

EDUCATION COMMITTEE

Wednesday 26 October 2005

Session 2

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EDUCATION COMMITTEE

18th Meeting 2005, Session 2

CONVENER

*Iain Smith (North East Fife) (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 Kenneth Macintosh (Eastwood) (Lab)

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

*Dr Elaine Murray (Dumfries) (Lab)

COMMITTEE SUBSTITUTES

Richard Baker (North East Scotland) (Lab)

Rosie Kane (Glasgow) (SSP)

Michael Matheson (Central Scotland) (SNP)

Mr Jamie McGrigor (Highlands and Islands) (Con)

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

*attended

THE FOLLOWING ALSO ATTENDED:

Chris Ballance (South of Scotland) (Green)

Mrs Margaret Ewing (Moray) (SNP)

THE FOLLOWING GAVE EVIDENCE:

Peter Peacock (Minister for Education and Young People)

Philip Rycroft (Scottish Executive Education Department)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Mark Roberts

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 1

Scottish Parliament

Education Committee

Wednesday 26 October 2005

[THE CONVENER *opened the meeting at 11:30*]

Child Protection

The Convener (Iain Smith): Good morning, colleagues. I welcome everyone, including people in the public gallery, to the 18th meeting in 2005 of the Education Committee. The first item on the agenda is the child protection reform programme. Does anyone have comments on the letter that we have received from the Deputy Minister for Education and Young People updating us on the programme?

Lord James Douglas-Hamilton (Lothians) (Con): I have two brief comments to make. First, could the committee be updated on the progress of the pilot project in which automatic messages are to be sent to all practitioners who are involved in a case when the social work system records a formal child protection activity? Could the committee be provided with evidence of the security of such a system? Secondly, could the committee be given clarification about why some local authority planning partnerships submitted their integrated children's services plans up to five months late? Could an explanation be sought as to what feedback and support the Executive might provide to local authorities in that regard?

Ms Rosemary Byrne (South of Scotland) (SSP): I would like to probe a wee bit further into recommendations 7 and 12 in the Executive's update. Could we get some answers on how widely the training is being delivered, including training for drug misuse workers? I am thinking of, for example, family support workers who may be employed through funding streams other than core streams. Also, how much input is there into homelessness teams and hostel staff? Looking through the documentation, I do not see any reference to those. I would be interested to know just how broadly that training is being provided.

I would also like to know how the integrated plans are being monitored on a day-to-day basis in local authorities. I can see the bigger picture coming through, but I do not see exactly how that day-to-day monitoring of the integrated plans is going to work out.

Also, I would like a bit more elaboration on recommendation 14, which is on the grounds for referral to the children's hearings system. I would like to know exactly how that is done, in what circumstances those referrals are made and what

recommendations are given to the professionals who make those referrals.

Fiona Hyslop (Lothians) (SNP): My first point follows up Lord James's point. Recommendation 15 is about the sharing of information using the computer-based system, which is taking a long time to roll out. We have comments on that from the Executive, but I do not think that that is enough. We need a timescale for the roll-out and we need to know the budget for it. The concern that I have heard is that the Government is keeping centrally the budget for the roll-out of the computer system. In Edinburgh, for example, there are difficulties because the different agencies want to go ahead, following the O'Brien recommendations, and set up a system within which they can share information. The lack of shared information is the bottom line in most of the cases. We should ask the Executive for the timescale and the budget of that roll-out. It would also be useful to know where pilots have taken place and what the results of those pilots have been. That is crucial to progress.

On recommendation 1, it is clear that the overriding responsibility of all the different agencies is to get together to form the child protection committee and to ensure that there is accountability and a child health performance framework. The chief medical officer's response—which is typed in bold in the update paper—is:

"All staff have a responsibility to act to make sure that all children are protected from harm."

The response goes on to say:

"All NHS staff are responsible for acting on concerns about a child - even if the child is not your patient."

We obviously know about the recent tragic case involving Michael McGarrity. People might be aware that the Fort, where the incident took place, is a stone's throw from where Caleb Ness died. We would expect a report to be produced, which the committee should consider, so we can make no judgments now, but it is clear that if Michael McGarrity's mother received a methadone prescription, the question is whether all NHS Lothian staff took into account their responsibility to the child.

That takes on board points about whether training of all staff has taken place. What is written in the update looks good; our problem is that cases continue to arise in which we do not know whether information has been shared in practice. We do not know whether practitioners such as health and particularly drugs workers have the training that they need, which might prevent such cases. That might not have happened in this instance—we will find that out when we have a proper report.

The update says that a bill on joint inspections will be introduced, so I suggest that it might be appropriate to ask the minister to make a statement when a bill is introduced, because of the sensitivity of child protection and the interest in it. That would allow all MSPs to ask questions about progress on child protection as well as on the bill that the Executive plans to introduce.

Dr Elaine Murray (Dumfries) (Lab): My comment is slightly more general and relates to points that other people have made. We have been given timescales for when some research is expected to be complete and when review processes will be brought into play. For example, under recommendation 6, we are told that research should be finished by the end of the year. However, under recommendation 12, we are told that research is being undertaken or that funding has been secured, but the document does not say when the research might be complete or when we can expect action. The same applies to recommendation 15. I would like a bit more of a timescale for when the Executive expects results.

Mr Kenneth Macintosh (Eastwood) (Lab): I echo that point. I was going to comment on behalf of my colleague Wendy Alexander, who has just joined us. She has talked about the e-care system that is being introduced, which the Executive mentioned, and the lack of priority that it seems to have been given. I emphasise that the lack of a timescale in the Executive's update is rather worrying.

Ms Wendy Alexander (Paisley North) (Lab): That was exactly what I wanted to ask about. I am grateful to Ken Macintosh for anticipating my question.

Mr Adam Ingram (South of Scotland) (SNP): It is obvious that much activity is going on. The update is dense and difficult to get into. Could we ask the Executive to identify in future reports the various strands to which Robert Brown refers in his letter? The letter says:

"Along with other work all the elements of the recommendations are being tackled ... through a number of threads of the work of the wider reform programme."

Could we ask the Executive to separate those strands? Much activity is going on, but I do not have the impression that we are near to putting in place a robust system. I do not have a clear picture of progress towards achieving the final objectives. The Executive should identify the strands and give an idea of the critical path that we are going down. It should give a clear idea of the timetable, of when each objective will be attained and of when we will have a robust system in place.

The Convener: I thank members for those comments. To be fair to the Executive, it produced

the report in the format for which the committee asked—we asked for responses to the recommendations. I suggest that we forward the *Official Report* of this meeting to the minister and ask whether he wishes to respond to members' points. We can ask for a follow-up progress report in six months' time. Do members agree?

Ms Alexander: This point might have been covered, but I read that, following the pilots, joint inspections are to require a bill. I ask for clarification on that.

Fiona Hyslop: I raised that issue. The minister should make a statement to the Parliament about progress on child protection generally, because of recent events, and about the need for legislation.

The Convener: Do members agree with the suggestion that we forward the *Official Report* of our meeting to the minister and ask him for his comments?

Members indicated agreement.

School Closures

11:40

The Convener: I ask the Minister for Education and Young People to join us at the table. While he is doing that, let me welcome Margaret Ewing to our meeting. I think that Chris Ballance may also join us later.

Agenda item 2 is on school closures. I point out that, although the issue of school closure guidance falls within the remit of our committee, we have no role in holding local authorities, either individually or collectively, to account for school closure policies in their local areas. Taking a view on individual school closures is the responsibility not of our committee but of the democratically elected local representatives in local authorities. However, the committee has a role in scrutinising and monitoring the Scottish Executive's guidance to local authorities on school closures. That is why I am pleased to welcome to our meeting both Peter Peacock, who is the Minister for Education and Young People, and Colin Reeves, who is the head of the Scottish Executive's schools division.

The Minister for Education and Young People (Peter Peacock): Convener, as this is my first appearance before the committee since you took up your present position, I congratulate you on your appointment. However, that should not be taken as a note of sycophancy in the hope of soft questioning, as I expect no such thing.

I will try to set out where we are at and I will update the committee on what has happened since we last discussed school closures. I set out my initial position in evidence to the committee some time ago. As the convener said, that was confirmed in guidance that we issued just over a year ago. Subsequently, I wrote to the committee last month to set out some thoughts about where we are at. I have read the *Official Report* of the committee's meeting on 14 September and I am here today to assist the committee's discussions and to answer questions.

Let me update the committee on what has happened since I wrote my letter of 9 September. First, I have some concerns about the way in which the guidance on school closures is biting on local authorities, especially the guidance on the supply of information to parents and the wider community about the nature of an authority's proposals. In light of those concerns, I met the Convention of Scottish Local Authorities education spokesperson a few weeks ago to raise those issues and to seek COSLA's engagement. I am glad to say that I received a positive response, as COSLA is conscious that issues need to be addressed. Subsequently, my officials met COSLA

officials to discuss the issues in more depth. COSLA is now setting up a working group to consider the issues in detail and my officials will work closely with COSLA on that.

