

EDUCATION COMMITTEE

Wednesday 13 December 2006

Session 2

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EDUCATION COMMITTEE

27th Meeting 2006, Session 2

CONVENER

*Iain Smith (North East Fife) (LD)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Ms Rosemary Byrne (South of Scotland) (Sol)
*Fiona Hyslop (Lothians) (SNP)
*Mr Adam Ingram (South of Scotland) (SNP)
*Marilyn Livingstone (Kirkcaldy) (Lab)
*Mr Kenneth Macintosh (Eastwood) (Lab)
*Mr Frank McAveety (Glasgow Shettleston) (Lab)
*Dr Elaine Murray (Dumfries) (Lab)

COMMITTEE SUBSTITUTES

Richard Baker (North East Scotland) (Lab)
Mr Jamie McGrigor (Highlands and Islands) (Con)
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)
Mr Andrew Welsh (Angus) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Kevin Browne (Scotland's Commissioner for Children and Young People)
Kathleen Marshall (Scotland's Commissioner for Children and Young People)
Laura Paton (Scotland's Commissioner for Children and Young People)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Mark Roberts

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 5

Scottish Parliament

Education Committee

Wednesday 13 December 2006

[THE CONVENER *opened the meeting at 10:02*]

Decision on Taking Business in Private

The Convener (Iain Smith): Good morning, colleagues. Welcome to the 27th meeting of the Education Committee in 2006. I do not think that there is anything particularly significant about the fact that we are meeting on the 13th day of the month, but who knows.

The first item is consideration of whether to take business in private. I propose that the committee considers the initial draft of its stage 1 report on the Protection of Vulnerable Groups (Scotland) Bill in private today and at next week's meeting. I also propose that we take an approach paper on our inquiry into the implementation of the teachers agreement and discussion of the committee's legacy paper in private at next week's meeting. The rationale for that is that the clerks have drafted the draft report and approach paper without member input and the committee has previously considered that meeting in private to discuss draft papers provides a better opportunity for members to be frank about their views. On the approach paper on the teachers agreement, we will discuss which witnesses we might wish to call. We normally take such discussions in private.

I would be grateful if members would agree to take those items in private. Are we agreed?

Members *indicated agreement.*

Scotland's Commissioner for Children and Young People (Annual Report)

10:04

The Convener: I am pleased to welcome—yet again—Kathleen Marshall, who is here to give evidence on her annual report as opposed to on a bill. Kathleen is, as committee members know, Scotland's commissioner for children and young people. She is accompanied by Kevin Browne, who is her participation worker, and Laura Paton, who is her policy development officer. Is Gillian Munro here as well? She is—I could not see her name-plate, which is why I was confused about whether she was here. She is the commissioner's information officer.

The committee agreed previously that it would be useful to hear evidence from the commissioner following publication of the annual report. The report came to Parliament on 23 November. I invite Kathleen to make some brief opening remarks, after which I will invite committee members to ask questions.

Kathleen Marshall (Scotland's Commissioner for Children and Young People): I would first like to thank the committee for the opportunity to give evidence this morning. The Commissioner for Children and Young People (Scotland) Act 2003 identifies my annual report to Parliament as the main route of accountability. However, the act provides no mechanism for any particular committee to scrutinise the report. Although that is a reasonable reflection of the fact that the commissioner's role relates to matters beyond the scope of any one committee, it is useful to have some provision for a debate on the content of the report. I therefore agreed a protocol early on by which the report would be considered by the Education Committee. It is good to have a chance to speak to you, especially as I am very aware of the extensive demands on the committee's time at the moment.

I am particularly conscious of the role of the Education, Culture and Sport Committee in session 1 of the Parliament in initiating the establishment of my office, and I often return to the text of the report of that committee's inquiry into the need for a children's commissioner to provide food for reflection on whether I am fulfilling the expectations of the post as it was shaped by that inquiry. The inquiry report was the fruit of the work of many members as well as the work of voluntary agencies that campaigned for the post and the work of children and young people who were consulted.

I have noted the prominence that both the inquiry report and the act give to the need to ensure that the work of the commissioner is informed by the views of children and young people. That was the first of the series of recommendations that were made in the inquiry report and one that I have taken very seriously. Indeed, one third of my staff are involved in the task of involving children and young people.

It may be appropriate at this point to introduce the people I have with me. Afterwards, if the committee wishes, I will speak a little more about the broad thrust of what I have been doing. However, if the committee would prefer to move straight to questions, I would be happy to do that as well.

Kevin Browne, as the convener said, is a participation worker in my office. I will ask him to outline his role.

Kevin Browne (Scotland's Commissioner for Children and Young People): My role as participation worker is to be the bridge between young people and our office. The job was set up for two young people aged between 16 and 21. My job is age-specific to ensure that young people are at the heart of our office and to ensure that the two people in the posts can provide invaluable information on how to engage effectively with other young people around Scotland.

A lot of my job involves speaking to children and young people around Scotland on various issues. For example, in our national consultation last year, young people spoke about safer streets, bullying and the lack of things to do. Young people voted on the issues that were most important to them. The one that was most important was "things to do". There were 16,000 votes from children and young people all over Scotland; it was the largest consultation involving children and young people in Scotland to date.

Another part of my job is running interactive workshops on the United Nations Convention on the Rights of the Child. I also assist the research officer and the policy team in some of their work.

Recently, I was involved in the recruitment of a reference group, our young person's health advisory group and our care action group. Those three groups have different roles but they share a common goal—to make positive changes for children and young people in Scotland. Another part of my job is to support those young people.

That was a brief overview of what my job involves. If there are any questions, please do not hesitate to ask.

Kathleen Marshall: Laura Paton and Gillian Munro are here because they are the authors of "Children's Rights Impact Assessment: The

SCCYP Model", which came to Parliament just before the annual report. If the committee wishes, I will continue with my overview, but you might prefer to go straight to questions. I will go with whatever you wish.

The Convener: I look to members for guidance. Do we wish Kathleen to continue with her overview, or shall we move to questions? I think that we will allow you to carry on.

Kathleen Marshall: Thank you.

As this is the first opportunity that I have had to speak to the committee about my work, I thought that I should give you a brief overview of the different strands of activity.

I have prepared a brief timeline on organisational development, which I will pass around the committee. If anyone wants to ask me about it, I can answer questions. It shows the time span over which the office has developed. As with any new office, I have had to devote considerable time just to setting up.

As well as organisational development there is what I call the capacity-building dimension, although I am aware that that makes it sound like a secondary or supportive function whereas in fact it is at the heart of what my office is about. As there was so much emphasis on involving children and young people, we had to develop the tools to do that. A consultation with young people could involve just putting an advert in the press saying, "Tell us your views," but we felt that we had to do something more substantive.

