whatever its merits, seems also to be some distance from the subject.

Dr Murray: I support our doing something on teacher numbers and shortages. It would be valuable, but we should not try to expand consideration too much. If we are to consider such matters as part of our budget scrutiny, we will need to focus in on them.

My suggestion relates to early-years education and other workforce issues. It is probably too early to examine such issues in our inquiry into early-years policy, but we should at some point return to how the workforce is being used.

Fiona Hyslop: That should be part of our consideration. We agreed previously, when considering the nursery nurses' petition, that workforce training would be part of the early-years policy. Our concern was that it would be so far off that we did not address it, so we must return to it. We are already committed to doing so.

The Convener: That is absolutely right. We must be careful not to get into pay levels, which is more complex, but the training issues are certainly important.

Fiona Hyslop: On the forward look, there is an issue about implementation of McCrone, which is not necessarily about the national agreement. The minister replied to a question from me by saying that he does not think that there is, from the Executive's perspective, a need to conduct a review of McCrone implementation, which means that the only body that could do that is this committee. There is general disquiet and concern in some parts of the country about how the McCrone settlement is being implemented in respect of doing away with principal teachers and in respect of the curriculum and faculty issues. We have a duty to maintain a watching brief on that. I am not sure that that would be as onerous as a big project, report and inquiry, but it is something on which we could conduct correspondence with the parties concerned.

The Convener: Some of those issues emerge not only from McCrone, but from wider changes that have taken place.

Fiona Hyslop: The implementation of McCrone has, however, been used by some local authorities to implement new management structures.

The Convener: I am told that an Audit Scotland review is taking place on that, which might provide us with useful information. That information is not available at the moment, but it might be useful to focus on it. We need something a bit more definite than just a review of McCrone to focus on. If we can, I would like to find out more about the Audit Scotland review, if that is appropriate, bearing it in mind that our work programme is beginning to develop and that we will have to be able to fit everything into it and do justice to all the issues that we consider.

Another matter that I want to raise is whether we should look more closely at how the various reports that come within the education sphere, for example reports from the commissioner for children and young people, are considered. The matter is touched on in the clerk's paper. It strikes me that the social work services inspectorate's reports would be relevant to our work on child protection. I understand from a private conversation that social work recruitment in Glasgow is now up to establishment. If that is the case, it is good news. We might want to get a feel for whether such staffing levels solve the problems or whether difficulties remain in relation to the children's hearings system and other matters. We might want an opportunity to consider the social work services inspectorate's report. I am not sure about the timescales, but if we could secure information about the various bodies that report,

we could make a decision about when we might consider reports. There is a gap in our work programme on 26 January, which might usefully be filled by work of that kind. Are members prepared to leave it to me to consider the matter with the clerks? Should we consider any other aspect of the work programme?

Mr Macintosh: I am happy with what we have agreed so far. Paragraph 6 of the clerk's note says:

"The Committee will consider and comment on the draft code of practice to be published under Section 27 of the Additional Support for Learning (Scotland) Act at the end of March."

We are all content to consider the matter, but I am worried that our consideration is pencilled in only for a slot at the end of March. I imagine that the matter will need further consideration. I am concerned that the matter is listed under the heading, "Other", and that we seem not to have a major role in it. We might want to take a more active role.

The Convener: We will have first to see the guidance.

Mr Macintosh: Exactly.

Fiona Hyslop: The matter relates to an amendment to the Education (Additional Support for Learning) (Scotland) Bill that the committee successfully secured.

The Convener: Given that we will be considering the draft code of guidance, I suspect that there will be a little time in which we will be able to do something about it.

Mr Macintosh: I appreciate that we do not yet know what we will want to do, but I wanted to flag up that we might need to allow more than just one slot.

The Convener: Paragraph 10 raises the possibility of a visit to our colleagues in the National Assembly for Wales, which has emerged from discussions that the clerks have been having. The committee has not made such a visit and it might be interesting to learn about the Welsh experience in what is obviously a different system. Are members interested in visiting the Assembly?