We need to identify how the guidance is operating, how it has been interpreted by different local authorities and what we can do to get more consistency. We also need to consider what constitutes best practice, given the clear variety in consultation procedures that exists across Scotland. Parents find it odd—particularly now that they are organising themselves across the country—that procedures operate so differently in different areas. There is something to be said for seeking a higher degree of consistency. We also need to try to draw lessons from areas where we know things have worked well and reasonably—and where things have been seen by parents to work well and reasonably—so that we can apply those more widely. To respond to the point that the convener made when the committee last discussed the issue in September, we will do that with a view to having the Executive disseminate best practice as well as formal guidance.

We have also looked afresh at the information that is available to parents in the first instance about the nature of school closures. As there is a dearth of such information at a national level, we are drafting a leaflet-type document for parents that will set out much more clearly what should be expected when a change in school provision is considered at local level. The leaflet will set out clearly which issues must be addressed by the council and which issues must be addressed by the Executive. We have also considered issues such as the information that parents should expect to be supplied with in a consultation document. We want to provide a clear set of rules so that people understand the process that is about to be embarked on. We will consult parents organisations and others on the text of that document before we publish it.

11:45

Beyond that, immediately after meeting with you, I will meet representatives of the Scottish rural schools network to hear their concerns and their experience over the weeks and months since we issued our guidance. I expect that to inform my thinking about what else we can do. I hope that it will also inform the thinking behind the exercise that COSLA recently undertook.

Two back benchers from my party, John Home Robertson and Richard Baker, have pressed me strongly about the impact of Audit Scotland's rules—although perhaps calling them “rules” is putting it too strongly. However, when Audit Scotland assesses local authority performance, it considers schools that have an occupancy rate of

60 per cent or less. From my experience and from observing what has happened during the past year, I know that that position is interpreted differently across Scotland and John Home Robertson and Richard Baker have pressed me for a statement on the status of Audit Scotland's guidance.

Circumstances are changing across Scotland. For example, there has been an increase in pre-school provision, a growing demand for, and an increase in, child care provision and a move towards a much more flexible package for child care in early years school provision. All those aspects have had an impact on school occupancy rates; the issue is whether they are within or outwith the scope of Audit Scotland's guidance. I have asked my officials to liaise with Audit Scotland about them, because they bear heavily on the situation. Obviously, Audit Scotland is independent and autonomous; it must have its own rules for such issues and its own internal guidance for its staff when considering them. However, there is scope for further consideration of the matter.

Beyond that, John Home Robertson and Richard Baker have pressed me on another issue, on which I also received a letter from Councillor Keith of Moray Council, which has been through a difficult exercise recently. They asked me about the gap that appears to exist between the guidance that I issued for formal consultations involving a statutory procedure and the fact that some councils have been using informal, non-statutory procedures to initiate consultations. I indicated in a letter to Councillor Keith earlier this week and to John Home Robertson and Richard Baker in a meeting that I am concerned about that issue.

The way in which Moray Council conducted its recent exercise caused anxiety throughout the local community. The council used an informal procedure, so the guidance did not apply—that was unfortunate, to say the least. I want to tighten up that situation, but to do so sensibly, because there are circumstances in which informal consultation is appropriate. We have not got the guidance right. I do not want the Moray situation to be repeated elsewhere in Scotland, because it gave rise to all sorts of unfortunate connotations. We can probably prevent that from happening again by extending the guidance to cover informal consultations. However, I must think more about the practical aspects of that.

Members will be aware from what I have said that my mind is not closed to making further refinements. However, given the dramatic changes in the numbers of children in our communities, I must do much more thinking and, with respect, so must the committee. Inevitably,

the issues to which I referred will be considered and it is inevitable that, over time, some schools will close. It can be entirely proper to make such decisions, but it is important that the rules that govern them are clearer, that parents feel more involved and that the information supply is better and more transparent. As I indicated, we can tackle that in a range of ways. I am happy to take questions from members.

The Convener: Thank you for that useful opening statement.

Fiona Hyslop: Obviously, much progress has been made, minister, and your response to our initial letter and the comments that you have just made are welcome. I have specific questions, particularly about the discussions with COSLA. Is it possible to ensure that parents are involved in any working party that is set up to revise best practice and to address the points that you raised? Timescales are particularly important.

You said that you had a meeting with COSLA's education spokesperson, who is also the director of education at the City of Edinburgh Council. The council has just embarked on an informal consultation that is causing as much disquiet as what is happening elsewhere in the country. Although you have indications that COSLA is responding positively, practice in the here and now may be different. For example, the Gaelic-medium school in Tollcross has problems with falling school rolls. Given your interest in the issue of Gaelic education, I am sure that you would want to be aware of that.

Can we have commitments about parental involvement in the process that COSLA is conducting? Can we also have timescales for the process? You mentioned specifically the problems of informal consultation, which you are right to identify as an area of particular concern. You talk about producing guidance. Are you referring to additional guidance on the formal process? Are you prepared to engage in producing best-practice guidance on informal consultation? I ask that question because informal consultation is happening all over Scotland. Formal consultation makes sense for individual schools that are threatened with closure. The real problems come when, at your request, councils consider wholesale school estates management issues, in the financial and building control area. It is incumbent on you to take responsibility for the fact that, because of the request that you have made, you are kick-starting the process of all-school, all-council reviews, and to produce guidance on that process.

Another issue is the weighting that is given to Audit Scotland's findings. It could be argued that the guidance that was produced last year touches on education and other areas. Would you be

prepared to produce indicators of what is meant by the educational case and rural sustainability? We know that in practice councils are ignoring the current guidance. That dismissive attitude reflects badly on you. It is your responsibility to produce something more concrete on which councils can be judged. You are right to say that, if the information is shared up front and there are more robust indicators of what we mean by the educational case, rural sustainability and economic viability, we will avoid the heartache and distress that has been caused to so many parents and communities. I welcome what you have said, but I would like you to address the specific issues that I have raised.

Peter Peacock: I will try to deal with them in the order in which they were raised. I will make to COSLA the point that Fiona Hyslop has made, but ultimately it is for COSLA to decide whether it involves parents. We are talking about an internal working group.

The issue of timescales was raised. I am anxious to get on with the process, as these are current issues that are very real for people. I have not set myself specific timescales, because some complex issues are involved. However, I am not proposing a delay, as both COSLA and I want to get on with the process.

Informal consultation is a complex issue and I must try to strike the right balance. The situation that we saw in Moray, where more than 20 communities felt that the future of their schools was immediately threatened, was incredibly unfortunate and, in my view, unnecessary. The matter could have been handled in an entirely different way. In terms of practical politics, no council has ever successfully shut 20 schools in a rural area at one time—the world is not like that. Very broad consultations that are lacking in specific detail do not help discussion and debate on such issues.

However, there are legitimate ways in which councils can approach communities informally—through school boards or other contacts in schools—to indicate that a school faces a genuine dilemma and ask how it should be tackled. I have seen that done sensitively and sensibly, with the result that practical solutions have been arrived at. I do not want us to apply heavy, rigid guidance to all informal consultations, without making distinctions. Today I am not clear about how we can do that, but I am prepared to look closely at the matter, as there are issues that we need to think about.

I like Fiona Hyslop's suggestion that we should produce best-practice guidance for informal consultations. That is our intention. Equally, I am tempted in one way or another to extend to informal consultations the formal statutory

guidance that we issue. We will probably do that. However, that depends on how we define informal consultation. I do not want to rule out the practical, sensible and legitimate informal discussions that take place between parents and local authorities on what are difficult issues, but I want to ensure that we do not have any repeat of the Moray situation, which I thought was unfortunate in the extreme.

On school estates issues, let me say two things. First, it is entirely right and proper that local authorities should sit down to take a systematic look at the nature of the investments that they need to make over a prolonged period to build the school estate that their population requires. By definition, those are long-term investment decisions. If a local authority is to invest £5 million in a primary school or £20 million in a secondary school, it needs to be as clear as possible that it will have the population to sustain that investment over the lifetime of the school building. It is right and proper that councils make those judgments about their long-term estates. As the requirement to make such investment decisions—in part because we are investing much more money in school buildings to catch up with the colossal neglect of the past—has coincidentally combined with falling school rolls, future projections often suggest that a very different pattern of schools will emerge in certain parts of Scotland. It is right and proper that those issues are drawn to the surface.

Secondly, our school estates guidance is clear—I checked it this morning—on the need for authorities to consult on their estates strategy. Equally, an estates strategy in no way supersedes the statutory consultation that is required for individual school closure proposals. We need to ensure that that point in the guidance works more effectively. It is arguable that there will inevitably be a relationship between those two sets of circumstances, but it is right and proper that councils consider such matters. We need to ensure that, at every stage along the road, proper weight is given to the factors that are set out in the guidance. For example, the guidance is robust on the issue of rural development. It states clearly that no school closure should lead the process of rural decline, although it may follow it if everything else has already shifted to a new centre. The guidance also makes it clear that educational arguments are prime. It is important that those issues are considered and considered properly.

I will think a bit further about the suggestion on indicators. However, my immediate instinct is that setting hard indicators, such as particular scores that can be attached to things, could just mean that we end up with a worse situation, in which schools can be closed if some boxes have been ticked or if a certain total has been met. At the end of the day, such decisions are matters for political

judgment, which must be made in the light of the facts and circumstances. I hesitate to say that we would require hard indicators, but I am prepared to think about that a bit more.