Part of the capacity building was the participation strategy, which was laid before the Parliament with the first annual report. A major plank of that strategy was the national consultation and the advisory groups, which Kevin Browne has referred to. The children's rights impact assessment can also be included in that category. It is about building the capacity of not just my office but other agencies, both voluntary and statutory, to assess the extent to which current or proposed law, policy and practice respect the rights of children and young people. The 2003 act says that I must respect the rights of children and young people to be heard and have their best interests taken as a primary consideration, but I must also encourage others to do that, so we have offered that impact assessment tool to agencies to help them.

The development of our website, which is increasingly popular, is another capacity-building issue.

The remit of my office is wide. There are some core activities in which the substantive issues are presented to us, although we exercise discretion and choice in the priority and time that is given to

them. The annual report lists some of the responses made to law and policy initiatives from the Parliament and the Executive, but I am also approached by other agencies, such as the General Medical Council and counselling agencies, for advice and guidance on consulting children and young people on consent issues, for example.

Other core activities are related to the role of reporting to the UN Committee on the Rights of the Child on the implementation in Scotland of the Convention on the Rights of the Child. To that end, my staff collate information on matters of concern identified in previous reports and emerging issues. We will report to the UN on that next year.

I have also been proactive in selecting issues for special attention. I have pursued at national and international level issues relating to children seeking asylum. For example, I recently chaired a meeting of the European network of children's commissioners, which passed a joint statement on unaccompanied asylum-seeking children. I have also identified young people leaving care as an urgent issue and my office has undertaken a substantial piece of work on that, which will be completed early next year. We have also done substantial work on the moving and handling of children with disabilities.

The largest cluster of proactive initiatives relates to the priorities identified as a result of my consultations. The things to do priority identified by children and young people links in with many other concerns about health, community safety and access to community facilities. The complementary priority identified as a result of consultation with agencies addresses the sensitive issue of achieving the balance between measures designed to protect children and the potential for fun, exciting experiences and healthy development.

In the foreword to my second annual report, I commented:

"There is something seriously wrong with a society where innocent and well-meaning adults feel so inhibited from the kind of interaction"

with children and young people that is

"wanted and needed for healthy and happy communities."

I would add that, as a society, we have become so focused on protecting our children that we risk neglecting them. From across Scotland, I have heard voices pleading for a more balanced and sensible approach to child protection. Fears of the child protection juggernaut are putting adults off working with children and young people. Young people have told us that they want more things to do, and they need the support of adults to make that a reality.

The issue is clearly sensitive and of great concern to the committee. One thing that has become clear to me since my appointment is that others are looking to me to raise and take the lead on sensitive issues and bring them to the Parliament's attention when, for various reasons, they feel unable to do so themselves. That is a role I am happy to take on. I believe that it provides much of the added value that was discussed during the debates that led to the establishment of my post and the reason for the measures that were written into the act to protect its independence. I hope and plan to build from that independent base and will be happy to answer questions on that and any other issues that members wish to question me on.

10:15

Lord James Douglas-Hamilton (Lothians)

(Con): Your report states that you spent only 3 per cent of your budget on research. To what extent do you envisage embarking on or commissioning research in the coming years? Do you have particular priorities? I should mention that, through the Scottish Parliament information centre, we can authorise some research in connection with our committee inquiries and, of course, the Executive can authorise research as well. It would be helpful if you could let us know your priorities.

Kathleen Marshall: Certainly. The pieces of research, some of which we can undertake ourselves and some of which we can commission, have various focuses. We have undertaken a considerable amount of research ourselves, such as that on the moving and handling of disabled children. There is a report on our website on that subject and a substantial report will be released next year. The same applies to the issue of the age for leaving care.

One of the issues about commissioning research is the need to build your capacity to do that. For example, competitive tendering—which must be used if the fee will be more than £5,000—makes such an undertaking quite a hefty task. We had to draw up our own protocols and our own ethical guidelines for commissioning research and our own procedures for doing so. At the moment, we have put out two tenders for research. One of them is to do with adult attitudes to contact with children and young people, the other is to do with the evaluation of the impact of our safe, active, happy action plan. I also commissioned some research on prisoners' children. A report on that has been produced and I have had meetings to consider ways in which to take that forward.

We are gradually building up the commissioning research function.

Lord James Douglas-Hamilton: You mentioned young people leaving care, which is a particularly vulnerable group. Can you say more about that research?

Kathleen Marshall: That is one of our priorities. I have travelled around Scotland a lot since I was appointed, and I have listened to people on the front line and to children and young people. It has become clear to me that although law and policy envisage that young people should be able to remain in the care system until they are 18 if their welfare requires it, and beyond in aftercare, there is in many areas a culture that expects them to move out at 16—and that doing so has hugely adverse consequences for the young people involved.

Earlier this week, I visited a young person who was living in what was, basically, a homeless chalet. She had run out of electricity and was eating chocolate and crisps for dinner. She was only 17. There is a huge issue around people in that sort of situation getting into a downward spiral of homelessness.

We surveyed all the local authorities to gather information about their policies and followed that up with interviews and a closer look at various projects. We plan to produce guidance on the law and the policies to help young people and their workers. We will submit to Parliament next year a report on that with conclusions and recommendations.

Lord James Douglas-Hamilton: You said that, in October, you were involved in exploratory meetings on the use of facilities in schools outside teaching hours. Can you say a little about what you have learned from those meetings? Will the matter be pursued in future?

Kathleen Marshall: It will be pursued. My interest in it comes directly from what young people have told me. They tell me that they want more affordable and accessible things to do in their communities. In some areas, school facilities can double up as out-of-hours facilities. Not every young person would want to use school facilities, but some do. Questions had been raised about whether the recent spate of school development would facilitate that, given the questions around who owns the contract, whether the facilities would be tied in with what already existed in the community and whether children and young people had been consulted about what they wanted. We wanted to find out whether resources were being used effectively in that regard.

I met a number of interested parties to discuss the matter two weeks ago and I will continue to work on it. The aim is to optimise the benefits of the school building programme. A lot of money is spent on school development and if we do not get things right it will be a wasted opportunity.

Marilyn Livingstone (Kirkcaldy) (Lab): I work with groups of young people in my constituency and they say that they want more things to do. It would be good if you could share your research with us so that we have the big picture.

Kathleen Marshall: We will certainly share it eventually, but it is early days. We started the work in October and we have had our first meeting. We have refined our mission statement, which we will make public soon, and we are gathering information. People say that they are happy to send information to us so that we get a clear picture of what can be done to ensure that the large injection of public funds is used in a way that benefits children and young people and their communities.

Marilyn Livingstone: How will you target the two-year action plan that you mention in your report? Will you examine areas of multiple deprivation?

Kathleen Marshall: The two-year action plan has been broken down into a number of work streams. In each one, we will do literature reviews and some research. One work stream is on play and another is called detective kits, which is about encouraging young people to map out their areas and state what there is—and is not—to do. We want that information to go to local contacts as well as to us. We envisage that, after we have considered the general availability of things to do, we will identify a few areas and put in some money to allow young people to do their own research. Those areas will certainly include some areas of deprivation.