Fiona Hyslop: A visit would need to have a specific purpose.

Dr Murray: Could we fit in such a visit?

The Convener: I gather from members' comments that there is no huge enthusiasm for such a visit at the moment.

Mr Macintosh: It would be interesting to know what our colleagues in Wales are doing. Wales might be a good place to visit, but there might be other areas that we should consider. For example,

I have been reading about the development of specialist schools in England and Wales, which is pertinent. Perhaps we should ask for a brief paper from the Education and Lifelong Learning Committee in the National Assembly for Wales on its work and what we might learn from it.

Lord James Douglas-Hamilton: It might be possible to send two committee members or a reporter to the Assembly, if we thought it necessary to do so—I think that that would be within the committee's jurisdiction.

Ms Byrne: We have been talking about early-years education. I have no objection to our sending a couple of members to Wales to see what the Assembly is doing, but a visit to Scandinavia at some point in the future would also be useful. For example, an examination of what is happening with early-years education in Denmark would be very productive and worth while.

The Convener: I have suggested that, too; we might want to take up that idea. Given that a general election is coming up—the election is not our immediate concern, but it is in the background—we might consider making such a visit after the summer recess. We can come back to that.

My reading of members' comments is that it might be worth exploring the idea of members going to England or Wales, or to both countries, to see whether we can get ideas about where they are going on education, which might fit in with our work. We could get some preliminary work done on what our colleagues in Wales are doing. Perhaps what is happening in the House of Commons might also be of interest. We can review the situation when we know a bit more. Do members have other comments on the work programme?

Dr Murray: We need to schedule a follow-up session on the Protection of Children (Scotland) Act 2003, as agreed.

The Convener: I am taking it for granted that that will have to fit into our schedule somewhere.

Paragraph 9 suggests that we consider the report on integrated community schools by Her Majesty's Inspectorate of Education. I do not envisage a gigantic inquiry into the matter. Has the report been published? I do not recall having seen it.

Ms Alexander: Paragraph 9 says that we should consider the report because integrated community schools are

"a key component of the Executive's education policy".

I might be wholly wrong, but my impression is that the matter is not a key component of the Executive's education policy, partly in light of the

report's findings. I am acutely aware that when ministers and others come to the committee they talk about other aspects of education policy. I do not think that there would be much point in our spending significant time on a retrospective look at an initiative that was launched eight years ago if the initiative is not regarded as being key to future policy. I am happy to take advice informally on whether integrated community schools are indeed a key component of Executive policy, but I get no sense that they are—although that might be my error.

Fiona Hyslop: We might need to explore that. At this week's meeting of the cross-party group on children and young people, the minister said that the excellence standard that the Executive wants to introduce for HMIE inspections can be achieved only if there is progress on integrated community schools. That suggests convincingly that the Executive regards the matter as significant. However, we could deal with that through correspondence.

Ms Alexander: Fine.

The Convener: We could interview HMIE in the context of its annual report, bearing in mind the issue that is raised in paragraph 9. We need to know when the different reports are published.

Fiona Hyslop: We could discuss the HMIE report on integrated community schools, which was published a few months ago.

The Convener: Okay. We can look again at the lists of reports to see which we might consider, but we should probably consider the HMIE report.

Ms Alexander: Do we know when HMIE publishes its annual report?

The Convener: The idea is to produce a list of the various reports that come to the committee, so that we can choose which to consider. I am beginning to pick up a sense that we might well want to consider closely the social work services inspectorate's reports and HMIE's reports. I think that we should leave it at that for the moment.

Ms Byrne: We need to keep an eye on implementation of the McCrone agreement. When the Audit Scotland review is complete we might want to explore the matter further, because there are issues around what is currently happening in schools in relation to head teachers' discretion on department heads and faculties. It is important to underline that we might need to revisit the matter; Fiona Hyslop is absolutely right about that. Do we know when the review will be completed?

The Convener: We have already been through that—

Ms Byrne: I know, but I want to—

The Convener: Just a minute. We said that we do not know when the review will be completed, but that we will make inquiries about that. We have given a broad undertaking to come back to the McCrone agreement and to get our teeth into specific issues that have been raised.