Fiona Hyslop: I want to ask about accountability. With the best will in the world, you could produce wonderful, improved guidance for informal and formal consultations, but if that guidance is ignored—as has happened in some areas during the past year—what enforcement measures do you have?

The appeals process by which a council's decision may be referred is available only if the school is running at more than 80 per cent capacity or if distance is an issue. The City of Edinburgh Council—whose director of education is COSLA's education spokesperson—has deliberately reduced school rolls such that few schools will ever reach the threshold at which a proposal for closure could be referred, so you are right to warn that people may try to bypass or manipulate any formulae or indicators that are put in place. Given the undesirability of such situations, we need to ensure that we have the information up front. I want to know what grounds for referral you think would be desirable in an appeals process, given that we could not have automatic referral of all school closure decisions. However, if we ensure that the process is right up front, things would be more satisfactory.

How can you guarantee that we will not have another Moray elsewhere, given that councils can just ignore the guidance in the way that Moray Council did? The issue is about political accountability and your responsibility to ensure that guidance is followed. What powers do you have to ensure that, if the guidance is ignored, you can tackle the situation by stopping or reversing the closure process? That is what people want to know.

Peter Peacock: In Scottish education, there is a long tradition—which has, I must say, worked extremely well—of people making a genuine attempt to follow any guidance that is issued. We issue guidance on a whole range of things. In fact, for the most part, Scottish education is sustained by guidance rather than statute—for example, in the curriculum. However, I have made it clear that part of the problem is that the guidance is interpreted more widely in certain areas. I have also made it clear that some of the ways in which matters have been conducted and some of the paperwork are not appropriate. However, local authorities are anxious to do better and to get things right.

The situation that occurred in Moray does not ultimately help Moray Council or the population there, nor does it help with what is happening in other council areas. Such situations create a

climate in which it becomes almost impossible to take decisions, some of which will be legitimate ones. Local authorities are anxious to move on the issue and to ensure that the process is much more acceptable to everybody. That does not mean that difficult decisions will not have to be made. However, the means of getting there can be improved.

I am confident that, once we apply ourselves to tightening the ratchet on the existing situation, there will be changes. Ultimately, of course, I have the inspectors at my disposal to examine what is going on and I might ask them to consider the process at some point. Powers, which Fiona Hyslop previously opposed, can follow from such consideration.

12:00

Dr Murray: Much reference has been made to Moray Council's problems, but there have been similar problems all over the world. For example, there was a school estates review in Dumfries and Galloway; there were similar reviews in the Borders; and I believe that there are similar issues in Angus. Therefore, it might be unfair to single out a particular council for criticism.

You referred in your written response to the importance of local schools in rural communities. Coming from where you do, you are obviously as aware of that issue as I am. How much of the discussions within the Executive and COSLA have looked across the board at the issues of rural development and sustainability? One of the Executive's cross-cutting priorities is sustainability. In addition, has there been discussion about alternative uses of schools? I know that security aspects must always be considered and that not all schools are constructed in a way that allows security to be maintained during alternative use.

Are the discussions and consideration of best practice looking beyond matters that are within your remit—for example, pre-school or after-school care—to other matters such as community involvement and the location of other professionals in the new community schools set-up? Will you consider such additional matters? Will you also take a more innovative, holistic look at the role of schools in communities and at what else can be incorporated in that?

Peter Peacock: On your first point, other councils have indeed been involved in school estates reviews. However, the Moray case is fresh in my mind because it was recent and it was handled in a particular way. It showed me what we ought not to do, as well as reflecting, I hope, what we ought to do. That is why I referred to the Moray case. However, procedures are different throughout Scotland.

You asked about rural sustainability. We specifically wrote into the guidance that that issue must be considered. I have also been clear that a school is an important part of developing a community. School closures should not lead a process of rural decline. In fact, the opposite is true—new schools help to lead rural development. My experience is that one of the big reasons for economic growth in the west Highland area was the opening of new secondary schools there 15 years ago.

Matters involving schools in rural areas tend to be referred to me because of distance criteria rather than occupancy criteria. Internally, my officials deal with such matters by asking the Environment and Rural Affairs Department whether, for example, a council made a reasonable fist in its consultation paper of setting out the sustainable development arguments. We get feedback on that, which feeds into my considerations. I think that that has happened only once so far, because it is a new part of our guidance, but we build rural sustainability into our thinking.

The issue of alternative uses of schools lies behind the point that I made about Audit Scotland's 60 per cent rule, on which the colleagues to whom I referred pressed me. If we take that in a literal, school sense, we get one conclusion: we ought to be thinking about closing a school if occupancy falls below that level. Tonnes of schools in rural Scotland have occupancy rates way below that level but will always have to be there, because the nearest school is too far away to access.

I mentioned child care and early years education. You are absolutely right to think about wider adult education, community schools, the way in which we organise children's services and social work involvement. We are trying to configure differently a range of services. That impacts on the estate that the council as a whole and others manage.

There is potential to consider the issue in imaginative ways, which is exactly why I am getting my officials to question, with Audit Scotland, whether the factors that have been mentioned are being weighed in the balance when we consider the criteria for closure. That is a significant driver.

Dr Murray: You envisage that the good practice guidance will highlight areas in which there has been success, such as in the Highlands, which you mentioned.

Peter Peacock: Absolutely. All sorts of other things are happening in relation to educational management. In an effort to maintain a network of rural schools in the Highlands—such schools are

an important part of the fabric of that part of the world—a number of schools have joint heads. That development happened after I left, but it was talked about before that and it means that unit costs can be changed. There are also educational arguments in favour of it. People are experimenting with such things. Good practice can be brought to bear in a range of ways so that people consider all those factors before they decide the outcome of a consultation.

Lord James Douglas-Hamilton: I have two questions, although the minister has already answered in part the first one. How can local authorities best be supported in conducting consultations that are genuinely open and objective and which attract the confidence and respect of the community?

Peter Peacock: The issue in that regard is drawing out what works best and ensuring that the flow of information is seen to be legitimate. There is an absolutely classic pattern of behaviour whenever a closure arises. We can anticipate what parents are going to ask, because we have seen that pattern throughout Scotland over many years. One of the things that parents will question immediately is the validity of the statistics in a consultation paper. There will always be new housing developments about to appear in a community that might change the statistics. I have seen recent consultation papers that do nothing other than assert a particular position; they do not explain the rationale or say where the data come from. Parents, quite rightly, ask questions about that.

We have to improve our performance and be clearer from the outset what factors have to be considered so that people have a good, reasonable, fair idea of the propositions that are being put to them and the data that sustain them. We have a bit more to do in improving that and ensuring that we have best practice guidance about what constitutes a good consultation paper, not just in the eyes of councils but in the eyes of parents, and about what provides a reasonable basis on which to consult parents. We can improve that significantly.

Lord James Douglas-Hamilton: Will that be covered in future guidance?

Peter Peacock: My intention is to try to draw that out through the best practice work with COSLA, but I do not rule out our going further than the formal guidance.

Lord James Douglas-Hamilton: The minister has already answered my second question by inference, but I ask him to clarify his position with regard to a national presumption against school closures in view of the widespread support for such a policy. Is it his position that the

presumption that exists in other parts of Britain, particularly south of the border, should not apply in Scotland?

Peter Peacock: As you are aware, there are many differences in policy north and south of the border. That is why we have devolution. I have made it clear that I think that circumstances are different for each school in Scotland. We must consider each case on its merits and we should set out our stall to do so. I have looked closely at the English guidance and I regard our guidance to be significantly tougher. We are much more explicit about the hurdles that we put in the way of local authorities, which they have to be able to clear to sustain an argument to close a school. Those hurdles are much clearer in our guidance than they are in the guidance south of the border. We have set out a firm position.

The English guidance says that there should be a presumption against closure, but it then says that that does not mean that rural schools should not close. I do not want to send out false signals that somehow, if we have a presumption against closures, closures are off the agenda in Scotland—they are not. There are legitimate issues to be considered, but I am anxious to ensure that the way in which we go about considering cases on their individual merits is much more coherent, in the ways that I have described.

Lord James Douglas-Hamilton: Is the minister prepared to consider the possibility of future guidance that might discourage the closure of rural schools, which has been happening frequently?

Peter Peacock: There are areas of the guidance that we could make firmer. However, if it is taken as it is intended, the guidance sets out clear, quite high, hurdles. We must consider issues such as rural sustainability, transport for kids and the educational benefits. We must also weigh up the costs—not only cost savings, but additional costs that would arise from transport. What is the impact on kids of transporting them long distances? What is the impact on communities of those kids being schooled elsewhere? All those considerations and many more are covered in the guidance.

It is important to reflect on that and to ensure that we have included in the guidance all the issues that should be included. I have an open mind about that. The right way to proceed is to set high hurdles and that is what we have tried to do. The issue is the extent to which our criteria have been seen as hurdles that have to be cleared to justify the closure of a school. Closing a school is a big decision, which has a major impact on individuals. People feel passionately about the issue and they have a right to know the case for closure, to see that the case has been well argued

and well reasoned—and to challenge it if it has not—and to see that a decision has been taken transparently, against the criteria of those high hurdles.