The 2003 act states that I must pay particular attention to groups of children and young people who do not have other adequate means of making their views heard. We have held consultations and engaged with schools and youth groups, but we are keen to build up relationships with detached youth workers, who work on the streets with young people. My staff have been out with them on a number of occasions to find out what is happening on the streets and we are aware that we need their assistance. It takes a lot of time, effort and perseverance to build up relationships with young people. In partnership with YouthLink Scotland, we organised two events to share information with detached youth workers and we are keen to do further work with them.

The other work streams are about disability; children in a looked-after system; international exchanges; physical punishment; anonymity before conviction; child protection issues, with a particular focus on the Protection of Vulnerable Groups (Scotland) Bill; and the "Hidden Harm" agenda on substance misuse. We have broken the work down into a number of work streams but they are all part of one big picture. We have to do

the work in bite-sized pieces, but the issues are interrelated. You can be assured that areas of deprivation will be high on our list when we commission the research that we want children and young people to do.

Marilyn Livingstone: In your introduction, you mentioned a sensible approach to child protection. Will you expand on that?

Kathleen Marshall: I talk to people throughout the country about their concerns and it is obvious that people feel paralysed by the child protection machinery or their perception of it. People feel to a ridiculous extent that they cannot do things. That can be very inhibiting. Some people say that it is a misconception, but if it is, it is a pervasive misconception.

In the past week, for example, a youth worker told me that they had had to cancel a trip from a rural area with two young people aged 14 or 15 because they could not afford it. They had been told that two adult workers would have to accompany the young people to the mainland. When he questioned why two adult workers were needed, he was asked, "What happens if one of them drops dead?" Such a comment makes you wonder about the risks that we are trying to address. I do not know whether someone simply made it up as an excuse, but the fact is that people feel the need to cover their backs all the time.

Voluntary agencies, small play forums and so on have told me that we must address the issue, because people are backing off from interacting with children and young people. I have heard, for example, that mountaineering certificates have been required to take groups up Arthur's Seat, and that lifesaving certificates were needed before a group of children could be taken on to a beach to gather shells. In fact, I heard this week that, on top of the requirement for groups to be accompanied by two adult workers, those workers cannot both be male. They can, however, both be female. I simply do not know where such a restriction comes from.

This is a bit of a double whammy. Not only are more and more matters being regulated through disclosure checks, we still do not trust people even once the checks have been carried out. We still apply all kinds of restrictions by insisting that hordes of people be involved in activities and that no one can be left alone with a child. People throughout the country have made a huge plea to us on this matter; indeed, it is behind some of our comments on the Protection of Vulnerable Groups (Scotland) Bill. Of course the bill contains many good provisions, such as the move to reduce the potential for multiple disclosures, but the Parliament could take a bold stance on this matter and say to people, "We hear you; we need to

establish more sensible arrangements that give everyone a richer and better life."

Fiona Hyslop (Lothians) (SNP): For a number of years now, in its focus on child protection, the committee has looked long and hard at the way in which the behaviour of the majority of adults has been distorted by the behaviour of the few individuals who have attacked and damaged young children. If the Parliament, the Executive and the children's commissioner have the same agenda and believe that the matter should be addressed, why are we not any better at joint working? Given that you are accountable to the Parliament, do you feel that coming before the committee once a year to discuss your annual report is the best way of driving forward our common agendas? Can you suggest a better way not only of being accountable to Parliament but of working better with the committee in that respect?

Kathleen Marshall: We have worked with this committee and others on a number of issues. For example, we responded to the consultation and gave evidence on the Protection of Vulnerable Groups (Scotland) Bill. Next week, I will convene a meeting of some of the other agencies that gave evidence on the bill, with a view to issuing some positive guidance on what we want from the legislation. After all, when I gave evidence to the committee, members kept asking, "What do you want?" and, having raised concerns, I feel a duty to come up with some positive suggestions. I hope that that represents a contribution.

I also point out that, during the passage of the Prohibition of Female Genital Mutilation (Scotland) Bill, which was considered by the Equal Opportunities Committee, I convened a multi-disciplinary group to formulate a positive approach to the bill, and our contribution resulted in changes being made.

On other occasions, I have submitted written evidence, but I have not been called to give oral evidence. I am always happy to do so if the committee so wishes. Moreover, the little protocol that we drafted at the very beginning contained a kind of expression of mutuality, in which I could ask the committee to consider certain matters or the committee could ask me for information. I am happy to consider such requests. Indeed, I am certainly happy to consider other ways of working better together. Although we have been submitting responses to consultations and so on, we can perhaps do more.

Fiona Hyslop: Perhaps that is a very good example of how the committee's agenda has largely been driven by Executive legislation. Dealing with that legislation might well be getting in the way of the wider agenda of seeking to ensure that we create a culture in Scotland in which adults are comfortable—and, indeed, can

be trusted—with working with children. Of course, we cannot necessarily legislate for that, and the problem is that most of our time is spent scrutinising legislation. Perhaps we should be trying to work with you on these matters, because such an approach will add value. After all, you have an insight into and an ability to reach out to children that the Parliament does not have.

How can we ensure that the fact that we constantly have to consider legislation does not derail us, so that your input to the Parliament—and the Parliament's to you—can be more proactive and is not just about legislation? Have we perhaps not been as good at that proactive input in the past year? Should we try to do better in future?

10:30

Kathleen Marshall: Perhaps we should. I would be very happy with such an approach. I have reflected a great deal on how I can relate meaningfully to the Parliament, given members' busy lives. In the first two years after the establishment of my office, the Education Committee organised seminars so that it could catch up on what I was doing, but given members' busy timetables only three or four members attended—I think Fiona Hyslop was one of them. We could run seminars on thematic issues, if that is of interest to members. We have tried to engage with members individually and in groups in a number of ways, but I would be happy to engage in dialogue about whether more can be done and what would fit into members' agendas and busy lives.

Fiona Hyslop: We could discuss risk ad infinitum. Looked-after children is another issue that the Education Committee wanted to pursue. I will not pre-empt the legacy paper that the committee will produce, but you are probably aware that we had hoped to conduct an inquiry into looked-after children. The issue will form part of your work stream next year, but we do not want to duplicate effort. How can we ensure that we do not reinvent the wheel and that the committee is informed about how you add value, as the 2003 act envisaged? It is obvious that there must be input from your office to the children of Scotland, to whom you are accountable, but there must also be input and accountability to the Parliament. How can that be achieved, particularly in relation to the inquiry into looked-after children that our successor committee in the next session of the Parliament might conduct?

Kathleen Marshall: I could introduce you to our care action group, for a start, which is made up of vocal and passionate young people. Kevin Browne has been working with the group, to identify those young people's priorities and perspectives. I

mentioned the report that we will produce on the age for leaving care. If you want to know what we are doing on such issues, I can talk about the priorities that young people are identifying for us. I am sure that the young people in the group would welcome a meeting with members, which would allow them to express their concerns and would demonstrate that people are interested in hearing what they have to say.