If members have no further comments on the work programme, we will move on. We have the usual problem of trying to fit useful work into our time slots, but we have had a helpful discussion.

Gaelic Language (Scotland) Bill: Stage 1

11:43

The Convener: Item 5 is consideration of the scope of our stage 1 report on the Gaelic Language (Scotland) Bill. We do not yet have the report; I think that Mark Roberts has the job of producing a draft for us during the recess. However, a preliminary list of potential issues for inclusion in the report has been prepared. I invite members' comments on matters that might be added to the list or taken on board, given the oral and written evidence that we have received. Members have read the large folder of written evidence that they received two or three weeks ago and will be in a position to make full comments or be questioned on the evidence at a later stage. Do members want to add anything to the list of issues?

Mr Macintosh: A useful summary was provided with the large folder.

The Convener: Absolutely.

Fiona Hyslop: The paper covers the issues that the committee has been pursuing.

Mr Macintosh: Do you have a spare copy of the paper, convener?

The Convener: It should be with the committee papers.

Fiona Hyslop: It might be helpful for the *Official Report* if you ran through the list.

11:45

The Convener: Everyone now has the list, so I do not think there is any advantage in my reading it out. The paper has been published so it is available if people want to see it.

I have one or two thoughts that might be relevant. The point came through clearly that there must be links between Gaelic-medium education at primary, secondary and tertiary levels. Funding is also an issue. That is not just about the funding of the bill per se, but about the need to support its provisions and the adequacy or otherwise of the Executive's intentions in that regard.

There is also an issue about Gaelic-medium materials, which is touched on in item 4 in the list of issues. Linked to that is teacher promotion and incentives, which relates to how we can recruit more people and whether we can effect a step change. There is also the question of whether we consider the current demand for Gaelic or the potential of the language, on which a number of people have touched.

We have also to consider support for the family. If a child from a non Gaelic-speaking home is in Gaelic-medium education or is learning Gaelic, we have to consider allowing parents easy access to Gaelic and supporting them to understand what is taking place and how they can help their children, which is important. I would like to see reflected in the bill the principle of generosity and good will, which the Welsh Language Board cited and which would be a good theme for us to take forward. Do members want to raise other points?

Lord James Douglas-Hamilton: I want to raise a point related to viability and choice, on the use of high technology and videoconferencing. Pupils might be interested passionately in Gaelic, but if they are in a school where it is simply not viable to provide a Gaelic teacher—say if only one, two or three pupils are interested—such provision is not going to happen. Given that the minister has set up a working group, a paragraph on that should be included. It could come under choice and viability or the use of high technology.

The Convener: That could be done.

Fiona Hyslop: We are right to acknowledge the debate on the statutory right to Gaelic-medium education, which I support. We need to acknowledge that, in the evidence that we received, a large number of organisations argued in favour of that right, but the minister presented arguments for why he did not necessarily want to see such a right. That needs to be explored fully.

On the education side, we need to cover the points that Highland Council made about the educational drivers for guidance in relation to the Standards in Scotland's Schools etc Act 2000 and the interaction between that act and the bill. I am not quite sure whether that fits with the arguments about the right to Gaelic-medium education; it is more about the interaction between the bill and the 2000 act. The comments that the minister made last week were particularly interesting. He is, in effect, doing in practice what we might want to do in law. We should explore that and in doing so focus on the good evidence from Highland Council.

The Convener: We will certainly have to reflect the rights issue one way or another. Everyone would agree that we are on about giving substance to the right. The law against the background of resources is another issue on which we will need to focus our minds.

Mr Macintosh: The list is pretty comprehensive. The emphasis that it puts on education reflects the fact that despite education being an addition to the bill it has dominated much of our discussion of it. The key point that I want to see reflected is that there is broad support for the bill. I do not know about other members, but when we started

considering the bill I thought that there would be much more dispute in the evidence that we took. I was pleasantly surprised by the fact that everyone who spoke to us—without exception—said that they support the bill and that it is a step in the right direction, although some said that it should go further.