Ms Byrne: I welcome your comments to Elaine Murray about integrated community schools. It has been suggested that 0-to-12 education and adult education could be integrated in rural schools—and those in towns—that are threatened with closure and that such schools could be used for other purposes. Is the minister committed to considering those ideas seriously? We could identify areas in which they might already be happening or where they could happen in the future. When we consider spare capacity in our schools, are we taking into account the possibility of reducing class sizes? We have a golden opportunity to do that.

I am concerned about the state of some of the schools that have been threatened with closure—I am talking mainly about the Borders. It is clear that many school buildings there had become run down due to lack of finance. In spite of the fact that the buildings did not appear to be in a state that would ensure that young people could have a good education, those schools were getting good Her Majesty's Inspectorate of Education reports and were part of the fabric of the community. I worry that there is a driving force to make public-private partnerships the only road, and that to go down that road we need to close one or two schools to create one larger new school. Bigger schools are not always best.

I worry that lack of finance has created those problems; schools that are in a poor state should be refurbished and returned to being part of the community. What guidance is being given to local authorities when they go down that road?

12:15

Peter Peacock: I have said quite a lot about alternative uses of schools; there are some good examples in Scotland of local authorities that are considering how schools are configured and what other services exist there. We will try to draw out those good practice points and share them more widely, so that others can benefit.

Reducing class sizes is one of the factors that lie behind the 60 per cent rule. A 60 per cent rule might give you a total number of pupils, but configuring those pupils in a school will give rise to different styles of occupancy. Given that our policy of reducing class sizes in primary and secondary schools will have implications for the use of space, we have talked to Audit Scotland about the 60 per cent rule.

On the state of schools, I do not share your philosophical opposition to PPP, but I assure you

that, long before the concept was thought of, schools in Scotland were being closed in exactly the same circumstances. Schools have suffered from terrible neglect and lack of maintenance for many years. Indeed, I know of situations in which a particular school had to be replaced but, because other schools were in the immediate proximity, it was only legitimate to ask parents whether they wanted their kids to go to the new school or to continue to occupy a substandard building.

As a result, the matter is being driven not by the method of financing but partly, as I said to Fiona Hyslop, by the scale of our investment. Over the next decade, we will spend a colossal £2.5 billion on schools. As they will have to last for the next 30, 40 and more years, we must be clear that they are being built for existing populations. It is only right and proper for councils to make such major, long-term strategic decisions.

That said, we have issued rules on the factors that must be considered in any estate management policy. Consultation with the population forms part of that policy, because it draws to the surface the nature of such major strategic decisions and their likely impact on parents. Over and above that guidance, a legally defined statutory consultation must be carried out on any proposal for school closure. The rules are clear in that respect.

Ms Byrne: If a school in a rural area has been run down because of a lack of investment in the local authority prior to the introduction of PPP, the authority will find it difficult to refurbish that school, even if the community wants it to be kept open. Is PPP the only game in town? What are the other options for refurbishing schools that have been badly run down because of a lack of investment?

Peter Peacock: PPP is not the only game in town. It might well be a big game that is taking over major new building programmes, but it is not always appropriate for refurbishment. As a result, we have—I think—tripled the school fund that we provide to councils for normal capital spending and that is being used not only for major refurbishment programmes but for some new builds. As we have also abolished the old rules under section 94 of the Local Government (Scotland) Act 1973 that controlled capital spending by councils, councils have far more freedom to decide their own levels of capital investment. Moreover, we have introduced the prudential borrowing regime. We do not control these matters anymore. Although PPP is a significant element of what we are doing, it is by no means the only element.

The Convener: Time is moving on and we have business in the chamber this afternoon. I will take only a few more brief questions on this matter.

Mr Frank McAveety (Glasgow Shettleston) (Lab): In his opening remarks, the minister referred to people's fears and concerns at the beginning of a process of change. I have experienced that process in two or three different environments, first as a teacher when the adapting to change agenda was followed in the late 1980s and early 1990s in the old Strathclyde region and the city of Glasgow and later as a council leader in the unitary authority when we had to face the reality of the condition of the school estate.

Three compelling issues must be addressed. First, although I realise that we cannot please everyone, I feel that we need to get the consultation process as right as possible. Secondly, we need to offer people some positive alternatives. For example, with the adapting to change agenda, school closures were driven, in essence, by a local authority's financial requirements rather than by the educational agenda and the quality of the school estate. I am not nostalgic for the days of the old planned maintenance programme that local authorities ran before some of them engaged in PPP projects. After all, I remember switching on lights in the morning and feeling the current batter through the rest of the classroom. Mind you, that was always a useful device for controlling some recalcitrant pupils. One of the benefits of PPP—if it is handled properly—is the existence of a planned maintenance programme that keeps the school up to a standard that, sadly, many local authorities were unable to reach.

Thirdly, it is important that people know whether there is a presumption in the guidance against closure or any arguments in that regard. That issue has cost implications for wider services that the local authority provides, in relation to its education budget and to other services. If the local taxpayer wants there to be a presumption against closure, they need to be aware of those implications. That is a legitimate political issue, which is better handled by local authorities than by a minister sitting in St Andrew's House.

How do we encourage the good practice that some local authorities have developed after starting off with bad experiences? In 1996 and 1997, Glasgow had a pretty awful programme of trying to close primary schools. We walked into a meeting with 23 schools to be closed and left the meeting with only one and a half closing and 21 others fighting about why it should have been their school rather than anyone else's. Two years later, there was a big change programme and we now have a situation in Glasgow that involves pretty radical changes but, in neighbourhoods such as Easterhouse and other parts of the east end, people see the positive aspects of that.

How can you create a framework that will allow that to happen? How can you use your role as a minister constructively in that regard? In the Scottish Office days, people who had your responsibilities interfered negatively in the role of local decision makers.

Peter Peacock: On your latter point, it is important to keep a clear distinction between the role of ministers and the role of local authorities. Parliament has decided that the legal position is that local authorities are responsible for their schools and their school estate. That is the right decision. Some parents who are sitting behind me might not agree with that at this moment in time. However—I say this with the greatest of respect to my colleagues sitting to my right—if the decisions were being made by mandarins sitting in St Andrew's House, I think that there would be even less sensitivity to local circumstances than there is in the current situation.

Local people have a far better feel for the particular circumstances, judgments, aspirations for economic or sustainable growth, specific concerns in urban or rural Scotland and so on. That is why the decisions are best made locally. The role of Government is to ensure, as best we can, that the practices that apply to how those decisions are made at that level are seen to be consistent and fair and to encourage the openness and transparency that ought to exist.

If someone wants to close a school, they have to make a bloody good case for doing so—excuse my language—and they should be seen to make that case. If they have the conviction that that is the right decision for their community, they must stand up and make that argument in their community fairly and clearly so that people can see and hear it. People might not ultimately agree with the decision, but at least they will understand its nature. A lot of complex issues are involved in such a decision.

We have further to go in relation to drawing out the kind of good practice to which you referred. Glasgow is about to have to make some extremely difficult decisions about its primary school estate. In my experience, although parents initially oppose a decision to close a school—for reasons that I understand—if one was to ask them, after the event, to go back to the previous position, they would not want to, because they prefer what they have now. That is the situation in Glasgow in relation to the new secondary schools, despite the fact that the decisions were tough to make at the time.

You talked about the real costs of decisions. It is true to say that consequences arise from not making decisions as well as from making decisions. However, that ought to be part of the mature debate that people have with their local

populations. People should understand the long-term consequences of not facing up to some decisions as well as those of facing up to some decisions; that is part of the process. We need to do more in that regard.

Dr Murray: You recently introduced the Scottish Schools (Parental Involvement) Bill, which gives parent bodies the opportunity to call in HMIE if they are unhappy. As you know, the First Minister was reasonably sympathetic to my suggestion that those bodies might be able to call in the inspectorate to examine the education authority as well. If a local authority had patently ignored your ministerial guidance, might that new legislation strengthen the hand of parents in relation to bringing the authority to account?

Peter Peacock: There is that potential. We are thinking through your suggestion carefully. We are quite attracted to the suggestion that, in certain circumstances, where parents are dissatisfied with the local authority performance, they could refer the matter to HMIE. The challenge would lie in the practical mechanisms for doing that. We have to consider what thresholds would have to be crossed before such a measure became legitimate and it would have to be used sparingly, rather than frequently.

My fear about applying the measure to school closures—although I will consider that suggestion—is that it would become the first weapon, rather than the last. I would not like us to be calling in inspectors all the time because there was opposition to a proposal. There is a big difference between that situation and a situation in which a local authority is, in Elaine Murray's words, patently failing to meet its obligations under the guidance. I will need to think about that a lot more before I come to a conclusion.

Fiona Hyslop: We are making progress; this is a useful session. Will the Executive publish the research about what is meant by good educational experience in small schools? There seems to be confusion in relation to the educational value of small rural schools and different interpretations by different directors of education. I have heard concerns that two streams are better than one and that there is a detrimental impact on some of the social aspects of education without such a balance. We know that academic research has been done on that and it might be helpful, as part of best practice, for the Executive to identify and circulate the views of those who have conducted it.