The Convener: Could you assist the committee in setting out the scope and remit of its inquiry and in planning its approach to involving young people in the consideration of issues that affect them?

Kathleen Marshall: I am sure that we could do so. Until now, I have responded to parliamentary inquiries that have already been set up, but I could provide focus or a steer if members thought that I should have a role in setting up an inquiry. Given that my remit is to a large extent founded on the United Nations Convention on the Rights of the Child, I could help to devise a focus that reflects that public policy commitment.

Dr Elaine Murray (Dumfries) (Lab): You talked about how child protection is generating extreme reactions in some cases, but such reactions are the result not of legislation but of organisations' fear that if there is any risk they will be blamed and sued. The purpose of legislation is to make people's responsibilities clearer. I hope that some of your work with interested parties will be helpful in ensuring that the legislation serves that purpose.

The reactions that you described are to do with a much wider agenda. We must tackle the cultural attitude that exists, which leads to people being frightened of kids. Nowadays, if a child falls off their bike, a man will not dare pick them up and clean up their wounds because he is afraid of being accused of molesting them. It is unfortunate that some media attention has made it difficult for children to have what should be natural relationships with the adults who should protect them. We can tackle legislative issues—I hope—but how can we tackle wider cultural issues?

Kathleen Marshall: I agree that there are legislative and cultural issues. There is a lack of clarity about child care legislation and who it covers, so people need help interpreting the law. The cultural issue is more difficult. The culture that you describe has grown up in the past two or three years in particular, as all the legislation has been passed—as people said.

Dr Murray: I think that it is longer than that.

Kathleen Marshall: It is. Together with the agencies that are working with us on the issue, we are setting up a media alert service. Many people want to say certain things but are scared to put their heads above the parapet because, if they say

something, it will look as if they do not believe in child protection. We are all passionately committed to child protection, but what we are committed to is real child protection and not measures that paralyse people and prevent them from doing good work. If there is a story in the press that we and the other agencies feel that we should comment on, the media alert service will allow us all to do that in our own ways and allow us to keep trying to push the issue and change the culture.

However, there are other issues. An issue that I have raised on a number of occasions, although it has implications that are wider than my remit, is anonymity before conviction. The teachers unions raise it a lot, but it also applies to other people who work with children and young people. Not long after I came into post, I gave a detailed talk on anonymity in which I examined the three occasions on which the Parliament had already considered it and analysed the debates on the issue and the reasons for not pursuing it.

People fear that, as soon as an allegation is made, the name of the person against whom it has been made will be broadcast everywhere and, because it is said that there is no smoke without fire, they will never manage to get over it. That is one of the strands of fear—it is not the only one, but it is particularly important—and there are things that we could do about it. I acknowledge that it is not a simple equation and there are issues of open justice, but we have a different kind of society. We need to open the issue and try to take some of the heat out of the situation so that people against whom an allegation has been made will at least feel that they have had a chance to tell their story and have some assessment made of it before the world knows about the allegation.

When I chaired the Edinburgh inquiry into the abuse of children in children's homes, I found it very worrying that, although two people had been convicted, other names kept on cropping up. We knew that those people were out there. There was evidence against them at one level, but it was not possible to pin the allegations down. How do we protect children from such people? Some useful things are now happening on disclosure, access to police intelligence and access to soft information. However, the downside of those useful developments is that an unsubstantiated allegation will sometimes appear on a disclosure form. As I think I explained to the committee when I gave evidence on the Protection of Vulnerable Groups (Scotland) Bill, a teacher showed me her disclosure form, which mentioned an allegation of which she had been completely exonerated, and said that she would never get another job with such a form.

We also have to tackle insurance issues and the compensation culture. Society must be brave enough to admit that risk cannot be avoided, accidents will happen and some children will be hurt. We will never be able to avoid that. If there has been negligence, we need to address it, but we must give people the confidence to feel that they will be treated fairly. If we do not treat adults fairly, children suffer as well.

Dr Murray: Your survey about things that are important to children and young people highlighted that things to do are important to them. That does not surprise me, because young people in my constituency say that they would like more to do. Did you break that down any further? Older people use the counter-argument, "There is much more for them to do than there was when I was young and I did not get into all this bother." I think that adults sometimes have the wrong perception of what children and young people want to do and what people of particular genders or age groups want to do. Has any more work been done about the types of things that children and young people want to do?

Kathleen Marshall: They do not generally want to hang around the streets and adults do not want them to hang around either. They want somewhere that is sheltered and safe, and there are quite a lot of good examples of that. Perhaps Kevin Browne could speak about that, because he had a lot of the direct contact with young people on that issue.

Kevin Browne: We spoke to young people from all over Scotland and it was interesting to find that young people from inner-city Glasgow or Edinburgh said exactly the same thing as young people in Shetland or Orkney—that there was a lack of things for them to do. The difference between the rural and inner-city areas was that the rural areas did not have facilities whereas the inner-city areas did but they were only open from 9 am to 5 pm or 7 pm Monday to Friday. Given that most young people attend school, they are not getting access to those daytime services. One example of that is a community centre close to the Scottish Parliament that is open from 9 am to 12 noon. There are examples of good practice such as the midnight football league in Paisley, which runs from 11 pm to 12.30 or 1 in the morning and which is reducing antisocial behaviour, violence and crime in the area.

We have to ask the young people what they want. When I do that, they tend to say, "We stay out to 12 o'clock at night. We hang about the streets. There is nowhere to go." Youth clubs and community centres close too early for young people to get a service from them. They do not engage and that is where antisocial behaviour comes from. Over the past couple of years, we

have seen an increase in underage drinking. Instead of trying to fit young people into adults' work timeframes of 9 am to 5 pm, 5 pm to 7 pm or 5 pm to 9 pm, we need to ensure that services are designed for them. Services need to be flexible.

Dr Murray: If local authorities, voluntary groups or people working in partnership want to consult young people in their area, do you have a template that they could use that would help them to have a meaningful discussion with young people?

Kevin Browne: We do not have a template. All that we have in the commissioner's office is our experience. I have seen a number of templates that local authorities use and the work that those authorities have done with young people has been effective. Good practice needs to be shared. Youth workers need to go to events and exchange examples of good practice with other youth workers. When staff of the commissioner's office are out and about in the country, we highlight where the areas of good practice are to be found.

When adults are asked to talk to young people, they are afraid that they are being told, "Young people have the right to play and the right to associate with their friends, and they are going to tell you what to do and you have to do it." Our office is not saying that. We are asking people to speak to young people and hear what they have to say.

If adults listen to young people's views, we have found that the outcomes are a success. For example, young people know where they want to skateboard. Why then build a skateboard park in another part of the city that is not accessible by public transport or is in a different gang's territory? We should not be building skateboard parks where there is no demand for them. Simple stuff like that can make a big difference. Over the years, the commissioner's office may be able to develop templates. A lot of good work is happening out there; we need to highlight it.