The Convener: One or two written submissions took the opposite position.

Mr Macintosh: That is true. However, the oral evidence and the bulk of the written evidence were supportive of the bill. Given the arguments in the past about the right way to support Gaelic, that is an important point.

We need to explore whether the bill is intended to arrest the decline of Gaelic and to prevent it from dying out, or whether it is intended to encourage the growth of Gaelic. That has implications for the way Gaelic language plans will be interpreted across Scotland. Clearly, the first role of the bill is to stop Gaelic dying out. However, some people—including me—would like more emphasis to be placed on using the bill and the Gaelic language plans as vehicles for growing Gaelic throughout Scotland, including in areas where it does not have a strong tradition. Other than that, I am happy with the issues that are listed in the paper as issues that were covered in evidence.

The Convener: We have heard some evidence on potential use of the language.

Mr Macintosh: Yes. That is the second issue listed in the paper.

Fiona Hyslop: We are discussing the possible themes and content of the report. However, it would be good if the introduction included something on how the committee views the context of the bill and reflected the fragility of the situation, which our visits helped to emphasise. Everything else could flow from that.

The Convener: That is a helpful suggestion and reflects our conclusion in our discussions. What is the role of Gaelic? What is the context? I refer both to Gaelic's position as a language and to the surrounding cultural milieu. There are a number of aspects that must be considered.

Alex Neil (Central Scotland) (SNP): It would be helpful for the committee to distinguish in its report between Gaelic-medium education and the teaching of Gaelic as an add-on language. In my view, availability of Gaelic as an add-on language helps and complements what we are trying to do, but should not negate the right to Gaelic-medium education. However, in many parts of lowland Scotland there is likely to be more emphasis on Gaelic as an add-on language than on Gaelic-medium education.

The Convener: The interrelationship between the two is an issue. Unless there is Gaelic for new learners, catchment of people will be limited to the small number of Gaelic native speakers. Some evidence suggests that we need both elements. There are several legs on which the strategy must stand.

We have received reports from the Subordinate Legislation Committee and the Finance Committee. I notice that the Executive has made an undertaking to the Subordinate Legislation Committee to require the national plan to come before Parliament in suitable shape, which is important. Parliamentary scrutiny of the plan will be relevant.

Lord James Douglas-Hamilton: It would be an important signal if the report contained recognition of the fact that Sabhal Mòr Ostaig, the Gaelic college, is a centre of educational excellence. It has developed enormously in recent years and is doing extremely well.

Ms Alexander: That is true. Given the fragility of the language, it is impossible to look to the Gaelic community to replicate in individual institutions all the areas of higher education research, teacher training and cultural development. It is inevitable that success will come from clustering activities in one institution, which should not be disadvantaged in funding as a result. The problem is that Sabhal Mòr Ostaig is obliged to cluster to have an impact, but the Executive does not have funding streams that reflect such clustering in other areas. A nod towards that would be helpful.

The Convener: Some people have suggested that everybody should be sent to the Gaelic college, whether from Glasgow or wherever. That would be impractical, but the idea of having a period of an entirely Gaelic scenario, if you like, for people who are going to be teacher trainers and so on seems to be valid. That might support people, given that things are not happening in quite that way at the moment.

Alex Neil: The first issue in the list in paper ED/S2/04/28/4 is going to be the trickiest for the committee to cover in the detail of its report. We have various demands for the language to have secure status, official status and equal status. The board recommended the idea—with which I have a lot of sympathy—of the language having equal validity, which would overcome many of the problems in the other options. That said, one of the points that the minister made last week was that Gaelic already has, in effect, official status simply because it is used officially by the Executive, local authorities, Parliament and other organisations. In the committee's report you might want to distinguish between official status and the other three options of secure status, equal status and equal validity. The options are mutually

exclusive—if you go for one of them you cannot go for another—but they are all compatible with official status. You might want to record in your report the fact that the language has official status and consider whether it is right, necessary or appropriate for that to be stated in the bill.