Peter Peacock: I am happy to consider that, although I rather think that all the research has been published anyway. Parents will have different views about the value of a school. For a start, it depends on the definition of a small school; people would have in mind all sorts of thresholds. We will

always have lots of small schools that provide a splendid education. We will also have middle-sized and big schools that provide a splendid education. There are no factors attached to one group of schools that make them better than others; different factors are attached to all schools.

The critical question is the sustainability of education for the children involved; that applies to rural school closures in particular, but also to urban school closures. Sometimes we have a secondary school with one pupil and there are lots of primary schools with one pupil, because there is no alternative; we make the education for those kids as good as it can be. Equally, points about numbers have to be taken into account, whether they relate to penny numbers or the number that can make up a football team or a choir or allow children to play musical instruments in a small group or to interact socially. There are different views on the thresholds, but we sustain lots of schools in Scotland with very small populations. Their characteristics are different, but they are not necessarily better than other schools. We are quite happy to make available whatever research we have.

Fiona Hyslop: To the directors of education, too.

Chris Ballance (South of Scotland) (Green): I welcome the minister's comments, particularly his acceptance that there have been problems in specific areas. Parents in the Scottish Borders Council area accuse the council of not involving parents genuinely, of producing inadequate information and of appearing to have made up its mind in advance. I speak on their behalf. We realise that you do not have the power of statute behind you, but you do have position and influence and can bring to bear pressure. Will you reassure parents that you will do everything you can to ensure that the consultations that are going on in the Borders are not a sham?

12:30

Peter Peacock: I am not familiar with the detail of the circumstances, although I happened to be in the Borders on Monday and the council's education portfolio holder gave me a copy of the council's policy on school closures, which I have started to read but have not completed reading. I will have a better feel for the situation once I have done that.

Chris Ballance, and parents, should be clear that I want to see open, transparent, honest, straightforward consultation, in which all the facts are laid out before people. If a council wants to close a school, it should be prepared to sustain its arguments in public in an arena in which there are parents who are naturally, and properly, quizzical

about its position. I am in no doubt about the need for the council to do that. I cannot comment today on whether Scottish Borders Council meets those aspirations. However, Mr Ballance knows from evidence that I have given today that I am closely considering the issue. I want to ensure that our practices improve and I believe that they can improve. I am all in favour of openness and transparency; there is nothing to be lost by it and everything to be gained.

Mrs Margaret Ewing (Moray) (SNP): I thank the convener for allowing me to be present as a visitor to the committee. I found the discussion on school closures fascinating and helpful. I agree with the minister when he says that the procedures that were observed at Moray Council were incredible and unfortunate in the extreme. However, the lasting legacy is that the communities are much more alert and there is a strong community spirit. In any further round of consultation, the council may not find a revolution, but it may find that people are much better informed and much more united.

The minister spoke of Moray Council's interpretation of the present guidelines being the worst template of consultation. Are you collating information from all the councils, through or in conjunction with COSLA, on the various procedures that were observed in each area in which those matters have to be addressed? Will the size of councils be taken into account? Frank McAveety rightly spoke about what has happened in Glasgow, but there is a huge difference between Glasgow and Moray—and other rural communities—given their size and population base. Will it be made clear in the consultation process that any discussion that takes place about school closures will go before the full council of elected members before any document is printed? Will the minister ensure that the HMIE reports, many of which gave an excellent account of schools in rural Moray, are part of essential information, along with the other statistical information he referred to about costs—both plus and minus—in any proposals?

Peter Peacock: Moray Council was outwith the procedures because our procedures do not apply to informal consultation—that is one of the things that I want to put a stop to. On collecting data, we are in the process of collecting every consultation paper over the past year, whether or not it has been referred to me. We are considering closely the procedures that are being followed, because we are seeking to distinguish what is happening in different parts of Scotland. We want to learn lessons from that and to draw out the best practice that we think can exist. No doubt it will become apparent from that exercise whether differences arise because of the size of a council. We will try to analyse the data partly in that way.

Mrs Ewing made a point about putting things before the full council. I had not thought about that, but my immediate reaction is that councils determine their internal procedures and the extent to which they delegate matters to their committees. They decide the extent to which the full council makes decisions or whether, by exception, decisions are referred to the full council. The member makes an interesting point and I shall reflect further on whether something could be said about best practice in relation to that. I would have thought that it is without question that the issue would end up at the full council; perhaps it is best that it starts there, too. The HMIE reports should be part of the information flow and part of the consultation.

The Convener: I thank the minister for a useful session on the guidance on school closures. The committee will wish to be kept up to date on progress on any reviews of the guidance and the minister's discussions with COSLA. I am sure that the committee will want to consider this issue at least annually. We will consider the guidance if it is produced before then.

School Transport

12:35

The Convener: Item 3 relates to school transport. I have circulated a letter, which was previously considered by the committee, on the guidance on school transport, and a response to the letter that we wrote to the Convention of Scottish Local Authorities on the subject.

Minister, would you like to make some opening remarks?

Peter Peacock: I do not think so. There has been an exchange of correspondence and I have seen the recent correspondence from COSLA. I am here to try to answer any questions that the committee might have.

Lord James Douglas-Hamilton: Will the Executive consider monitoring local authorities' performance in relation to the Scottish Consumer Council's recommendations for safety checks and monitoring of contractors' performance?

Peter Peacock: We are seeking to pull together local authorities to talk about that and to draw out some of the issues that the Scottish Consumer Council mentioned in its report. To hark back to our last discussion, I say that we want to issue some best-practice notes—"guidance" would be too strong a word—with a view to addressing the issue. If that does not take care of all that we think it should take care of, we will consider whether there is more we could do in respect of guidance.

Lord James Douglas-Hamilton: Will the Executive take into account people with additional support needs in implementing the Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002, particularly in relation to the provision of adequate and suitable transport?

Peter Peacock: Under the 2002 act, local authorities are required to make such provision, so transport ought to be part of their thinking.

Lord James Douglas-Hamilton: Will transport be provided to support universal provision of pre-school education across local authorities?

Peter Peacock: We do not intend to change our position in that regard and there are a number of reasons for our decision. We are talking about a non-statutory entitlement to pre-school education—parents are not obliged to get their kids into that provision, as they are in relation to school education. We are also acutely conscious of practical difficulties relating to the age of children, the scale and size of buses and other transport implications and we are conscious that there is a lot of choice in provision, which can

come in different shapes and sizes across Scotland. A variety of practical factors get in the way of our doing the same as we do in relation to school education.

However, we skew our grant for pre-school education to rural areas because of distance factors; we acknowledge that there are additional costs in rural areas. Furthermore, we have, through community transport initiatives, issued guidance that has encouraged local authorities to consider provision of community transport services in relation to such issues. Local authorities have discretion in that regard.

Lord James Douglas-Hamilton: Might it be possible to provide school transport at a small charge to pupils who live beyond a local authority catchment area but who attend a school in that local authority?

Peter Peacock: I am not sure that I follow that question.

Lord James Douglas-Hamilton: Would it be possible to provide school transport at a small charge to pupils who live outwith a local authority catchment area but who want to attend a school in that local authority area, which is their neighbouring local authority area?

Peter Peacock: I would need to consider that further, but my immediate reaction is that that would be a matter for the local authority's discretion. If a school bus started in one local authority area and passed near the house of a person who lived immediately outwith that area, I am sure that discretion exists for a local authority to allow that person to travel to a place where that bus could pick them up. I am not sure that that situation would arise often, other than in some urban areas. We do not intend to change our rules in that regard as I am sure that, if a local authority wanted to accommodate that situation, it could do so.

Dr Murray: Do local authorities have the power to extend a bus service—for a charge—to pupils who live within walking distance of the school, in the interests of discouraging the use of cars for short school runs? The parents of a pupil who was not entitled to free transport could buy a bus pass for them as an alternative to using their car.

Peter Peacock: Four or five years ago, Aberdeenshire Council did that, but I recall that great public controversy ensued. I would, however, have assumed that if there was a spare place in a bus that was passing the door of a child who lives within walking distance of a school, the local authority would have discretion to allow a child to use that bus. I know that that happens in some places for safety reasons. However, I am not clear at the moment about whether the local authority would be able to charge for that service.

Dr Murray: In your letter, you said that the issue of attendants is complex and you point out that £34.9 million is available over the next three years for additional staff to support schools in tackling indiscipline. Clearly, however, there are many issues around indiscipline in schools; the provision of attendants on school buses might not be a high priority compared to other issues that a school faces.

On many occasions, my colleague Ken Macintosh has referred to the walking bus, which involves parents. Is there anything that would prevent parent volunteers from acting as attendants on school buses, as long as they were subject to the appropriate disclosure procedures?

Peter Peacock: I would not have thought so. Again, however, I will double-check that and get back to you. I note that we still have a bit of a job to do on sharing good practice in relation to improving behaviour on school buses and school-bus runs. Local authorities are taking varying approaches to that. One school-bus run in my old secondary school was plagued by difficulties for years until a new head teacher arrived. Within six weeks, the situation was sorted out because of a new procedure that involved significant self-regulation by pupils. I suspect that there is a multiplicity of approaches in schools across Scotland; we probably need to learn from them and work out how lessons can be applied in various circumstances.

On the face of it, the issue might not appear to be high up the priority list in terms of extra support staff, but it causes major concerns to parents, pupils and schools. I am not certain that they would not attach quite high priority to it.

Fiona Hyslop: From reading the *Official Report* of the committee's meetings, the minister will be aware that we were quite disappointed in the revised guidance. Although it addressed and introduced some safety measures, it was still driven by the legal responsibilities of parents to have their children educated, which means that it focuses on the distance rules. Our concern is the joined-up approach, particularly in relation to environmental issues that arise from transport.

I would also like to raise the issue of child protection. You might be aware that one of the instigating factors behind the revised guidance was a petition that was submitted by one of my constituents, whose concern was safety in Livingston, particularly with regard to the underpasses through which pupils must travel on their way to school. The minister might also be aware that concerns had been expressed at that time about the number of sexual assaults in the area. Unfortunately, the petitioner lived in the same street as Simon Harris, the murderer of Rory Blackhall. Although we cannot refer to that

particular case, and I would not wish to do so, the situation emphasises that safety issues are in this day and age as important as the legal responsibility of parents to ensure that their children get to school.

We do not want to wrap our children in cotton wool and we want them where possible to walk to school for health and transport reasons—we know that the school run causes a great deal of congestion. However, we also know that parents are unaware that their responsibility for their children ends at 9 o'clock or when the school starts and that teachers' protection responsibilities start only when schools open.

12:45

It takes parents time to get to work and they must drop off their children at school before they go to work. Can there be more reflection on how we can have a realistic debate on the risks to children, their transportation to and from schools, attendance issues and who is responsible for what, in a climate in which there are serious concerns about the protection of children and school start times that are not necessarily married to parents' working lives?

After the Rory Blackhall murder, it was suggested that the Executive might want to reflect on attendance and reporting issues, which West Lothian Council is doing. Will you use this opportunity to reflect on the connection between child protection and transport issues? Will you reflect on the necessity of a joined-up approach in transport policy, which will not necessarily be served by circulars and guidance on parents' legal responsibility for getting children to school? The issue is wider and deeper than that. We could usefully engage in a realistic debate in Scotland on how to tackle risk and the protection of children that will help to realistically support health, transport and environment policies and so on.

Peter Peacock: We are considering in depth attendance reporting in the light of the Rory Blackhall case and the recent case in Edinburgh, so that consideration will take us some time. We will no doubt return to the committee at some point to discuss the matter.

I want to make a general point before I give details in response to the question. Notwithstanding what Fiona Hyslop said, it is important that we recognise that parents have a clear legal responsibility that should not be diminished and of which they must be aware. The state should not take over their responsibility to get their kids to school to be educated—its doing so would have all sorts of implications. Parents must think carefully about getting their kids to school in the light of what they do in the rest of

their lives. That is difficult, but there is an underlying position.

That said, Tavish Scott and I are due to have discussions on the general points that Fiona Hyslop made about a joined-up approach by the Executive, and what we should do about the environmental impacts of the school run in Edinburgh and other towns in Scotland. We will consider a range of matters to do with transport policy and school policy, and we will think about whether we can do anything more to deal with environmental impacts and what measures we might use. Tavish Scott is keen to push matters forward, so members should watch this space. We still have thinking to do.

I turn to risks, child protection and the particular circumstances that Fiona Hyslop highlighted in which the route of a child or group of children to school takes them through physical circumstances in which it may be assumed that some risk might arise. In such circumstances, it is entirely within the discretion of the local authority to provide transport. Indeed, when I was a councillor, there was an appeals procedure for parents, which was conducted by councillors, when officials refused the provision of transport because the criteria had not been met. I had frequently to go out and walk the route that a child had to walk to assess whether there was risk. I had to assess streetlights, pavements or particularly bendy or fast bits of road that the child might have to navigate; we frequently overturned official decisions because we thought that risks existed.

I would have thought that councils would assess risks if they were approached to do so. Councils should consider what discretion they have if it is thought that a risk exists in particular circumstances. That said, councils have difficult decisions to make in such circumstances because it is entirely possible in today's world to argue that there is a general protection risk for all children—ergo, all children should be transported to school in some way. That position is unsustainable for the reasons that have been given. People cannot be wrapped in cotton wool—we must help to educate people about managing risks themselves. However, I can envisage circumstances in which there may be routes that children must follow that are assessed as carrying a greater than average risk. There is discretion to allow such assessments to be made. In fact, the rules are constructed as they are in order to allow such decisions to be made where it is judged that that approach is right.

Ms Byrne: You have answered one of the points that I was going to make to Fiona Hyslop regarding routes and safety. I think that safety, not distance, should be the biggest factor. In some local authority areas, we still have the unseemly spectacle of parents going out and measuring their

two miles. I wish that we could get across to the local authorities that that is not necessary any more and that we should consider extending section 51 provision to safe routes. We should encourage local authorities to examine the matter from that point of view, rather than measuring two miles, three miles or whatever. That would be helpful.

Elaine Murray talked about having support staff on the buses. It leaves young people vulnerable not to have some supervision on school buses. That worries me greatly, and I would like to see us moving forward on that and having a concrete policy. It should not be down to local authorities to make that decision; supervision on buses should be part of the in-built structure for school transport. I have absolutely no doubt that the impact on the behaviour of young people coming to school on a well-supervised bus that comes straight into the playground, with staff from the school escorting the children into the areas of the school where they need to be to start the day would much improve circumstances for many teachers as they start their day as well as being beneficial for a lot of young people. A review to examine where that is and is not happening, so that we could make comparisons and get views from educators and parents, would be valuable. It is a key issue for me that there should be supervision on school buses.

Peter Peacock: I will first answer the point about section 51 provision. The law as constructed gives clear entitlements to parents in respect of distance, which is an important factor. It also gives absolute discretion to local authorities to do what they think is right in their circumstances. I do not think that the law gets in the way of correct decisions being made.

We spend quite a lot of money on trying to create safer routes to school, and we are investing in that—you will see the evidence of that around schools. We are not only trying to ensure traffic safety; we are also helping to determine the safest routes to schools and encouraging kids to take them.

As I said to Elaine Murray, there is a lot that we can still do to improve the flow of best practice of what works in order to improve the circumstances on school buses, which can be very disruptive for some pupils. Supervision might be right in some circumstances; self-regulation by pupils might be even better. There is something to be said for ensuring that pupils themselves take responsibility for their behaviour in such circumstances; however, we do not rule out supervision on buses. In fact, we have increased the supply of cash to allow more decisions of that sort to be made by local authorities if they think that that is the right thing to do. We are moving in the right direction on that, and I do not think that there is any

impediment to a local authority doing what it thinks is right by dint of what we are doing, at the centre.

The Convener: As there are no more questions, I thank the minister for his contribution. We will take a short break before we move on to the final item, which is the budget, in order to allow the minister to change his officials. School transport is an issue on which the committee will want to keep a watching brief. Any updates from the minister in response to specific points in relation to that will be welcome.

12:54

Meeting suspended.

12:56

On resuming—

Budget Process 2006-07

The Convener: For the final item, the minister has been joined by Philip Rycroft, the head of the schools group in the Education Department; Colin MacLean, the head of the children, young people and social care group in the Education Department; and Joe Brown, the head of the policy support unit in the Education Department. I invite the minister to make opening remarks on the budget, after which I will open the debate up for questions.

Peter Peacock: I will be brief, as I am conscious of the time. I have looked at the background papers from past committee meetings to try to identify the committee's interests. I will mention three areas. The first is changes from the draft budget, which members might want to ask about; I will happily try to answer any questions on those changes. If my colleagues and I cannot answer the questions, we will get back to the committee with details on any points that are raised. The second area is the cash-releasing savings that we have identified and the third is the continuing interest that the committee has in tracking expenditure—or finance—that passes from the Executive to local authorities, how that feeds into the system and the impacts. I will be happy to answer questions on any of those areas.

I will first make one or two general points. First, as you know from the overall figures, although at the end of the spending review period we will be administering a budget of something like £4 billion for Scottish education, the vast majority of that goes straight out the door—so to speak—at the beginning of every year to the local authorities. The amount that the Executive manages is a very small part of the total, which bears on points about local authority spending that members might want to pursue.

Secondly, in looking at the efficiency and cash-releasing savings, we have been asked to meet a target of only between £10 million and £11 million tops, which is a tiny sum relative to the £4 billion of expenditure. The reason is that, in the spending review, the Executive exempted education from the normal efficiency measures because we are trying to grow services to increase teacher numbers, to pursue the public-private partnership programmes that we have talked about and so on, in order to make decisive improvements. It was therefore considered appropriate to limit the normal efficiency rules to allow that growth and the establishment of new service levels to take place. I should not say any more at this stage; I will just try to answer any questions.

Mr Macintosh: I want to ask specifically about additional support. In our budget report last year, we expressed slight concern about the lack of transparency in following the figures for investment in additional support needs. I am having the same difficulty this year. As far as I can see from the budget report, the money seems to have gone into the national priorities action fund and is therefore subsumed into a bigger figure. Page 36 of the draft budget 2005-06 has a table that shows the budget for additional support needs. It is not clear whether the budget is increasing—although I am sure that it is—or by how much it is increasing, and what the total increase is.

13:00

Peter Peacock: That budget is increasing. Part of the difficulty is in following the allocation between different budget lines. Perhaps Philip Rycroft can give slightly more detail. We have fed significant sums into the implementation of the Education (Additional Support for Learning) (Scotland) Act 2004, which will come into effect next month. Off the top of my head, I think that some £14 million has gone into supporting the development work around that, which underlies the figures that you see in the budget report.

There have also been some internal transfers between the Education Department and the Health Department so that the health service can provide some of the services that we require of it for additional support. Underlying the budget there is an extra feeding of money into the system, and there are also adjustments in that to the health service.

Philip Rycroft (Scottish Executive Education Department): There is not a great deal that I can add to that. The call for additional funding followed the 2004 act, and funding was set aside for that. That money is now in the system. As the minister said, part of it went to health boards to help them to meet their duties under the act, and part went to authorities in the national priorities action fund to help them to fulfil their duties under the act.

Obviously, the £12.5 million sits alongside other funding in the budget for the national priorities action fund on social justice, inclusion, support for teachers, study support, and additional support for learning. The figure for that stands at £76 million this year. In those other budgets, there are elements that allow local authorities to give additional support for learning.

Peter Peacock: If it would help in answering Ken Macintosh's question, we could send a note outlining the position if we were to group together all the information. That would not be a problem for us.

The Convener: That would be very helpful.

Mr Macintosh: There is a line at the end of page 40 of the draft budget 2005-06 that refers to

“supporting children with additional support needs training educational psychologists”.

That implies, I imagine, that you are training more educational psychologists. However, it would be interesting to see the figures.

I would like to ask one of a series of questions that I have put to the deputy minister about how to avoid funding disputes between local authorities over the new act. At present, the school budget generally is allocated on the pupil roll in an education authority. However, is my understanding correct that funding goes to one authority, but if the children move to a school in another authority for their education, the money does not follow them and it is up to the host authority to make adjustments? Can you comment on that? It is a question of fairness, as much as anything else, of how the budget is then spent.

Peter Peacock: I am conscious that you bring up a case that we are trying to reconcile. What I say should not be taken to apply to that specifically, as I would need to rehearse exactly where we are on that decision. We have to make a decision fairly soon.

Grant-aided expenditure and the distribution of money to local authorities are done on pupil population. That is the main determinant of expenditure, although it is adjusted for factors such as rurality and deprivation. However, pupil population remains the driver.

That said, when we do a census of a school we should pick up new pupils. However, there is a lag time between the movement of pupils and the next census, and that may affect funding. Equally, there is movement the other way, so it is not as stark as it may appear.

If special needs are going into the national priorities action fund, the funding will be done on a different basis from the general allocations.

Philip Rycroft: The national priorities action fund is distributed mainly on a GAE basis, so it is similar to other funds. Paying for pupils who cross borders is an issue. My colleagues discussed that with COSLA last week—or will discuss it this week—to try to bottom out the issue and find a way forward. We are conscious that the issue is of concern to authorities.

Discussions continue about how things have changed as a result of the Education (Additional Support for Learning) (Scotland) Act 2004 and how we can move forward on a basis that is acceptable to everybody. We can let the committee know the outcome of those

discussions. We are engaging with COSLA because it has a close interest in the development of those issues.

Fiona Hyslop: In the note that you will provide on the 2004 act, will you differentiate the money that is available for administration from the money to deliver the service? During the legislative process, it was said that the £14 million that was being made available was for administration and development aspects, whereas Ken Macintosh is getting at where the money to deliver services will come from and what the pattern of the spend to deliver services will be. The committee is interested in that. Much of the funding will be in GAE, but Philip Rycroft has suggested that some of it will come from elsewhere. Having that information would help us.

Peter Peacock: We will examine that for the committee and try to make that distinction. I am not sure to what extent we made that distinction in distributing the cash, because we tend to do that with some objectives in mind and with a formula. For example, you are right that emphasis has been placed on establishing the new administrative procedures, but once they are established, resource could become available for more service delivery as the services change. We have also—rightly—had to put money into establishing the new tribunal, to cover the costs of its set-up, training and all that accompanies it.

Dr Murray: I will ask one or two questions about the efficient government savings. As I expect that you know, they have been of particular interest to the Finance Committee and the subject of a fair number of robust exchanges between the committee and ministers.

I take on board your point that the efficiency savings that are required in the Education Department are much less than those in many other departments. The cash-releasing efficiency technical notes refer to procurement and purchasing regime improvements for the Scottish Qualifications Authority, but on many other programmes, the notes just say that an inflationary increase will not be made. How confident are you that those efficiency savings will be savings and not cuts and that they will have no impact on front-line services?

Peter Peacock: I will deal separately with the points about the SQA and the general position, because they are slightly different. We are absolutely confident that the SQA can deliver and is delivering improved efficiencies and we are more than confident that it will meet the target without any impact on its overall service delivery. While we ask it to make those efficiencies, we are also considering its proposal to increase investment in some matters to improve efficiency

further and to make further gains in the longer term. The process continues.

The member will remember that the SQA has undergone a period of major transition. In the past few years, it has acquired entirely new senior leadership and the organisation is very different from what it was just a couple of years ago. The organisation is thinking about all sorts of innovative ways to operate, so we are entirely confident. Philip Rycroft can add to that. One of his responsibilities is to sit as an observer on the SQA's board, so he can give more feedback. We are relaxed about the situation.

As for the general approach to cash-releasing savings, you are right that we are telling parts of the department that they will have to live on the resources that they have, using this year as a base point, and that they will not have an inflation increase. That will squeeze people—they will have slightly less discretion than before in their expenditure. However, in almost every case, the baseline this year represents growth on previous years. We have previously increased budgets. Now that growth has taken place, the position must be maintained for a couple of years. The practical effect is of asking people to be a bit more careful and to be a bit tighter, which squeezes a bit of discretion out of the system. Philip Rycroft will add to both those points.

Philip Rycroft: I have watched the SQA from close quarters for over three years and I have seen that organisation transform the management of the resource at its disposal in many areas, such as procurement. However, the big issue for an organisation of that size is head count. I am absolutely confident that the SQA is making great strides towards achieving the efficiency savings targets and I hope that it will go well beyond them.

As regards the budgets under my direct control in central Government expenditure, the objectives have not changed and the partnership agreement remains. We have to think about ways of achieving efficiencies and making best use of the money at our disposal. We daily make many decisions about how we can use that money most effectively to get the information that we require and the support that we need to help authorities to deliver on their commitments, which have not changed, with the sum of money that has stayed at cash.

Dr Murray: You mentioned that a large part of the education budget is devolved to local government. Local government is also subject to efficiency savings that have been removed from council budgets rather than their being saved from those budgets and spent elsewhere.

There is a third tier in that we have different levels of devolved school management in different

councils from Clackmannanshire, which controls 50 per cent of the education budget—for which I must accept some responsibility having been the convener of education services at the time that the decision was made—to South Ayrshire, which controls 90 per cent of its education budget. That introduces an extra tier of problems. If some of those efficiency savings are passed down to school level, how can we ensure that those budgets are not cut? I am sure that the minister remembers from his time in councils that when efficiency savings are required from departments, there is often shroud waving rather than serious savings as people try to avoid the impact of savings.

Peter Peacock: I have at least two thoughts about that. We have made a commitment to move to further devolved school management about which we will make announcements in the next few weeks—I cannot remember exactly when, but it will be before Christmas. I looked at the report and the charts about devolved school management that the committee received and part of the difficulty is that we do not know what 60 per cent or 90 per cent refers to—it depends where we start counting from in the first place. We are trying to reconcile that by moving to a position that control is devolved unless it is reserved, which is rather like the devolution settlement. We might find practically that what is represented in the report as 60 per cent or 40 per cent or whatever the figure is turns out to be similar amounts because councils count from a different baseline. We have to be careful about those figures.

That said, we know in which direction we are moving; we want more devolution of spending. We are committed to ensuring that schools receive a three-year budget so that there is no annualised passing down of efficiencies to school level without some time horizon to allow proper planning by head teachers. One purpose of our efforts is to get more stability into school planning and to allow head teachers the time to do it properly.

You raised an interesting point about efficiency savings at council level for which there is different practice throughout Scotland. In the past few days, officials have made it clear to directors of education in councils that in the previous spending review, the Executive exempted education from efficiency gains specifically because we seek to grow teacher numbers, as well as to make other investments. That is our position. Councils that make decisions to apply efficiency savings to education run counter to the tide of the Executive.

13:15

Fiona Hyslop: You pointed out that about £4 billion goes directly to local government on

education spend. We get to scrutinise the remaining £400 million, which is a mere tenth of that. Of that, 40 per cent is in what I would call the slush fund of the national priorities action fund. That means that, in our budget scrutiny, we look at 6 per cent of the overall budget spend on education. It might be helpful if in future we could get a breakdown of the national priorities action fund, because the lack of information on it looks a bit suspicious. That would give us some idea about the direction in which the Executive wants to go with its initiatives.

On the wider issue of the £4 billion, how do you ensure that local government's spending of that money reflects the Executive's budget priorities, not just on education, but more generally? That is something that we need to reflect on, given that we are accountable for where Scotland's taxpayers' money goes.

Peter Peacock: Your comment about the national priorities action fund being a slush fund was very unfair. In my council days, when I was a finance convener, I had an official slush fund—it was for clearing the roads in winter. I was allowed to have a slush fund, which operated highly successfully. The national priorities action fund, the total budget for which is short of £200 million, is an important part of how we drive and incentivise change in certain areas, such as curriculum development and additional support for learning. We will happily give you a breakdown of what that money gets spent on to support our policy objectives. There is not a problem with that.

There is a fundamental tension on local authority funds generally. I understand the point that Fiona Hyslop makes; indeed, we share some of the frustrations that the committee may have. Once the money flows from us to the local authorities, we want it to be spent on education, but local decision making means that it is subject to all sorts of other pressures. There is a tension between the principle that we should distribute cash to local authorities on an unhypothecated basis, which is quite proper, and their exercising of discretion about how they spend it locally. Although that practice has a long tradition in this country, at times it creates tensions between the Executive and local authorities because they may have different objectives. We keep the working of that relationship under constant review. Our use of outcome agreements with local authorities on the nature of their spending of the extra cash that we give is becoming more common. We want to have some guarantee that money is being spent in ways in which we want it to be spent, although we do not seek to fetter the ability of local authorities to exercise discretion at local level.

There are a number of ways of ensuring accountability and the Finance Committee's report

is one of them. Every council is subject to audit by Audit Scotland. In addition, councils' own auditors will report on their financial performance from time to time. Authorities are inspected as education authorities more frequently, because of the new powers that education inspectors got a few years ago. Their performance, which is measured against national priorities and so on, is revealed in the course of those inspections and action is taken when necessary. There are also inspections of individual schools and particular topics.

Beyond that, there is the performance improvement framework that we put in place with the Standards in Scotland's Schools etc Act 2000, as a result of which local authorities set targets for themselves on improving performance in a variety of ways. We monitor that closely and I think that a report on that performance is published every third year, which means that there is access to information on how education resources are being spent locally.

With the next round of new spending on growing teacher numbers we are moving into new territory with the local authorities. We have specific targets that we have made clear to Parliament. We intend to meet them, but we require local authorities to play their part in that. We are involved in fruitful discussions with local authorities and COSLA about how we distribute that cash. We have not concluded those discussions, as they are highly complex, but we are close to concluding them. We are making it clear to local authority leaders that, if we are to meet our targets, we must get assurances that the money that we give for extra teachers goes to extra teachers. That takes us into the territory of having explicit outcome agreements with local authorities on teacher numbers in their areas. There is little point in our providing extra cash for teachers if teachers are being taken out of the system at local level. So, the impact of our discussions with the local authorities is not only to lock in the new money for new teachers but to lock in the existing cash for teachers as well.

As I said, we are moving into new territory. In due course, the Executive and the committee will get more of a handle on how some of the resource—indeed, it is a big part of the resource—is flowing to councils. It gives us more scope to look at the matter. I am also keen to do things not in a rigid way, but in a way that gives councils the proper discretion that they have at the local level to exercise their choices at the same time as meeting the overall targets that we set. We are working that out with COSLA at the moment.

Fiona Hyslop: Thank you. We can reflect on that in our report. Briefly, I have a question on the PPP budget line of £100 million for 2007-08. I am aware of the delay in that spend on that budget line. Do you expect that to be the peak position?

Peter Peacock: I am sorry, I missed the point.

Fiona Hyslop: The PPP spend of £100 million is obviously a significant spend. Is that figure likely to be the peak or do you expect it to continue at that level?

Peter Peacock: The original estimates for PPP were built into the 2002 spending review or thereabouts. The figures are estimates of requirements; the cash flow is slightly different, however. In the current spending review period, although we have grown the figure up to £100 million, it still has a bit further to go to accommodate the full peak of spending before it levels off. The number of years in which that will happen is still to be determined, because the rate at which projects start determines the rate of the spend. That said, we have made more than sufficient provision for that in the current budget round.

Lord James Douglas-Hamilton: I have one brief and rather obvious question. How can investment in policy areas be measured in terms of success against stated targets?

Peter Peacock: The opening pages in the education section of the budget document set out our objectives and targets. Beyond that, as I indicated through our performance improvement mechanisms, we have the specific sets of targets that local authorities set themselves to improve performance, and we can measure against the outcomes achieved with relative ease. As I indicated, the inspection process helps to illuminate what is being achieved at the local level as well as what is not being achieved and any deficiencies to which we need to apply ourselves. Mechanisms are in place to ensure that we monitor outcomes. In fact, we are increasingly focused on outcomes to ensure that we achieve not just our teacher number targets but all the other outcomes that relate to attainment and so on.

The Convener: I thank the minister for what has been a marathon, but very useful session on the various topics we have discussed today.

Before we go, we have to have a quick think about any issues that we need to put into our budget report. I hope that the item will not take too long.

The Finance Committee has put six specific questions to us and asked us to comment on them in our report. If members have other issues that they want to include in the report, they should raise them. I will quickly go through the questions; if any member has a comment, I ask them to make it as we go along. As we have only one shot at the report that we have to make to the Finance Committee, it is important that we try to clear up any issues at this stage.

The first question is whether the committee is satisfied with the responses from ministers to its recommendations for the 2005-06 budget. Are there any comments on that?

Members indicated disagreement.

The Convener: We move on to the second question, which is whether the committee wishes to raise any matter regarding the changes to spending plans referred to in the "New resources" section?

Fiona Hyslop: I think that this is where we should comment on additional support for learning and service needs in particular.

The Convener: Okay. That is fine.

Lord James Douglas-Hamilton: I have a quick question on the realism of the efficiency savings.

The Convener: We may come to that under one of the other questions.

Lord James Douglas-Hamilton: Okay.

The Convener: I am just running through the six key questions. If any member has a point that they want to raise that is not covered by the Finance Committee questions, we will then return to those points.

The Finance Committee's third question is:

"Does the Committee wish to recommend any specific changes to programme budgets within the portfolio? If so, which programmes should be increased and why, and which programmes should be reduced to fund such changes?"

Fiona Hyslop: I would make the comment that we have very little locus to do that. There is £4 billion of local government spend and 40 per cent of the remaining spend is in one budget line at level 3. We have very little room for manoeuvre.

Lord James Douglas-Hamilton: It might be helpful to get a few more details about the national priorities action fund.

The Convener: The minister indicated that he will provide us with a breakdown of how the funding will be spent. We will highlight that in our report if we do not receive the information in due course.

The fourth question is:

"Is the Committee content with the Statement of Priorities set out in its portfolio chapter?"

Dr Murray: The minister said that the Executive has made it clear to local authorities that it wants much of the education budget to be exempt from efficiency savings. An issue remains about how the Executive can monitor progress in local government. That has been unclear. What powers do ministers have should local authorities not adhere to the Executive's priorities, for example if

they do not exempt education from efficiency savings?

The Convener: There is a general issue there about how priorities can be delivered if local authorities do not make such savings.

The fifth question is:

"Does the Committee have any comments to make regarding the cross-cutting issues set out in its portfolio?"

Fiona Hyslop: We could ask how any future developments arising from our discussions with Tavish Scott on transport issues and education, for example, are illustrated in the budget lines for both the Education Department and the Enterprise, Transport and Lifelong Learning Department.

The Convener: The final question is:

"Is the Committee content with the efficiency proposals identified for its portfolio? Are there projects to promote efficiency that the Committee would like to see considered by the Executive?"

You had a point on efficiency savings, James.

Lord James Douglas-Hamilton: I would like to explore whether the efficiency savings are realistic.

Fiona Hyslop: I think that we have covered the point about devolved school management. There is a general issue as to whether efficiencies should be at the administrative level, within councils, as opposed to at the delivery level, in schools.

Lord James Douglas-Hamilton: Another issue is whether the requirements stemming from the McCrone settlement have been followed through in the budget. I imagine that the answer is yes.

The Convener: The Executive would say yes to that. There is a budget line for additional funding going in from McCrone. We are getting a report on McCrone some time in the new year. That will be the time to raise that issue.

Fiona Hyslop: We should still refer to that in our report.

Dr Murray: There is a further general point. We did not explore this with the minister this time round, but it applies across the board. It is about how each department is contributing to cross-cutting priorities, including economic growth. We do not have ministerial evidence on the subject, but there is a genuine issue about how that is monitored and how outcomes are assessed under the different portfolios.

The Convener: There is a general issue there about where in the parliamentary system we can deal with that. Which committee is responsible?

Dr Murray: Ultimately, it is the Finance Committee.

The Convener: I thank members very much for attending—and missing their lunch. I remind the committee that the commissioner for children and young people will be in this very committee room at 6 o'clock this evening. Members will be able to attend at least part of that event. Our next meeting, which is next week, will be back at the normal time.

Meeting closed at 13:28.

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