Mr Kenneth Macintosh (Eastwood) (Lab): My question is also on the survey. Bullying and safer streets came out of the survey as two of the biggest issues for young people. A lot of work was done by the discipline task group. What is happening now?

Kathleen Marshall: Although we said that the top priority for young people would be our main priority, we cannot ignore bullying, as the votes for the top three priorities were really close. The issue of safer streets, which came third, is intrinsically linked with the issue of things to do.

A lot of work has been done in Scotland on bullying. In fact, what is happening here is held up as good practice. However, no matter how good the anti-bullying work is, the fact that young people

continue to make it such a priority means that the work is still not good enough. Recently, the Scottish Executive awarded another contract on bullying. We have arranged a meeting with the people who got the contract. We want to give added value and build on what they are doing. We also need to ensure that we do not duplicate their work.

There are other ways in which our work on bullying fits into other aspects of our work. In turn, we get different perspectives on the issue. For example, in our work on the school building programme, research emerged that bullying decreases if schools are designed appropriately and young people's views are taken into account. For example, if schools are designed with wide corridors, we can avoid the bullying that involves pushing and shoving. Also, if schools are designed without large toilet blocks and toilets are instead distributed in groups of two around the school, we can do away with much of the bullying that goes on in those locations. We are beginning to see evidence from America that shows that such things have an effect. We need to listen to young people to find out where bullying occurs so that we can make a specific contribution to tackling it.

Bullying is a serious issue and we are keen to work with the new initiative in Scotland and to add value to it.

10:45

Mr Macintosh: You said that the issue of safer streets is linked to things to do, but surely it is also linked to bullying.

Kathleen Marshall: Yes. The three priorities are very much linked. Adults are sometimes surprised that young people say that safer streets are a priority for them. I have taken forward that agenda in a number of ways. We linked up with the police's violence reduction unit, which is represented on our advisory group on the safe, active, happy action plan. Also, I have spoken at a number of conferences with the police and others and pointed out that young people want more police on the streets who are trained to be friendly and accessible to young people. That is an important message.

At one conference, a young police constable who works in a rural area said that he puts in a lot of time to build relationships with young people and shopkeepers but that he is not assessed on that. His appraisal is about how many parking tickets he has given and how many this, that and the next thing. We want a good relationship between young people and the police—and young people want that as well—so we have to consider what we value in the police service. We should value the things that make for safer communities. That is a huge issue for young people.

Mr Macintosh: How will the three priorities be reflected in your workload? They were identified as the most important issues to young people, but I am not sure how you will follow them up.

Kathleen Marshall: The information is not in this year's annual report. The consultation was held during year 2 and it led to the formulation of the safe, active, happy action plan, which was launched at the Parliament on 4 May this year. The plan sets out in broad terms what we will do to make progress on the issues, but since it was published we have been fleshing things out. We have an advisory forum of interested agencies and we now have young people's groups to help us to identify what is important.

The first thing was to map out what else is going on and how we link with that, because we want to ensure that what we do adds value. In some cases, we simply support other people's work. For example, Play Scotland and Barnardo's are pushing for a play strategy. We support that, but we have to identify how we can add value to work streams.

Relevant parts of our work include the work on access to school facilities; the bit about particularly disadvantaged groups, disability groups and moving and handling; and the bit about looked-after children, risk-averse practices and things to do. We are also planning to engage children and young people in the activity. We have almost finished developing our detective kit for primary school children. We want them to look at their area and talk about things to do. We also want them to talk to older members of their communities—that links to the protection thing—and ask them, "What did you do when you were young and why can't we do that now?" There may or may not be reasons for that. For the older ones, we are planning a website development.

We want to engage young people in that, but issues might arise to do with insurance and risk aversion. I hope that, at some point, we will have dialogue with the insurance companies about that. There are a whole load of streams, but the action plan is a two-year plan and we always envisaged that a lot of our work in year 1 would be about focusing and mapping out the area. We will address it in a more substantive way in year 2. There is information on our website, but if anyone wants more detailed information on where we are with the action plan and what we are focusing on, I will be happy to provide that.

Ms Rosemary Byrne (South of Scotland) (Sol): The discussion has been interesting. When I visit schools, the things that children mention to me as a member of the Scottish Parliament are things to do and antisocial behaviour. They do not like young people hanging about on street corners.

Child obesity is another issue in the area of child health. I think that it is linked to the issue of children having things to do. Have you found that there is a lack of green space in urban areas? If so, have you been in touch with any of the other organisations that deal with that issue? If there is a lack of green space, there is a limit to the amount of activities that young people can take part in.

I would like to ask Kevin Browne about the detached youth workers. Have you found that there are areas that lack their input?

My final question is about the right to be heard. Do you have a view on whether parliamentary committees, and this committee in particular, listen to and consult young people enough?

Kathleen Marshall: We have been very concerned about the lack of green space and have responded to the recent consultations on green space. The issue has some representation on our working group on the school building programme, as there is a problem with green space being sold to fund school development.

In our consultation responses, I have suggested that we should be asking children where they play. Some areas that are not formally listed as play areas might be the wild areas in which children can play, even though they have no equipment. However, such areas can suddenly be zoned for something else. I think that every planning office should have a map showing where children have said that they play. If there is any proposed development in such areas, the children should be consulted about it and we should try to find somewhere else where they can play.

There is also a concern about how green space is measured. Sometimes, such measurements can involve simply adding up all the wee bits of green space that are left over. I have been told about housing developments in which the housing comes first and the bits that are left over are shaded green—sometimes, grass verges and so on are included in measurements of green space, even though children cannot play on them. Further, some private developments that have to include a play park will create only a small one, which will end up being only for young children because it is not big enough to kick a ball in without the ball going into the neighbours' gardens and annoying them and because the adults do not want older young people to use it.

On the right to be heard, it is clear that the Parliament is committed to hearing children. One of the issues that makes that difficult to do is the timescale of the Executive's and the Parliament's consultations. Those timescales limit us, as well. While we are developing mechanisms, we have reference groups and so on. However, for some consultation exercises, we need to consult specific

groups—especially the hard-to-reach groups—and that can take time to set up.

Kevin Browne: I was involved in last year's detached youth workers event, although I did not attend this year's event. Last year, when we were talking about how young people engage with the detached youth workers and how they engage with young people, the detached workers said that it was useful that they were in young people's territory, which means that a lot of relationship building goes on before anyone enters into a dialogue. During that event, the workers spoke about how they felt that they were undervalued as youth workers. They said that they were not identified as being a main provider to the young people. When I took part in the youth work strategy this year, I thought that it was interesting that it did not speak about detached youth workers; it spoke only about youth work. I felt that that was narrow. From our experience, detached youth workers are very effective at engaging with young people. My colleagues visited Stornoway, where the detached youth workers have a stronger relationship with young people than the local community police and teachers do. Workers in this area are hugely undervalued and they flagged up at our events that they deserve more credit than they are getting. I do not really know what areas lack the input of detached youth workers.

Ms Byrne: I asked that because you are obviously aware of the value of those workers, as are many of us in communities. During recent years, many detached youth workers have been used in projects and better neighbourhood services. Some good work is being done, but it is then being lost. It can only help if the children's commissioner emphasises that detached workers are a good thing. Kevin Browne's answer was helpful.

Kathleen Marshall mentioned hard-to-reach groups. Can you say a bit more about what those groups are and how you engage with them?

Kathleen Marshall: Yes. There is always a debate about whether we should use the term "hard-to-reach" or whether there is a more appropriate term. We are talking about hard-to-reach groups or individuals who are not in a structured group, although they might be in a gang.

You were talking about funding, which is a huge issue. It takes a long time and a lot of effort, including coming up against a lot of dead ends, to build up relationships with young people who are out on the streets and who are not associated with particular groups. However, I have heard many pleas about the fact that the funding for such work is often very short term. The short-term funding runs out, the project is wound up and the young

people feel undervalued because they have put their trust in the relationships. The money is then wasted even though some good relationships have been started.

When I was in Easterhouse, we were talking about the progression that starts with unstructured work, such as the detached youth work and making places for young people to hang around in, and moves on to work to encourage young people into more purposeful activity that will give them a sense of direction. That has to be done through some kind of process.

There are other groups that have difficulty being heard. As well as the socially excluded groups, there are the disability groups. We have built up good relationships with Donaldson's college and the Royal blind school, for example. I am keen that one of the children from each of those schools should have a work experience placement with us. My staff were horrified when they discovered young people working in the school canteen because they could not get a work experience placement. This year, we are building up the placement for the young person from the Royal blind school so that we do not drop them in it. We are going to find out what the young person needs that will make the work placement worth their while and write that up into a good practice guide on how to give valuable work experience. The young people will be part of that. We will then do the same with Donaldson's college.

The lesbian, gay, bisexual and transgender groups are also keen to link with us. They have been doing some fantastic work in Scotland and they deserve support. We are trying to give a voice to several different groups like that.

As my time in the job progresses and I think about what has been most successful and what has the greatest potential for making an impact, it is becoming clear to me that I would like to develop a way of helping more groups of young people to get their voices heard locally. That has been particularly successful. Someone writes to me with an issue, then I write to the local authority and ask whether young people have been consulted on how a decision has been reached. The local authority then consults that group and I follow up the issue to see what happened as a result of the consultation.

I hope that by setting an expectation that I will ask questions about whether and how young people were consulted, and by initiatives such as the children's rights impact assessment, I can encourage people to embed in their practice consultation of young people and an understanding that consultation leads to better decisions and respect for all the rights that are set out in the UN Convention on the Rights of the Child.

11:00

Mr Frank McAveety (Glasgow Shettleston) (Lab): Work on behalf of young people presents a tough challenge and is a process that constantly evolves, as I remember from my experiences in the mid-1990s, when I set up the first youth sub-committee in what was then the City of Glasgow District Council.

I would welcome your comments on two suggestions, which might offer a useful strategic approach. First, how can a fairly small country that has 32 local authorities produce a template that sets out minimum expectations for all authorities, whether they cover big cities or rural areas? The development of such a structure might take two, three or four years, but it would be worth doing. I do not think that there is any disinclination on the part of local authorities to do such work, but there are many competing pressures on authorities and we must consider whether enough pressure is brought to bear on them on behalf of young people. Young people's voices are diffuse and shift quickly, unlike the voices of pensioners, which can last a long time—God bless them; I respect pensioners groups and I hope that by providing central heating systems we will help people's voices to last a wee bit longer. There needs to be strategic thinking by local authorities on behalf of young people.

Secondly, you mentioned safety and the police. If the top three issues for young people are bullying, safer streets and things for them to do, we can see a connection between those issues. In my experience, campus police officers have represented the beginning of a good process, in which the dynamic between young people and the police has shifted. The police officers who operate in at least two of the secondary schools in my constituency—where the challenges that young people face are some of the most serious in Scotland—have changed that dynamic, by engaging in work on citizenship and by intervening early in bullying at school and the territorial hassle that happens in neighbourhoods throughout Scotland. Could you undertake research with local authorities on strategic thinking about police resource allocation? The sums that are required are not large in the context of the overall police budget, although they are large in the context of a divisional budget.

Kathleen Marshall: On local authority engagement, I have been speaking to groups such as the Society of Local Authority Chief Executives and Senior Managers, the Convention of Scottish Local Authorities—I spoke to council leaders at the COSLA convention—the Society of Local Authority Lawyers and Administrators in Scotland, directors of education and directors of social work, to tell those groups about my job and how I will take

forward the UN convention. I have also talked to local authority management teams about issues in their areas.

If an issue arises, we can react in a number of ways. I have told local authorities that I will be asking questions. That will not necessarily mean that there will be a complaint, given that I will not know the situation at that point. However, I will ask councils to show me how, in reaching a decision, they took account of the rights of children and young people to be consulted, to have their views taken on board and to have their best interests regarded as a primary consideration. Children's rights will be considered in the context of the allocation of resources and any other relevant matter. I will expect an explicit answer to such questions—that is what I am trying to encourage. I noticed that all the lawyers started to write notes when I talked to them about that.

A formal investigative power is attached to my office, although it was clear during the passage of the Commissioner for Children and Young People (Scotland) Bill that it was anticipated that the power would be used rarely. I have not yet used the power and the children's commissioner for Wales is the only children's commissioner in the United Kingdom to have used such a power—that happened once. However, the existence of the power gives a higher status to the UN convention, because even if duties to consult are not written in law—although increasingly statutory duties on consultation are provided for, as is the case in the Children (Scotland) Act 1995 and in planning and education legislation—failure to consult young people and respect their rights can have consequences, because I can set up a formal investigation. As other commissioners have found, the existence of the power tends to bring people on board—there is a tension between support and collaboration and what could happen at the end of the process.

A more proactive measure is the model that we have developed for children's rights impact assessment. If members want to ask the authors of that about it, I am sure that they would be happy to answer your questions. We have developed a tool that local authorities, Executive departments and voluntary agencies can use to audit their compliance with the convention. It has background information and simple forms—an initial screening form and a full assessment form. So far, the feedback on that has been good.

On the issue of the police and safety, the campus police idea that Frank McAveety mentioned is interesting and I have heard good things about it. Once the practice has been established for a little while, it will be important to get the views of young people on its success and their experience of it. I say that without any

preconceptions about what those views will be. It is clear to me that young people want the police to be there for them, so there is a lot of scope for mutual collaboration. It would be interesting to have a small research programme in schools where the measure is in place to assess the pupils' and the police's perceptions of it.

If you want to ask anything more about the children's rights impact assessment, I am sure that we can reply on that.

Mr McAveety: Such a study would be helpful. I am sure that the two major high schools in the east end of Glasgow—Eastbank academy and St Mungo's academy—would welcome engagement on that. I have spoken to young people in the neighbourhood and in the school environment and have found them to be positive about the role of police officers in increasing safety, security and trust. It would be worth doing research on that. I could facilitate such research, if you feel that it would be useful.

You mentioned templates. To draw a parallel, since 1997, most folk in local government have been aware of a thing called best value, but until a combination of three factors are in place—the legislative framework that means that people can get in trouble for not engaging rigorously in the best-value process; political champions in the authorities, including elected members, who treat the issue seriously; and significant officers who acknowledge that the issue is an important service point—we ain't going to shift the debate. In some cases, those three factors have come together and shifted the dynamic in local authorities but, in other cases, that has not happened, which is why some local authorities have found the issue difficult. A parallel can be drawn with the development of strategies for young people. We need political champions, officer champions and a legislative framework and drive.

The strategic role that you can play as the commissioner for children and young people is about more effective engagement. You cannot give me an answer to this now, but I ask you to reflect on the role that the commissioner can play with local authorities to make a substantive difference to the vast majority of young people in Scotland, wherever they are. It may be worth taking that on board.

Kathleen Marshall: It certainly is. That role is built into my strategy. I have spoken to the chief executives and the council leaders and I am now programming in time to go round the country talking to management teams about how the issue can be taken on board. In particular, I have asked about how they view the operation of their corporate parenting role. I have found that work to be effective. Your point fits in well with my reflections about the most effective touch points

for getting things done. My work with local authorities is one of them—it has been effective, as young people are particularly tuned into and particularly need local services. At present, I have my eye on a group with which I have been involved in trying to get its voice heard to use as a case study. My role is to make a space for voices to be heard and perhaps to help with how the issues are dealt with. That is an important role. I have ideas about it, but if anyone has any other creative ideas that they would like to share with me, I would be happy to have a dialogue about them.

The Convener: Finally, you have developed a children's rights impact assessment model and you have been involved with the Parliament. Should the Parliament and the Education Committee change their practices so that those practices fit better into that model?

Kathleen Marshall: I invite Laura Paton to answer that question.

Laura Paton (Scotland's Commissioner for Children and Young People): We had two goals when we developed the model. First, we wanted to use it in the office as a means of complying with our statutory duty to review law, policy and practice. Secondly, we created it for other people to use, such as people in the Parliament, the Executive and local authorities or anyone else who takes decisions or develops policies that could have an impact on children and young people. Bills that are presented to the Parliament could be presented along with an impact assessment that states whether the bill complies with the UN Convention on the Rights of the Child and the impact that it would have on children, just as bills are currently presented with information on the effects that there would be on island communities and human rights. That is one way in which the Parliament could use the model.

The Convener: As members have no more questions, I thank Kathleen Marshall, Laura Paton, Gillian Munro and Kevin Browne for coming to the meeting, providing a fairly full report on the children's commissioner's activities over the past year and looking ahead to the future. I am sure that members will reflect on our discussion. We may consider how we can improve the working relationship between the committee and the commissioner when we consider our legacy paper.

Kathleen Marshall: I thank the committee for inviting us to the meeting and reiterate that I am happy to talk to any committee member at any time, to listen to their concerns and to help to develop the relationship that you have just mentioned.

Petitions

Secondary Schools (Lockers) (PE825)

11:15

The Convener: The Public Petitions Committee referred to us petition PE825 from Alana Watson on behalf of the Rosshall academy students council, which calls on the Scottish Parliament to urge the Scottish Executive to ensure that every Scottish secondary school provides lockers for pupils.

The recommended course of action is that we ask the Scottish Parliament information centre to prepare a briefing paper for members and that we invite the petitioner to give oral evidence in the new year. Do members agree with that proposal?

Fiona Hyslop: I have just one point. The research seems to be focused on the practice of other countries. It would be helpful if the briefing also included contracted requirements for new build and refurbished schools. Model contracts exist, and it would be useful to see what is currently specified in such contracts and whether, if we so chose, it would be reasonable to include the provision of lockers.

The Convener: I am sure that we can extend the brief to ensure that it includes current practice in Scotland as well as in other countries.

Dr Murray: The Executive cannot ensure that every secondary school provides lockers for pupils, as that is not its role. The issue is one of guidance, in particular, as Fiona Hyslop said, on new schools. It might be considerably more difficult to ensure that every child gets access to a locker in existing schools.

The Convener: I note your comment Elaine, but that will be a consideration for the petitioner if we agree to invite them to give evidence.

If no one else has anything to say, the committee will agree to call for oral evidence from the petitioner and a report from SPICe on current practice both here and abroad.

Children's Services (Special Needs) (PE853)

Rural Schools (Closure) (PE872)

The Convener: We move on to petitions PE853 and PE872, which have been previously considered by the committee. We took evidence from Ken Venters and Alexander Longmuir on 13 September. Following the evidence session, the Convention of Scottish Local Authorities issued best practice guidance on school estate

management. We have invited Mr Venters and Mr Longmuir to comment on the guidance, and we have received their comments.

Do members want to say anything about those comments?

Dr Murray: In view of the fact that there has been a change of minister and the petitioners have not had a chance to meet the new Minister for Education and Young People yet, it might be worth waiting until they have had the opportunity to meet him.

I do not have a copy of the e-mail from Mr Longmuir with me, but my understanding, from another e-mail that he sent last night, is that there were a couple of issues other than the guidance that he wanted an answer from COSLA on. Would it be possible for the committee to pursue those two issues?

Fiona Hyslop: I think that we should treat the two petitions separately. On the response to petition PE853 on special needs, it is apparent that COSLA's good practice guide—if it can be called that—does not refer to the particular issues. There is wider catchment, and there are many other implications, so it looks as if there is no progress on that. We should hear from the minister about how special needs schools should be dealt with.

On petition PE872, which deals with presumption, I am a bit concerned that we have not had a response from COSLA on the 60 per cent rule. We were going to contact Audit Scotland and Her Majesty's Inspectorate of Education as well, and it might be helpful to have their responses on the 60 per cent rule, which is obviously an important trigger. Reading COSLA's best practice guidance, I can see huge contradictions between it and what the minister was saying on trigger points. The minister also said that informal consultation is not particularly useful, but it comes out in COSLA's best practice guidance.

We need to wait for the petitioners to meet the minister, and we need to speak to him as a new minister to find out his views. There are also outstanding bits of information that we have yet to receive from HMIE and Audit Scotland, unless we have received them and they have not been circulated.

The Convener: The answer is that we have not received that information.

Mr Macintosh: I echo the points that have been made. This is a difficult issue, and I think that the committee is reluctant to go any further than the Executive's position, which is that this is a matter for local accountability and local decision making. People must have confidence in that local decision

making, however, and the guidance should be followed. We seem to be getting closer to that position, but without actually getting there.

We raised a number of questions on the previous occasion, and Mr Longmuir pointed out that we did not have answers to them. In particular, why is COSLA not meeting the Scottish rural schools network to discuss the matter? It strikes me that, if we are ever to have a meeting of minds on the matter, it will not happen if we do not talk to one other. It should not be a matter of demanding anything from COSLA, though—I suggest that we just send a polite letter, inquiring whether, having said that it would make contact with the rural schools network, it will do so.

I think that we should keep Mr Longmuir's petition open. We have a new Minister for Education and Young People, and the guidance—the update from the minister and the guidance from COSLA—has yet to be fully tried and tested. We should keep the petition open while that is happening.

The response that we got on PE853, on special schools, refers to the question that I asked. It says:

"The point raised by **Mr Macintosh** implies that the petition focuses on one school."

I do not have the relevant *Official Report* with me. It is not so much a matter of the petition being about one school; rather, the committee did not have any evidence that there was a problem affecting special needs schools. I am not sure what Fiona Hyslop wants to ask the minister, although I have no problem about asking the minister anything. I personally cannot imagine any local authority taking a decision to close a special needs school without being extremely careful about how it goes about the process.

We are also talking about guidance for closing schools in general. There is obviously an issue about the closure of rural schools, but I am not aware of any issue about the closure of special schools. I have no evidence that there is a problem, that it is happening on any kind of scale—or at all—in our country, or that it is happening in any way that would cause alarm. I stress that that is a personal impression. In my area, we are about to build a brand new special needs school.

If the petitioner cannot present the evidence on the matter, we should perhaps ask SPICE or somebody to give us more evidence so that we can decide whether it is worth pursuing the matter. I do not see it as a special case as much as part of the bigger picture, which is about how schools are closed—or not closed—generally and how local demand is responded to.

The Convener: Fiona Hyslop can correct me if I am wrong, but I understood that she was suggesting that we should seek information from the minister, and possibly from COSLA, on whether or not the guidance should cover any additional factors that could be taken into account with regard to the wider issues. Special schools have wider catchment areas than ordinary schools. Should any additional guidance be given in those circumstances, above and beyond the general guidance on school closures? I am not sure whether that is exactly the point.

Fiona Hyslop: I know about the experience of Carronhill school in Stonehaven and St Andrew's school in Aberdeenshire. The problem is that there is not a geographical catchment area for such schools as there is for a normal rural school. There is normally an identifiable group of people who should be consulted. There is an issue around how well consultation happens in any case. It is true that there is not an issue of volume—of the number of special needs schools that are closing.

However, while some schools are being closed, the new schools that are being built can often be part of the main stream. The situation is especially severe for parents of children with special needs, particularly if they have not yet started to attend the school. I have constituency cases where, if consultation is being undertaken, it is with only the parents of the children who are currently attending the special needs school. The change might usually be phased, but the parents who are most directly impacted can include those who are further away. Their children might be at nursery school, perhaps not in the same town but somewhere else in the county. It might be even more difficult to reach those parents.

I have read COSLA's good practice guide, which reads a bit like guidance on how to close a school and get away with it. At some point, I would like to hear the minister's view on that. The previous minister refused to endorse COSLA's guidance. The good practice guide contains nothing particular about special schools, although they have a different nature and there is evidence that they need to be addressed specifically. If COSLA's guidance addressed that issue, I would be happy but, unfortunately, it does not address it at all, so we must explore the matter further.

Mr Macintosh: To clarify, I do not doubt that there are or could be special circumstances. My expectation is that any proposed closure of a special school would be treated with particular care. My point was that, as the Scottish Parliament, we need to look at the national picture. The closure of rural schools is an issue that affects communities nationally and so we should have a view on it. We obviously want to have confidence

in all the systems and guidance. My point was that I am not aware of a national issue with special schools, although there are specific local issues about closures. Any proposal for closure of a special school that causes alarm and concern among parents is something to be concerned about, but I am trying to put the matter in the national context and in the context of our remit as a committee.

Fiona Hyslop: I think I know what you are getting at.

Ms Byrne: I hear what Ken Macintosh says, but, although the closure of special schools may not be a national issue in the same way as the closure of rural schools is, there is nevertheless an issue of reduced choice for parents. Fiona Hyslop is right to mention parents whose children have not yet entered the school system, but who in the future will be limited in their choices. We should broaden the consultation process to ensure that everyone in the community is involved. We should remember that special school areas cross over local authority boundaries and that there are clusters of special schools. There are issues that need to be addressed.

Lord James Douglas-Hamilton: I agree with Elaine Murray that our consideration of the petitions should be continued, at least until we have a meeting with the minister. We need further thought on the issue of consultation papers. The issues could easily be a matter for our legacy paper in due course.

The Convener: I am afraid that it is inevitable that, whatever the committee decides on the petitions, at some point, the future committee will have further petitions on the subject.

Fiona Hyslop: Let us do something about the issue, then.

The Convener: Whatever we decide to do on the petitions, the issue will never be closed. The committee has a practice of taking an annual update from ministers on school closure policy. We may wish to suggest in our legacy paper that the future committee continues that practice.

I suggest that we write to the minister to ask whether he has any further comments on the COSLA guidance, taking account of the views that have been expressed, and, in particular, whether he considers that additional guidance needs to be given on steps that local authorities should take when considering the possible closure of special schools. We should also write to COSLA to ask whether it has similar thoughts on the closure of special schools and whether it will, as it previously said it would, meet with the Scottish rural schools network to discuss the guidance.

Fiona Hyslop: We should also ask COSLA for

its view on the 60 per cent rule. We are awaiting responses on that from COSLA and HMIE.

The Convener: We will chase up the responses on that issue.

Do members agree to those suggestions?

Members *indicated agreement.*

Child Protection

11:29

The Convener: Item 4 is on the child protection update. Obviously, the next agenda item on our stage 1 report on the Protection of Vulnerable Groups (Scotland) Bill has some relevance to the matter. Do members have any comments on the update that the Scottish Executive has issued?

Fiona Hyslop: Why have we got the report? I know that we asked for six-monthly updates, but we had one fairly recently. It reads as though it is the six-monthly update. I see that the clerk is nodding, so the report must be the six-monthly update. That is fine.

The Convener: It is the six-monthly update.

Fiona Hyslop: There is a great deal of justification for the Protection of Vulnerable Groups (Scotland) Bill written into the report, which I suppose is timely and appropriate.

The Convener: You may say that, but I could not possibly comment.

Do members have any other comments, or shall we just note the report?

Lord James Douglas-Hamilton: Much of the work will have to be revisited, depending on what happens with the Protection of Vulnerable Groups (Scotland) Bill.

The Convener: If members have no more comments, we will simply note the update.

Fiona Hyslop: We should note that the report is comprehensive and thorough and identifies specific issues. It is one of the most useful updates that we have had to date.

The Convener: That comment is noted.

That concludes the public part of today's meeting.

11:30

Meeting continued in private until 12:19.

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