The Convener: It is useful to define some of the terms. The Welsh Language Board was useful in that context. I am not entirely certain that Gaelic is an official language. For example, in the courts, there is a facility for translation when it is necessary, but I am not sure that people have a right to give evidence in their own language—that is, Gaelic—where appropriate, although it happens in some northern courts.

There is an issue about what official status means in practice. In the introduction to the bill, the objective is given of promoting and facilitating the language with a view to its gaining secure status, or words to that effect, so there is already a nod in that direction. My mind was turning to whether we could enhance that and cover the prestige element that the Welsh Language Board talked about.

Alex Neil: Bòrd na Gàidhlig's contribution was helpful. The phrase “equal validity” would solve a lot of problems.

The Convener: We will have to form a view on that. The minister had qualms about the phrase, as he did with the other options. We have to be clear about what we suggest and its legal effect. There was a suggestion that we want to go for something reasonably substantial that does not create individual legal rights per se. Creating individual rights to do with education is another issue, but we do not want to go for something that suggests a vague and unspecified possibility of there being legal rights. We need to address the status issue, which I think members feel is the most important angle. Somewhere in there is the answer to the conundrum.

Alex Neil: One of the other issues that need to be clarified in the committee's report relates to the powers to require United Kingdom bodies to prepare and submit Gaelic language plans. It is important to acknowledge that we are dealing with two categories of non-devolved body. One category includes straightforward UK bodies such as the BBC, which is a creation of Westminster and represents a reserved function. The other includes bodies that are in between, such as the Forestry Commission, which is a cross-border body that crosses devolved and reserved status. We have to ensure that we cover those bodies as well as the purely UK bodies.

The Convener: We did not explore that with the minister—perhaps we should have done so.

Alex Neil: The Forestry Commission is particularly important, given its role in rural life in Scotland, particularly in many areas where we are likely to see greatest use of Gaelic.

The Convener: We have to consider whether the fact that bodies such as the Forestry Commission were set up by UK legislation creates a different status for them—I do not know the answer. Perhaps we should see whether we can get guidance on that. UK bodies are referred to in the list of issues.

Lord James Douglas-Hamilton: It was helpful of the clerks to submit such a concise and excellent list.

The Convener: We will have a draft report early in the new year. I thank everyone for their attendance at this extra meeting. I am told that as I am a member of the SPCB I might be involved in authorising any Gaelic language plan that the Scottish Parliament would be required to produce under the legislation. I therefore have to make a declaration of interests in that context.

Item in Private

12:00

The Convener: Under item 6 I am required to ask the committee to consider whether to discuss the committee's draft stage 1 report on the Gaelic Language (Scotland) Bill in private at its next meeting. I am inclined to recommend that we do not do that in this instance. It seems to me that the issues have been explored in public reasonably satisfactorily. I do not think there is a particular handicap to our discussing our report in public. Do members agree?

Mr Macintosh: In this case we have taken a consensual approach. Although there are difficulties and areas of disagreement, I am sure that we can resolve them publicly without detracting from the report.

The Convener: There is a separate issue of whether the draft report which is, after all, only the clerk's report and not our report at that stage, should be a public document and therefore available to people. I do not have a strong view on that.

Alex Neil: The advice that the conveners got the other day on freedom of information was that whether we like it or not such documents are public documents from 1 January.

The Convener: Is that right? I am not sure that I remember getting such advice. You might be right. In this instance, without prejudice to other situations or items that might be more contentious, I have no objection to dealing with the report in public. Does the committee agree?

Members indicated agreement.

The Convener: I wish everyone a merry Christmas. Thank you for your attendance this morning. I hope everyone has a pleasant recess and comes back refreshed for the battles of next term.

Meeting closed at 12:02.

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

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

The deadline for corrections to this edition is:

Thursday 13 January 2005

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

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

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Astron Print Room.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop
53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

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

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

RNID Ttypetalk calls welcome on
18001 0131 348 5412
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron