

EDUCATION, CULTURE AND SPORT COMMITTEE

Tuesday 27 June 2000
(*Afternoon*)

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EDUCATION, CULTURE AND SPORT COMMITTEE **22nd Meeting 2000, Session 1**

CONVENER

*Mrs Mary Mulligan (Linlithgow) (Lab)

DEPUTY CONVENER

*Karen Gillon (Clydesdale) (Lab)

COMMITTEE MEMBERS

*Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)
*Lewis Macdonald (Aberdeen Central) (Lab)
*Mr Kenneth Macintosh (Eastwood) (Lab)
*Fiona McLeod (West of Scotland) (SNP)
Mr Brian Monteith (Mid Scotland and Fife) (Con)
*Cathy Peattie (Falkirk East) (Lab)
*Michael Russell (South of Scotland) (SNP)
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)
*Nicola Sturgeon (Glasgow) (SNP)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED:

Mr Duncan Hamilton (Highlands and Islands) (SNP)

WITNESSES

Lorraine Dilworth (Independent Special Education Advice)
Tony Finn (General Teaching Council)
Cathy Flynn (Independent Special Education Advice)
Fred Forrester (Forum on Scottish Education)
Matt MacIver (General Teaching Council)
Carina Mitchell (Inclusion Group)
Laura Morrison (Inclusion Group)
Kim Nicoll (Inclusion Group)
Anne Paton (Forum on Scottish Education)

CLERK TEAM LEADER

Gillian Baxendine

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Ian Cowan

LOCATION

Festival Theatre

Scottish Parliament

Education, Culture and Sport Committee

Tuesday 27 June 2000

(Afternoon)

[THE CONVENER opened the meeting at 14:10]

Special Educational Needs

The Convener (Mrs Mary Mulligan): I apologise for the delay in starting. I welcome Tony Finn—I am sure that he will forgive us for rechristening him Tom Finn on his name-plate—and Matt MacIver, from the General Teaching Council, who are here as part of our inquiry into special educational needs. I thank them for attending the meeting. Because we have so many witnesses today, we have decided not to take opening statements and to move straight to questions—I hope that the witnesses will not find that too difficult. We have in front of us the written submission from the GTC, to which we will refer where appropriate.

Mr Kenneth Macintosh (Eastwood) (Lab): Will the move to mainstreaming, which is Government policy, have an impact on teacher training? The last paragraph in your submission refers to that. It says that

“progress has to be maintained but it will not be achieved without acknowledging that there are educational, training and resource implications involved.”

What are the implications for training? Are we talking about pre-service or in-service training?

Tony Finn (General Teaching Council): We are talking about both. The complexity of special educational needs has developed considerably. That is due partly to better definition and partly to the social inclusion policies in mainstream schools. As a result, in primary and secondary schools, there are many teachers who have never been trained in special educational needs. There are implications for pre-service and in-service training. Teachers who may face a child with a particular condition will have specific training needs. Specialist training is required for those who advise and support other teachers.

Clearly, at the pre-service level, all teachers should have an understanding of the general position on special educational needs and of the main conditions that they might experience. That understanding needs to be updated in service. In recent years, there have been many

developments on a range of special educational needs.

I will give a few examples. A child with a known special need might enter a primary school at primary 1. The training that could be provided to a teacher before they faced that child in class for the first time would need to be replicated at P2, P3 and P4. Similarly, in secondary school, there is a wide range of training needs. Training can mean different things; for example, it can mean developing an understanding. In a secondary school, we would want to make sure that all teachers also had a general understanding. A teacher who was covering a class for another teacher might have to deal with attention deficit hyperactivity disorder, Asperger's syndrome or Tourette's syndrome. Children with such conditions need to be given appropriate attention and support.

14:15

Matt MacIver (General Teaching Council): Increasingly, teacher-education institutions are becoming aware that special educational needs and learning support have to be an integral part of teacher training. This morning, I had a look at a course that will probably have its first students in 2002. Special educational needs is a core part of that course. Not all courses are like that, but that is the way in which they will go.

Teachers are faced with a plethora of challenges in dealing with children with widely differing needs. I would not like there to be qualifications for everybody. There should be a national framework of continuing professional development, which I hope will come about in the next five to 10 years. The area will be covered by a unit, module or course that all teachers in service will have to follow.

We would be wise not to underestimate the importance of specialist qualifications. I have taken a particular interest in the profoundly deaf. At the moment, only about 10 per cent of profoundly deaf children are not in mainstream education. When a profoundly deaf child is in mainstream education, the teacher is looking for help, the child is looking for help and the parents are looking for help. The specialists are therefore essential. I can see the arguments for having specialist qualifications for those working with certain types of children.

Mr Macintosh: One of the issues that previous witnesses have raised is that generic training cannot cope with the specific needs of certain children. Is specialist training the way in which we would deal with that problem, given that we are moving towards mainstreaming as the norm? Will the situation be that there is general training for all,

with specific help available in individual classrooms?

Tony Finn: That would probably be the only thing that we could do. We could not provide specialist training for the wide range of needs in schools. It is essential that we have an understanding of the needs that teachers are likely to have to deal with, combined with specialist support. That support might not always be training; it might be information and advice about what to do with individual children. We must remember that, although we are much better at defining problems than we were before, children with the same condition could present different challenges for a teacher in the classroom. Even specialist training would have to be supplemented with information about the individual child.

Matt MacIver: Teachers are flexible professionals with common sense. They deal with children every day and have learned how to cope with them. Teachers appreciate the fact that some of those children have one-to-one auxiliary help. That can mean more to a teacher than a six-month training course. We could not provide courses and training for every condition.

Mr Macintosh: I want to get an idea of the scale of the problem. How much retraining, in-service training and extra attention is needed? You started off by saying that many teachers have not had any training in special needs at all. I imagine that the situation will not be transformed overnight. How quickly do the GTC, teacher-training colleges and local authorities need to act?

Tony Finn: As you know, the system has built-in flexibility and inflexibility. Schools have tried hard to ensure that teachers are prepared for children who exhibit particular conditions. The system requires that planning is made for some years ahead. We will not achieve our aims overnight; we will achieve them only after careful planning and after trying to decide what is necessary in pre-service courses. The GTC is involved in the assessment of the content of the courses run by teacher-education institutions. We will give the issue significant priority.

The major problem for teachers is the complexity of the range of children's problems rather than the time scale. For example, 20 years ago, there were very few children in mainstream schools who had what would now be referred to as a special education need, whereas now there are very few pupils with such needs who are not in those schools. That poses a complex management problem for teachers. Notwithstanding Matt MacIver's point about the advantages of having auxiliaries and support staff in the classroom, there may be difficulties if the class has more than one child with special education needs: accommodation may be

stretched if there is more than one child with a wheelchair; teachers may find it difficult to manage a group of children and a group of adults; or there may be problems in adjusting and revising materials to meet the needs of a visually impaired child. All those difficulties require specific skills, which training cannot always address. The difficulty lies in the range and complexity of the tasks that we face as well as in the training. As Matt MacIver has pointed out, the training can only be generic. At the far end of the spectrum, we will need teachers who have specialist qualifications to lead the training.

Cathy Peattie (Falkirk East) (Lab): Our thinking has been informed by our going out and about meeting teachers and children. The best teachers have said, "I am doing this on a wing and a prayer." They are committed to making things work, but have had no real preparation. When we asked whether courses and service development were the key, one teacher said that she would rather get together with other teachers in the same line in order to share good practice. That teacher thought that time was important. She agreed that it is difficult to be trained in everything. Is there some way of ensuring that teachers have the opportunity to share good practice?

Matt MacIver: I understand those comments. Local authorities are working hard to meet the specific needs in their schools. I suspect that the teacher who told you that she was working on a wing and a prayer was right about the current situation. That is why I mentioned proper continued professional development as the best way in which to bring teachers together to consider specific needs.

The fact that special needs do not fit into neat packages will still cause problems. A primary teacher might have an autistic child in their class one year and a profoundly physically handicapped child in the class the next. The needs of those children are utterly different. That is a human issue, because the teacher will probably want to speak to someone else about it, but it is also a professional issue. I know that I am not giving you a direct answer. However, we must address the issue because the number of children who are in mainstream education has changed so drastically.

Cathy Peattie: I agree. We are working together. I do not expect you to have all the answers, as we do not have all the answers. The more evidence we take, the more confused we become.

Tony Finn: I am a secondary school head teacher and I find it difficult to organise time for a range of activities in school, such as meetings about higher still, five to 14 and special educational needs. However well intentioned we are in trying to find solutions to the problems, we

still hit the constraints that are built into the system. Sometimes the teachers who need our help most are simply not available or cannot be made available. Finding the time is a big difficulty.

The best examples of good practice, which merit most reflection, come from people who have had time to consider how they are going to prepare for the teaching of youngsters with special needs and who have reflected on situations that they have experienced in which they could improve things. When they share that experience with others, sometimes the feelings of despair are taken away. Despair is perhaps a strong word to use, but, to some extent, teachers feel dispirited at the thought of taking on youngsters whose problems they do not understand. We could remove some of that fear by allowing teachers to see that other teachers have faced similar problems successfully and to realise that the situation is not as bad as they thought at first.

Cathy Peattie: The teacher to whom I spoke had a high success rate, but her initial feeling had been as you describe. I was stressing the need for teachers to get together to think about how they are going to approach all the issues with which they are faced.

Another issue that struck me is the lack of real engagement with parents. We have been told that parents come along to open nights and that a school may have a parent on the school board, which is very important. However, there must be more engagement with parents—especially parents of children with special educational needs—and an holistic approach to education. Perhaps that is a training issue, but we do not have the relationship between schools and parents that we need to ensure that the child's experience is a positive one.

Matt MacIver: I am no longer a head teacher, but I used to be one, and what you describe was not my experience. In my school, there was an enormous amount of communication and liaison with parents of children with special educational needs; parents appreciated the fact that they were invited in to discuss and observe their children's education. We had pupils with medical and physical needs and I worked with the parents to have a lift installed in the school by the local authority.

Tony Finn: I am a serving head teacher and what you describe is not my experience either. We are not atypical of head teachers in dealing with these problems. I have the greatest admiration for parents of children with special educational needs. They must become advocates for their children and they need support in doing so. I am working on a case similar to the one described by Matt, in which a parent requires a lift to access the curriculum in my school. That parent stopped me

in my garden on a Sunday afternoon, and I was only too happy to speak to her. Parents of other children who have attended our school have contacted us at all times of the day, and we have organised a range of review meetings with other professionals to plan for the children.

There are specific management implications for schools. It is fair to say that, below the surface of social inclusion, some parents do not know how to have their case heard. We must find ways in which to support those parents who are unable to come forward; we should arrange for advocates to act on their behalf if they do not want to advocate the case for their children. A significant number of children are in that situation.

Cathy Peattie: I am pleased to hear what you say. However, what you describe is not the case everywhere and the one message that should go out from this committee is that parents need to be involved.

We have identified a need to examine the whole recording process and have been asking people who have appeared before us what they think should replace it. If you are not happy with the process, how should it be changed to make it more appropriate?

14:30

Tony Finn: The process is enormously bureaucratic and a great deal of time is spent planning, recording and following up. It depends on the successful interaction between support agencies and the availability of people to represent those agencies. Sometimes the message becomes confused because it has been over-complicated; in fact, the message is quite simple. We should be deciding what is best for a particular child and who should be responsible for fulfilling those needs or at least for seeking to ensure that they are fulfilled.

Sometimes the review meeting system in schools can become so bureaucratic that the basic support for the individual child and his or her entitlement—whatever that might be—can be lost. We must make the process simple for and recognisable to those who take part in it, and ensure that the outcomes are recorded and acted on.

Cathy Peattie: Do the local authorities involved in the recording process have a vested interest in recommending outcomes?

Tony Finn: We are not saying that local authorities do not tackle these problems with integrity and seriousness. Some authorities prefer not to use records of needs, but still allocate resources that are required to meet a child's needs. There is perhaps a political agenda at a

micro-level about whether children should be recorded; being aware of budgetary constraints, local authorities are careful with that issue. It is precisely in that area that parents can push forward the agenda.

Cathy Peattie: And can become frustrated if no one is listening.

Tony Finn: Yes.

Matt MacIver: My own experience coincides with Tony's. Teachers begin to see bureaucracy coming between them and the child's needs—that is a significant perception for teachers. Some of your assumptions might not be wrong; we need to simplify the process.

Fiona McLeod (West of Scotland) (SNP): For a change, I do not want to follow on from other questioners, but instead will pick up on some areas that have not been mentioned. Your written submission seems to approach inclusion as though it were a problem; I hope that that is not indicative of the attitude of the teaching profession and the GTC on the matter. Given the tone of the submission, how much are teachers who specialise in special needs teaching involved in informing the GTC generally?

Tony Finn: The GTC takes advice from teachers in all sectors of education. We have teachers who work in special needs education and others who have been on working parties and groups in some of the areas on which we have recently introduced policies. If you cross-refer some of our comments on this issue with comments on teaching of the deaf, you will find that teachers of the deaf share some of our views. Although it is fair for special needs teachers to have an influence, the GTC ultimately speaks on behalf of the whole teaching profession.

It is important to point out that the GTC speaks not for teachers, but for teaching. However, although we are not trying to represent teachers' views, it would be surprising if those views were not reflected in what we say on behalf of teaching and learning.

Our submission is not intended to be negative; it is intended to be realistic. We firmly believe that social inclusion is important and that children should be included in mainstream schools whenever possible. However, from experiences that have partly come about because of the difficulties that we have been discussing, some teachers believe that, in some circumstances, there are better ways for some children—better ways of organising their inclusion in schools and, in some cases, better ways of teaching them outwith mainstream schools. Such options have to remain open. However, we feel that, as far as is possible, all youngsters should be included in schools.

Social inclusion can be successful or unsuccessful. We take the view that successful social inclusion allows youngsters to experience work with children who have particular conditions and to appreciate those children for what they are. The youngsters understand the need to expend resources to maintain that child's link with mainstream education and they benefit from that link because of what those children contribute to the community of the school. We hope that, later, as adult members of society, they will come to value people who have different backgrounds and circumstances. We therefore want to encourage such social inclusion whenever possible.

However, it is only fair to say that, in some cases, attempts at social inclusion have not worked as well as they might have done. Some examples of partial success vindicate the investment of time, energy and resources that were required, but in other cases it has been difficult to make the attempt at inclusion work. Such cases frequently involve children with particular behavioural disorders, when the inclusion of the child in the class does not lead to what I would describe as integration—integration being a situation where everyone accepts and recognises the value of the child. In cases where children are included and are then kept in the school beyond the point at which they have become disruptive, the education of other children can be undermined. It would be wrong for us not to draw that to your attention but it would also be wrong for us to emphasise our desire for inclusion less positively. It is our intention—and the committee's as well, I think—to ensure that the principle of social inclusion is extended as far as it can be. However, we have to be realistic; we have to be aware both of the child at the centre of the inclusion policy and of the other children in our schools.

Matt MacIver: Going back to the first part of your question, I would like to reassure you that, throughout the country, we have specialists in all parts of the curriculum whom we consult on whatever subject or whatever area of education we are looking at. One phrase in our report says:

"Some teachers in some circumstances felt quite inadequate".

We wanted to get that point across. We want inclusion and we want to consider those children just as we consider any other children, but we had to be honest and make that point.

Fiona McLeod: I understand your point about being realistic. Members of the committee are aware that a presumption of mainstreaming must be accompanied by the necessary resources to make it successful.

I would like to come back to a point that I have

made before in committee. We talk about teacher training, specialist training and service training, but as we have gone round schools to learn about what is happening, I have come more and more to the view that what we are actually talking about is simply teacher training. This is about teaching children. There is a spectrum, or a continuum: all children need to be taught and all teachers need to be able to teach. Methods have to be applied across the spectrum for all children.

You have talked about generic training, and I have asked, "Isn't that teacher training?" We talk increasingly about "those children" and the medical model shows the problem that "those children" present. I would hope that, if all teachers were emerging as confident teachers, they would not see those problems but would see simply that each child has specific learning needs. Some children with a physical or mental problem may have more obvious needs, but all children have specific learning needs and it is a teacher's job to teach them all. We have talked before about how in a special school children have individual education plans. Do you think that plans for all children would be a way forward, so that no child had a special plan?

Tony Finn: Increasingly, that is likely to be the expectation. I do not disagree and I would expect this committee to endorse the principle of teachers teaching a wide range of pupils and seeing them as pupils to be taught rather than pupils with difficulties. That is our view. But we have hurdles to overcome to reach that position. We have mentioned resources, training and the complexity of the recording process and of dealing with children with special needs in mainstream education. As teachers overcome those hurdles they will become more able to endorse warmly what they feel—and that is the same aspiration.

Teachers want to be able to teach all children but, faced with the day-to-day problems of managing a class, it is not surprising that they bring to our attention the difficulties that they face in doing so. I hope that they do not see the child with special needs as the problem, but they may see the range of problems, including those associated with that child, as difficulties for them. We can get beyond that but, to do so, we will be required to open up our thinking, institutionally and in the education system of Scotland.

Fiona McLeod: You talked about children with behavioural disorders; last week we had reference to an increasing number of children with mental health problems. Does the GTC and the teaching profession believe that an increasing number of children are displaying much more severe behavioural problems in the classroom?

Tony Finn: The GTC has no opinion on that but, as an individual, I would say that most teachers

and most head teachers consider that there is a problem with low-level lack of discipline in schools. That can be minimised by positive behaviour strategies, which do work, but the profession is concerned that there is not yet sufficient attention being given to the scale of the difficulty.

The Convener: Thank you for your attendance at committee and for answering our questions so clearly. I am sorry that the time is short. I can see committee members glaring at me because they want to come back in. However, we have other witnesses to hear from.

While the next witnesses are sitting down, can I welcome to the committee the group of legislative interns from Ontario. I hope that you will enjoy being here.

We are now joined by witnesses Lorraine Dilworth and Cathy Flynn from Independent Special Education Advice. I welcome them to the committee. We will start on questions immediately.

Cathy Peattie: We are fighting to speak to you.

The Convener: It is just as well that there are so few of us, or we would be here for hours.

Mr Macintosh: It is a treat for us.

Cathy Peattie: I thank the witnesses for their report, which I found helpful. They will know that we are trying to gather as much information as possible for our inquiry.

I want to concentrate on information about the record of needs. I often hear from parents that it is difficult to get information and that the professionals treat them as a nuisance. Some women have told me that they have been described as hysterical parents. It is my view that parents know their children better than anyone else, but that may not be the view of the educationalists.

What do parents say about getting information? Are they clear that they are getting the information that they need? What is your experience of that?

14:45

Lorraine Dilworth (Independent Special Education Advice): As we mentioned in our submission, we have been right round Scotland—we finish up this week—which has been an interesting exercise. Parents tell us that they cannot get their hands on information, that they are not seen as equal partners and that they are put down. They are told: "Go away. We, the professionals, will deal with your child, and you are not part of it". Parents cannot get copies of reports or information, and do not know what to ask for.

When the Scottish Office produced circular 4/96, which deals with assessment and recording,

parents did not even know that the circular existed. You cannot ask for something if you do not know what you are asking for, and the situation is very difficult. There are a lot of frustrated parents out there and we have only seen the tip of the iceberg.

Between us, we have five children with special needs—we have been there, done that and bought the tee-shirt—and 25 years of experience. The situation is not changing at all. Parents are treated as second-class citizens when it comes to being involved with their children, yet they live with their children 24 hours a day and know them inside out. Parents could gain a lot by being informed and by becoming equal partners. More important, the professionals would gain a lot more. Learning to listen and to accept what parents say should be part of their training.

Cathy Peattie: We are examining the recording process, which is probably the area that most frustrates parents. What can we do to ensure that the role of parents is clear? I know that, last week or the week before, we heard that parents are involved in that process, but that has not always been the experience of people to whom I have spoken. What can we do to ensure that the role of parents is recognised? What changes need to be made to the recording process?

Lorraine Dilworth: During our roadshows we asked parents through our questionnaire about the changes that are required from assessment onwards. Parents must be involved from a very early stage and they need to know what rights they and their children have—that is important. The current legislation has too many grey areas and must be tightened up.

Parents are asked to put in a report for the recording process 14 days after they receive the slip and prior to having met with any professional or the child having had any assessment. We advise them not to comply with that request. We tell them that they need to discuss the situation with all the professionals.

Parents also need to know what the professionals do, as they are unsure of the role of the educational psychologist, where the medical person fits in or what a speech therapist does. A lot of parents say, "My child does not need speech therapy". We say to them, "Your child has comprehension problems, and a speech therapist will deal with that", and their reply is, "Oh, I thought that speech therapists dealt with lisps". They do not know what an occupational therapist or a physiotherapist does. If parents do not know what those professionals do, they cannot ask for their child to be referred. Some professionals tend to be protective of their particular service, so they will do everything rather than send a child on to a specialist in the appropriate field.

Parents must be involved in the whole assessment process. They are prevented from sitting in on the educational psychologist's assessment, which is ludicrous. We all teach our children that they should not go with strangers, but we do the opposite with special needs children when we hand them over to a psychologist who takes them away into a room. We teach them one thing, but do another. What message does that send to the child?

On involvement with the recording, very few parents are given the reports prior to attending a meeting. They will go into a meeting with, say, 14 professionals—that is intimidating for parents. All the professionals will have seen the reports on the child, but the parents are handed the reports and expected to read them and formulate their questions. Parents are attached to their children and are emotional about them, but if they are given the reports prior to the meeting, they can formulate their questions. In some local authority areas, parents are also denied the opportunity to take a representative to the meeting with them. That is pretty bad as well.

Parents' views should also be taken into account. Again, that is often not the case. Some parents feel that they have to get independent reports, but a lot of authorities will not take those reports into consideration, so the parents have wasted £500 or £600. Parents are not seen as equal partners—that must be changed. We must have time limits on the recording process. We have seen records that have been in draft form for two to three years; others have been done in four to five months. You can have a record of needs that is not a working document, although it is a legal document. A lot of the records of needs are put away in the school filing cabinets, in the psychologist's files, and are forgotten about. Those are working documents, which should be specific and reviewed. If we can tighten up the legislation, this process can work.

Fiona McLeod: You mentioned that we could tighten up the legislation. Is that what you think is needed? You do not seem to think that we need replacement of the record of needs. Do you think that we could tinker with it?

Lorraine Dilworth: It needs to be examined. Certain aspects definitely need to be changed. We must have something in place that will guarantee the rights of the parents and the rights the child. There must also be an appeal mechanism. That is important, so that if the parents, or the child or young person, do not agree, they can go through that mechanism.

Cathy Peattie: We are living with this at the moment, so it is important. What kind of advocacy do you think that parents might need to ensure that they get a real say in the decision-making

process? Examining what you are doing is helpful, but that is not happening everywhere.

Lorraine Dilworth: Yes, it is. Because we cover the whole of Scotland we do a lot of our advice work on the telephone. We originally set up the telephone advice line. We never get a case when the parents are on the phone for five minutes. When they come to us they are frustrated, angry and pleading for help; we are the last port of call. We never get a straightforward case when the child has just been diagnosed and we give them a list. We have to take them through the whole process.

We give them advice that can help to move their child's case on. Parents need to know all the information at the start. It is like putting everything into the washing machine, then pulling it out and sorting it out. If they are given the right information, and know what their rights and their child's rights are, it is amazing how professionals change when parents go into a meeting informed. That is difficult for some parents. We get some parents who cannot read or write. We then have to go through the whole process with them. We write the letters for them.

Parents also ask for someone to accompany them to the meeting. You have to have somebody with you, because you are emotionally involved with your child and you miss a lot of what is going on. Parents need somebody who is independent, who has worked with them and knows them and their child, to go along to help them become enabled to advocate on behalf of their child. We have seen it happen. If parents are given the right information, they can go into the meeting, present their case and ask questions. They become equal partners in the process, but they need all that information and advice, which must be independent from the local authorities.

Cathy Peattie: I will go back to Fiona McLeod's point. Sorry that I am labouring this issue. Is the whole system far too bureaucratic? Do we need a process that is easier for people to access?

Lorraine Dilworth: It is easier and much clearer, and time limited.

Cathy Peattie: And parents understand their rights.

Lorraine Dilworth: Yes.

Cathy Peattie: Do you think that that should happen at local authority level?

Cathy Flynn (Independent Special Education Advice): It is difficult to say. For example, if a child is in primary 1 or primary 2, and there are concerns at schools, a parent will first tackle the head teacher of the school, who is supposed to set in motion the investigation. That is where the process falls down, because the case reverts to

the local authority psychologist. The child's difficulty is minimised because, obviously, the school does not want to say that it cannot meet the child's needs. Then the parents and the school are at loggerheads. In fact, the onus is on the local authority, and that is where attention has to be targeted. Its duties and obligations have to be made much clearer and have to be enshrined more clearly in the law.

Fiona McLeod: I will move on, although I am glad that we have considered the record of needs in more detail. Your submission addresses pre-school, which is an area in which I have been involved and of which I am very supportive. You talk about nursery staff with no appropriate training and insufficient levels of auxiliary support. I agree that, given the recent great increase in the number of children going into the pre-school year and the target for the pre-pre-school year,

"It is vital that we get integration correct at this early stage."

Given that most of the new places are being provided by partnerships with the voluntary sector and the private sector and that there is a great variety of types of provision, do you have a blueprint to ensure that we get integration correct at this early stage? I agree strongly with what you say. It is possible to open a record of needs for children who are aged two. Are we sending our children into pre-school provision in which nobody is equipped to deal with children with special educational needs, so that children are aged five before anything is recognised and tackled?

Cathy Flynn: Generally, facilities are unprepared for children with special educational needs.

Lorraine Dilworth: When children are aged about two the assessment process is just getting started. They are still being assessed by various individuals. Children are put into nursery provision to see how they will cope, which is wrong from the start. Partnership was mentioned. I know of one case in which parents paid to put their child into partnership pre-school provision and also paid for auxiliary support because the local authority wanted the child to go to one of its special needs pre-school units.

It is important that parents meet staff as early as three, four or five months before the child attends the pre-school provision. Those parents can pass on a lot of relevant information. The nursery can then tell the local authority that, based on the information that it has received from the parents and from other professionals, in order to meet the child's needs and to fully integrate them, it will need a certain resource.

It is also important to prepare other children. This is not just about the special needs child fitting into the pre-school provision, but about preparing

the other children for the fact that the child who is coming in may act a bit oddly—if they are autistic or whatever—but that that is due to their special needs. Resources are not the only issue. How children are accepted in pre-school is important. It is heart-breaking that parents go full steam ahead and are happy because their child is going to be in the main stream, but then are disillusioned after a year and a half.

Fiona McLeod: You gave us the details of the consultation that you undertook. I am sure that the committee would like to have the results of that consultation. I am disappointed that I did not know that you were just up the road from me last week, as it would have been very useful for MSPs to hear what our local parents were saying. I certainly hope that you will feed in the results of your consultation.

Lorraine Dilworth: Yes. We would be more than happy to do that.

The Convener: It would be very useful if you could do that. Thank you.

Mr Macintosh: I have a couple of questions, which I hope do not cover too much old ground. They concern the way in which parents interface—to use a horrible word—with local authorities. Does your organisation take a view on mainstreaming versus special schools?

Lorraine Dilworth: No, we do not. We work with individual families on what they want for their children, by informing them so that they can make informed choices. If they say to us that they want their children to enter the main stream after they have received all the information and we have discussed the matter, we will support them all the way. That choice is up to the individual family.

15:00

Mr Macintosh: One issue that we have not addressed fully is future needs meetings. You make it quite clear that you think that the meetings take place too late, that there is too little information giving and that you end up trying to catch up with not enough information at your disposal. Is that typical of all the families that you come across?

Lorraine Dilworth: Yes, very much so.

Mr Macintosh: Is the situation improving? Are local authorities addressing that problem and allocating the resources? Are they giving it the attention that it deserves? It is obviously being dealt with at a policy level, following the recommendations of the Beattie report and the Riddell committee.

Lorraine Dilworth: We have found that the situation is not improving. Parents are still telling

us that they did not know that their child was entitled to a future needs meeting, or that they have had a future needs meeting but there has been no report or up-to-date assessment. Some parents have never known the social work department to be involved until a future needs meeting, and are taken aback by the presence of social workers.

It all comes back to the information that is given to parents. We attend some future needs meetings, and we find that the professionals are quite confused about their role. Nobody explains their role to the parents, and that is a job that we must undertake in dealing with the parents. It is all very confusing. There are meant to be two meetings prior to the child's 16th birthday, and the parents must be informed of that. At the moment, that is not done.

Mr Macintosh: Is the problem that you are leaving the auspices of the education authority, going from one department to another?

Cathy Flynn: In many cases, the parents are told that the children can leave school at the age of 16. Although any child is entitled to stay on at school until they are 18, the emphasis seems to be on getting them into adult training centres or colleges. College choices are extremely limited, and the funding from the social work department and the Scottish Executive is confusing for the parents, who do not know that grants are awarded to local colleges to enable the children to access appropriate courses with the appropriate support.

Mr Macintosh: In your submission, you do not labour the point about the transition from primary to secondary school. That is an issue that we have come across in our inquiry.

Lorraine Dilworth: We could have brought a book to the inquiry. The transition from primary to secondary school is a major nightmare for parents. It usually takes place in February, when multidisciplinary team meetings are held. Again, however, there are no updated reports. Some parents do not know where their child is going to go in August, because no decision has been made. Because they have not had a meeting six or eight months before, they have not had an update on their child and cannot go round the schools to observe them to make an informed choice on which school would best meet their child's needs—whether the local secondary or one of the other choices that are available. The secondary school is invited to the multidisciplinary team meeting having been given very little information. There is inadequate planning and huge problems occur. The child is put into secondary school provision for six months to see how they get on, which is not acceptable.

Cathy Flynn: Parents are given a list of schools

in the area to visit, but the head teachers, quite rightly, will not commit themselves to offering a place if they have not had a referral from the care psychologist or the school. There is a lack of liaison and preparation.

Mr Macintosh: This is slightly off the subject. I do not want to get into painting a picture of goodies and baddies, but we have just had people in from the GTC, who said that their experience is that most teachers make every effort to contact parents and families. However, the picture that you paint is one of immense frustration, difficulty, disappointment and lack of information. Who is the baddie? Is it the local authority? Is the problem with the educational psychologist or with the teachers in school? I do not want to put words into your mouth, but where does the frustration arise?

Lorraine Dilworth: Parents phone us and say, "Our problem is with the school." We remind them that it is not with the school and that the school is doing a job to the best of its ability. If the school is not supported in doing that job, that is where the problem lies. Many parents have had open access to their children's files, which they did not know they could have. We get copies of the reports from the parents. It is amazing the number of letters from the school, pleading with the local authority to provide training and extra resources. The parents are never told that; they are told that their child is being dealt with and that there is no problem, so they get very frustrated.

The parents and the school should work in partnership. The real problem is with the local authority. It might be a problem not just with the educational psychologist, but with the head of the special educational needs section. The psychologist can only make recommendations to the head. The problem is with the local authority, but the teachers get frustrated with the parents, because they know that it is not their fault, while the parents think that the problem is the school. That is where the conflict comes in.

Mr Macintosh: This might be a difficult question to answer. You are there to provide help to families who are having difficulties. I know that you have come across examples of varied practice, but do you come across examples of good practice? I would hate to think that there were none.

Lorraine Dilworth: There was recently an example in Shetland, where expertise, obviously, is quite scarce. The local authority put out a service agreement—I strongly support that—for specialist provision in England to help with a child's individual educational programme. That is a shining example. There are others. We are not saying that there is doom and gloom across the board, but unfortunately our organisation sees the worst cases.

The Convener: That is a positive note on which to end. I thank you for attending the committee and for answering our questions so clearly.

I welcome our next set of witnesses, Fred Forrester and Anne Paton from the Forum on Scottish Education. You will have seen the procedure. We are going straight into questions, as that seems to allow members to get into the issues that they want to get into more quickly. We have your written submission. I am sure that it will be referred to throughout the questioning.

Are there any questions? It is Fiona McLeod's turn to start if she has a question.

Fiona McLeod: I am not sure. I think I will keep going with the record of needs. What are your comments? We heard previously that wholesale replacement may not be required, and that the current record of needs system could simply be readdressed. It would be interesting to hear your views on whether it would be a matter of wholesale replacement or of fixing.

Fred Forrester (Forum on Scottish Education): I think that the answer is wholesale replacement. I will elaborate on that a little. The record of needs procedure has developed over the years, and there is now a certain orthodoxy which dictates that the procedure is only used for pronounced, specific and complex needs. It is used only for the child who might, at least in the west of Scotland, be placed in a special school or unit but not for the bulk of SEN children. Nothing in the regulations says that, but that is the practice. The record of needs procedure is too clinical, and is too close to being a medical assessment by experts such as psychologists and others. The spectrum of special needs is very wide, and it is not appropriate to have clinical analysis in every case.

A further problem is that an association has been made with resourcing, which has corrupted the whole process. One of the two aspects to that is that teachers use records of needs to obtain extra resources for a school. There is a view, which is supported by a lot of evidence, that if a number of records of special needs can be produced for a school, that school will get extra resourcing from the local authority. That creates resistance on the part of the local authority, which will say that if a school is requesting a record of needs simply to get more resources, it will not go along with that, and will resist any opening of a record where the motive appears to be to obtain extra resources.

In our written submission, we have provided the example of Glasgow City Council, which will not allow a record to be opened for a case of emotional and behavioural difficulties, no matter how severe. The council takes the view that such

requests are a cop-out on the part of the school, and that EBD is not the sort of special need for which a record ought to be opened. The procedure has therefore been corrupted.

Since the disaggregation of the regional councils, much of the expertise behind the process has been dissipated. The same group and the same number of psychologists and other experts is no longer available in a certain area. In some small authorities, the expertise may be limited to one person. The system is not working well with 32 education authorities instead of 12.

For all those reasons, we believe that the matter should be addressed in a radical way, and that some other procedure ought to be put in place.

Fiona McLeod: I will ask the obvious question: can you outline what should go in place of the current system?

Fred Forrester: Something more along the lines of the individual progress record.

Fiona McLeod: The individual learning plan?

Fred Forrester: I heard the GTC representatives mentioning that. To provide that for every child in the system is clearly a massive resourcing matter, but that is the way that we ought to be going. Every child deserves an individual statement of attainment, of needs, of next steps and of difficulties. That is the procedure that we would advocate in the longer term.

Mr Macintosh: My question is not on records of needs—in case anybody else wants to continue with that subject.

The Convener: Do you wish to ask anything further about records of needs, Cathy?

Cathy Peattie: I am still thinking. I agree with what Fred Forrester is saying. I will come back to it.

Mr Macintosh: I really liked your written submission. The theme to it is local provision versus national provision. One example that you gave was the practice in Glasgow, and the question of whether children with emotional and behavioural difficulties qualify for records of needs. The criteria applicable in Glasgow do not apply nationally, so there is no national provision. In paragraph 6, you talk about the financial impact on small educational authorities of helping children and about national funding provision. Finally, in paragraph 9, you talk about national grant-aided schools and say that you want a national review procedure.

I hate to put words in your mouth, but you seem to suggest that we should deal with SEN on a national level. So much of the testimony we have heard concerns the wide variation between regions across Scotland in common standards and

in rights and access for parents. Do you think that there should be more central control, more national provision and more national guidelines?

15:15

Fred Forrester: You have raised a number of different issues there. I realise the general theme, but emotional and behavioural difficulties exist throughout Scotland. The problem in SEN is the lack of definition of EBD. A number of special needs are well defined. We can define mental and physical impairment, autism, Down's syndrome, deafness and blindness. The trouble with EBD is that it is notoriously ill defined. At its margins, it comes close to being the same as bad behaviour in the child. It is a widespread phenomenon, which exists in all parts of Scotland. Other special needs are low incidence, arising in places such as Moray, Orkney or Clackmannanshire once in every 10 or 20 years. It is difficult to see how a local authority can deal with that. The normal funding mechanisms do not provide for that kind of variation.

Then there are needs such as deafness and blindness, which are dealt with in one or two national institutions at the moment. You ask whether there is a centralist philosophy behind what the forum is saying. I would say no. We do not want a philosophy, but to focus on the individual child. We are not keen on philosophies if they interfere with the assessment of the individual child. If centralism could be regarded as a philosophy, we would say the same of that. It is a pragmatic business. We have to consider different special needs: those that are common and those that are not. Different solutions may have to be adopted for different needs.

Mr Macintosh: You have put your finger on the fact that we are talking about a system that has to identify individual needs. There might be national solutions. Take the problem of diagnosis. The issue is wider than behavioural difficulties. Autism is an example: there is wide variety across the country in its diagnosis. Should we be doing more to spread best practice and produce national guidelines, or are you happy that it is best left to local authorities? Do you think that it should not be up to the Scottish Executive or whoever to try to push local authorities in the same direction?

Fred Forrester: We need national guidelines on diagnosing various types of special need.

Mr Macintosh: Representatives from the grant-aided schools spoke to us a couple of weeks ago. You suggest a national review procedure. However, some of the national schools are more national than others. Is the idea behind this proposal to give pupils a right of access to the national schools? Is that what you are trying to

establish?

Fred Forrester: Members of the committee will be aware that there have been court cases in which an education authority has been obliged to place a child outside its area, at considerable expense. Those were sheriff court cases. We do not think that the sheriff court is the appropriate forum for such cases. At the moment there is a UK consultation on an SEN and disability rights in education bill, which, as members know, has a Scottish dimension.

It has emerged that in England there is a tribunal on special educational needs, which seems to have a fairly informal procedure. However, in the Scottish part of the consultation document the recommendation is that the sheriff court should be used to decide cases of the sort to which I have referred. Whatever one might say about a sheriff court, its procedures could not be described as informal.

Our idea is that there should be some kind of tribunal at Scottish level for dealing with disputes. A parent might, for example, want their child placed at the Royal Blind School, but the local authority might refuse on the grounds that it cannot afford that and thinks that it could make better provision locally. Cases of that sort should come before a tribunal with a less formal procedure than that of the sheriff courts.

I agree that the national grant-aided schools are not all the same. Some are extremely specialised. Last year I stood as a candidate for City of Edinburgh Council and visited the Royal Blind School, which was in my ward. I was enormously impressed by the specialisation that exists in that institution. The same could be said of Donaldson's College for the deaf, which has teachers specially trained for their task and special equipment. We do not think that that kind of resource should be endangered. However, if national funding is removed, that is what will happen.

Two weeks ago, the committee representatives of the special schools talked about the cost of running them, which is very high. You were told that fees would go up by a large amount if national funding were withdrawn, when local authorities regard an annual increase of 2.5 per cent as their budgetary limit. It is obvious that if national funding is phased out, some of the special schools will not survive. The committee has to decide whether it thinks they ought to survive. The schools are not all the same. There is a very strong case for preserving some, but a less strong case for preserving others. They cannot all be treated alike. There is a strong body of expertise in some of the schools for special needs such as blindness and deafness. That ought to be considered.

The Convener: I would like to pick up on the

point that you made about the introduction of a tribunal to hear appeals from those requesting placements in special schools. Who would staff such a tribunal?

Fred Forrester: There would have to be parent representatives, local authority representatives and teacher representatives on any tribunal. Anne Paton is a primary teacher with 10 years' experience in this field, who is now training as a Church of Scotland minister. Perhaps she would like to say how such a tribunal might best work to be fair to parents, local authorities and teachers.

Anne Paton (Forum on Scottish Education): The main reason that we proposed a tribunal was that we felt that legal action was intimidating for parents. As the previous evidence made clear, only very confident and assertive parents will be prepared to embark on a legal process. We want the tribunal to be as user-friendly as possible. Preferably, it would be made up of people with whom the families were already acquainted and who were, therefore, able to take on the role of helping them to decide the future of their children.

Cathy Peattie: I want to pick up on that. Legal action is not only intimidating; it is prohibitively expensive for many people. We have asked a number of questions this afternoon on parental involvement and I want to stay with that. We have had varying responses from the professionals, some of whom thought that it was a good idea, but stressed that they were the professionals. What role do you think that parents can play in the education of their children?

Anne Paton: I am not well equipped to deal with that question, but I will do my best. Parents are the prime educators of their children. They have the most knowledge about their children and see sides of their child that the professionals do not.

I have worked in a school for children with behavioural difficulties. In general—and I acknowledge that this is a sweeping generalisation—the parents of those children are excluded anyway. They are the least confident of the groups of parents of children with special needs. They often feel responsible for the fact that their child has a special need in a way that parents of other children with special needs do not. There is no easy solution. The professionals must listen to the parents and find ways to fit the educational approach to individual children.

Cathy Peattie: It is sometimes difficult for parents to put their views forward.

Anne Paton: It is.

Mr Macintosh: The group Equity is a very forceful advocate of mainstreaming. I do not want to misrepresent that body's opinion, but the implication of the evidence that we were given was

that all special schools and special units get in the way of mainstreaming. What is your view on that? In your submission, you came out quite strongly in support of maintaining the status of grant-aided schools for children with special needs.

Anne Paton: I will give an anecdotal answer. In the school that I taught in, there was a five-year-old child who had been excluded from a mainstream school less than two months after starting primary 1. After six months at our school, a decision was made to try to integrate him back into mainstream schooling. I was supportive of that move, but it turned out that he was integrated into my child's class. That completely changed my view on the matter.

The child went to my child's class for one day a week. My child came home and told me all the things that the other child had done at school. He had the support of a special needs auxiliary but still his behaviour was difficult to manage. A year later, however, his behaviour in the mainstream school has improved. On the days when he is in the specialist unit, his behaviour deteriorates. That says a lot about the importance of good role models and supports the idea of integrating children with special needs. Having said that, my child's education has been negatively affected, although not irreparably, by the integration of that child.

Fred Forrester: The Forum on Scottish Education has problems about the presumption of integration that is in the bill. We do not think that there should be such a presumption. We think that the needs of the individual child should be focused on in a pragmatic way. Frankly, we will be forced into doing that anyway because universal integration simply will not work. There will always be a small proportion of pupils who cannot be successfully integrated. There is no question that it is better to integrate a child if it is possible to do so, although it is an expensive option in terms of support staff and resources. However, we must allow for the fact that it will not work in some cases.

15:30

In England, David Blunkett has shifted his position on the right of head teachers to exclude. He has reluctantly accepted that head teachers must have the right to exclude as a last resort. Sam Galbraith has altered his position in the light of the views of this committee. That is fine. We must realise that a theoretical approach will not work in every case. The need for flexibility to deal with the small minority of children who cannot be integrated means that, somewhere in the system, there must be special schools or special units. They will always be required. That is the common-sense view that ought to prevail.

Cathy Peattie: Yet people have been critical of special units in schools because, while they seem to be ways of including children, they are actually ways of excluding them. Do you believe that that is the best way forward?

Fred Forrester: It is a compromise. The children in such units are not being excluded from the institution; they are being excluded from the mainstream class for a period. The situation poses a problem for those of us who believe in comprehensive and inclusive education. Given that there will always be a small minority of children who cannot be included, we must ask whether it is better to keep them in a special unit in the school or exclude them from the school. That decision will be a matter of judgment in individual cases.

We should attempt to keep people in the system—there is no doubt about that—but, if it is not working out, there must be another solution, whether it be internal exclusion units or external units. We cannot get away from that.

Nicola Sturgeon (Glasgow) (SNP): Most of my questions have already been asked. I agree with Fred Forrester's last point. It is not possible for every child to be educated in a mainstream setting all the time. You argue that the decision to exclude should be a pragmatic one, but unless the right to access to mainstream schooling is enshrined in law, pragmatic decisions might be, in effect, financial decisions. The decision might be resource driven rather than needs driven.

I want to clarify your position on the grant-aided schools. You have made it clear that you acknowledge the threat to the grant-aided schools if the funding is withdrawn, but do you think that funding should continue for the schools? If so, should it be provided on the same basis as it is at the moment or should it be provided to support the research and the specialisms in the schools rather than the education of the pupils?

Fred Forrester: You asked two distinct questions. On your point about pragmatism, I think that the experience of recent years has been the opposite of what you suggest. The pragmatic solution was to integrate the pupil into mainstream education. There were many examples of bad practice where the special needs pupil was isolated in the mainstream class.

That happens less often now, because people understand that an integrated pupil needs support, such as a team teacher who works with the classroom teacher. However, there was a time when, for financial reasons, integration was pushed beyond reasonable limits; some children were integrated who should not have been, because integration was thought to be a cheaper option. However, if integration is done properly, it

is certainly not a cheaper option. For example, Aberdeen City Council has discovered that closing down a special school and providing mainstream education is not a cheap option. The tribunal that we advocated earlier could consider cases where there was a conflict between a parent who wanted their child to be integrated and a head teacher who said that they could not integrate the pupil.

There should be some identification of which special needs are so distinctive that they can be approached only in a national way, through grant-aided schools. The numbers of pupils are limited. Donaldson's College for the deaf has 54 pupils. They are very special pupils with a particular special need. As there are only 54 pupils in Donaldson's College, there may be no more than 100 pupils in that category in the whole of Scotland. That is an example of an area where there should be national provision. Similarly, I do not know how many completely blind pupils there are in Scotland, but I am sure that there are not many. That is the kind of very special need that should be dealt with on a national basis. Such schools should be nationally funded.

If we do away with the grant and make local authorities pay for placements, there is a grave danger that a pupil who ought to be placed in such a school will not be. That should be of concern to the committee. There are some very special needs, involving a limited number of pupils, for which a nationally funded provision is the only solution. I am not suggesting that that is the case for all seven special needs schools, but many of them come into that category.

The Convener: Thank you for answering our questions so clearly.

Our final set of witnesses this afternoon come from the Inclusion Group; they are Laura Morrison, Kim Nicoll and Carina Mitchell. We will move straight to questions; we have your written submission and some of our questions may stem from that.

Fiona McLeod: Could you elaborate on the work that you have been doing with young people to ensure that their views on their education are heard in the process?

Laura Morrison (Inclusion Group): I work as an advocate with the children because we have no volunteers who are trained to do that and it is quite a complex activity. We felt that I should go through the process with the children first, then pass those skills on to volunteers.

At the beginning, most of the work involved building up the children's trust. I went with the parents to speak on behalf of the children to the education authority, which accepted that I was working as the children's advocate. I was asked to talk to three children who were excluded from

school at that time to find out what would make them comfortable in the school. I was delighted to follow that route, because those children had been out of school for some time. However, I was disappointed that only one child got into the school and that the views of the other two children were thrown out of the window. That was a setback and I had to rebuild the bridge between the children and me. I have to keep in constant contact with the children to see how they are getting on, particularly because, as yet, none of them is in school full time. Part of my work is simply to maintain trust between myself, the children and their parents.

Fiona McLeod: I want to follow up on your comment that two of the three children did not go back to school. The Standards in Scotland's Schools etc Bill says that the views of children and young people will be taken into consideration when we decide on their educational provision. However, you seem to be saying that, in practice, the local authority that you dealt with has a long way to go. Do you think that that situation is replicated across the country?

Laura Morrison: I do not know about the rest of the country, but a few weeks ago I was in a meeting with my local authority, speaking for one of the young people, and I was told that his opinions did not matter. He is an intelligent young man and I was disgusted at the council's response.

Fiona McLeod: I can say no more.

Mr Macintosh: The first paragraph of your submission says:

"We would advocate for schools being enabled to cater for all of the local pupils regardless of need."

That is a strong position. You will have heard our earlier witnesses say that that will not always be possible and that sometimes national, special schools might be a better choice for the pupils concerned. Do you think that parents and pupils should have that choice?

Carina Mitchell (Inclusion Group): Let me take my own child as an example. I had to fight very hard with the local authority to get my little boy into a mainstream school. He was given various labels—he was an active child, who was incontinent at the time, had daily seizures and behavioural disturbance, drooled, had little or no language and had complex learning needs. The local authority asked how he could possibly be catered for in a mainstream school. My little boy was successfully included for three years. The school thought that it was getting a monster—that is how the head teacher described him when he first entered the school. The day that my son left that school the head teacher said:

"You think we have done a lot for Kyle, not nearly as

much as he has done for our school."

Kyle moved beyond a play curriculum and required more. The staff were looking for guidance on how to deliver that. Unfortunately, the education department's response was to put him in a special school. That was not what the mainstream school wanted—the staff fought to keep him. I have a book of letters that the children wrote to Kyle when he was leaving. I will read one, which says:

"Dear Kyle
I hope that you get loads of friends at your new school
love
Lynda"

The girl who wrote the letter has drawn lots of flowers on it, and they all have sad faces.

Kyle was very much part of the whole school—he was not in a unit. The school made provision, because sometimes he does not cope with large crowds. That provision was made for the school, not for Kyle, because there were many children in the school with emotional and behavioural difficulties. There was a space in the school for children to have five or 10 minutes to chill out.

Space was made at the end of the corridor for the active children to punch a bean bag or jump on a climbing frame. A toilet was put into the school because Kyle was incontinent, but as there was a nursery in the school, the nursery children and primary 1 and 2 children who have accidents benefit from that. The fact that my son was in the school opened up resources for the benefit of other children in the school. Even the adult resources that went with my child were not attached to him all the time. Other primary 1 children who go into school are frightened and need a friendly face. That was used for everybody.

Mr Macintosh: Your point is well made. Your argument is that not only should all children have that choice but it should be possible for their local school to provide it. Is that the case? Dundee is obviously trying.

Laura Morrison: The Inclusion Group is working hard with children who are currently going to special schools and to school outside their local community to try to bring them back to their community in the evenings, because they are losing contact with other children. That is very unfair, and it is hard to stop barriers being built up again. It should be remembered that there is also segregation in the special schools. An HMI inquiry at a special school in Dundee, which contains a unit for profoundly disabled children, found that seven out of the eight parents felt that their children were segregated in that school.

There was no interaction with other children. How do we break down the barriers? We must find the right way of doing that. We must ensure that

children's different needs can be catered for and that they can be accepted.

15:45

Kim Nicoll (Inclusion Group): Probably the first experience that parents or children have of the education system is the educational psychologist who assesses the child and puts together a record of needs, which is a process that is alien to the parents of children with a special need. Parents depend on the educational psychologist being knowledgeable about what may be a very specialist condition. We have heard much today about support going into school. Whatever support goes into school is outlined by the educational psychologist.

I, too, am a parent. I have commissioned independent assessments of my son and now have a detailed report of my son's needs and how they can be catered for in his local special school. The education department and the educational psychology service have been unable to do that. He has been offered provision that is available locally and his needs have been described on his record of needs, outlining the provisions that are available locally rather than his needs. If his needs are catered for, he can be integrated in his local mainstream school.

I advocate that parents should commission a specialist assessment of their child's needs. If someone's child has Down's syndrome, autism, or cerebral palsy, surely the starting point should be a specialist assessment so that an informed decision can be taken about where the child's needs can be met appropriately.

In Carina Mitchell's case, the staff at Kyle's school were looking for expertise and guidance, but that was not provided, so he went to a residential school—screaming, "Don't leave me, Mamma." What he needed was someone from the Scottish Society for Autistic Children to assess his needs appropriately and say that he needed a teacher-based programme within a mainstream setting.

Mr Macintosh: We heard earlier about the difficulties that parents encounter in dealing with authorities. I do not want to do down Dundee in particular, but do you find it difficult to access information, to see reports and to be treated as an equal partner? Would you paint a similar picture to that which we got earlier, or would it not be so bleak?

Carina Mitchell: Many parents in Dundee have been fortunate enough to go on various training courses that are run by Scottish Human Services. For example, I recently took the partners in policymaking course. I think that that empowers people to ask the right questions, not to be

emotional, and to be an equal partner. Unfortunately, not every parent has the opportunity to take such courses. Some hit barriers all the time. They do not know what to ask for and would not dream of asking to see reports. When they go into meetings, they let all the talking go on around them—they are there, but not really there.

Kim Nicoll: The motto in our little group in Dundee is that parents travel in pairs. We always travel in pairs. We tend to pair off a parent who has been through the system and knows about it with one who is just coming into the system. The record of needs refers to a named person, who tends to be someone's next-door neighbour, or granny, or someone else who is as ill-informed as they are. A register of named people who had particular expertise in autism or Down's syndrome or other difficulties would enable all parents to travel in pairs and to rely on an independent person. Parents would know that the independent person would not take into account resource or provision issues. That might allow parents to be informed from the beginning about their child's rights and needs.

Carina Mitchell: It might be helpful if there were a budget for training parents.

Cathy Peattie: We have heard from other voluntary organisations about their role in providing information. Clearly, the training role is also important, even if only to give an understanding of how the system works. I will not say that it should enable parents to challenge the system, but it should certainly enable them to understand it and to get the best from it for their child.

Carina Mitchell: It should empower them.

Laura Morrison: Parents are said to challenge the system and they are labelled as troublemakers. That is very unfair, because most parents trust the system; it is the system that is failing them. It is not that the professionals are saying they do not want to help families. It is not until they reach rock bottom that they realise how much the system has failed the child and the family; there is a breakdown and the child ends up in residential care. That is really unfair. There has to be a way forward from that and a way of working together.

Cathy Peattie: You would agree that parents are partners and that parents bring a lot to the partnership. You suggest that parents should be resourced.

Carina Mitchell: Something positive happened at the mainstream school that my child attended. He has epilepsy, so I was asked to speak to the staff team about what kind of seizures he had and what they should do. They did not know what to

do, and as every seizure is different, they had to hear about it from someone who saw those seizures daily. They valued that contribution.

Cathy Peattie: That brings me to my next question. Teachers are saying that they need more information, time to prepare, and a clearer understanding of particular issues. Should parents be listened to and be partners in preparing teachers to take their children into class? How can that be done?

Laura Morrison: We already do it with volunteers. Our volunteers go through basic training. The last part of the volunteers' induction is an explanation that they are being passed on to the experts—the parents themselves—to have their training finished off. Nobody knows those children as well as the parents do. Even if someone is an expert on autism or whatever, they do not know that child as well as the parents do.

Cathy Peattie: Parents are a great resource that is not being used.

Laura Morrison: Yes.

Carina Mitchell: In some cases that resource is being used, but in others it is not. It depends on the school that the child enters and on the relationship that the parent has had with the local authority. If the parent has been seen as a challenger, barriers are put up straightaway as the authority thinks that the parent is troublesome.

Cathy Peattie: Is the value of the peer support that parents can offer each other recognised?

Laura Morrison: I do not think that it is recognised, but the support system that exists, especially in Dundee, is very strong. It is more than a grapevine; if somebody is in trouble, people will help, regardless of their own problems.

Carina Mitchell: Sometimes professionals try to divide parents by telling them that their child is unique. Parents have to remind themselves that although their children are all different and have different needs, they are all fighting for the same cause.

Kim Nicoll: To decide what a child needs educationally, one has to look at the child holistically. The child has to be considered in the home environment, in an educational setting and in a social setting. All the opinions about the child, and the gifts that the child has in those different settings, have to be brought together. Parents can contribute to that. The record of needs does not allow for that. It allows for the opinions of a few people and for a very clinical opinion.

Carina Mitchell: Even when the record of needs is written, that does not mean that the child will have a better education in the school.

One of the other courses we have recently been

through is person-centred planning. It would be good if every child, regardless of whether they had special needs, had an essential lifestyle plan—what is essential, what is important, and what is desirable.

The Convener: You spoke about shared experiences as parents and how you support each other. From your experience, can you suggest how other parents throughout Scotland could do that?

Kim Nicoll: In Dundee, a network of parents in crisis, who had pieces of information about the way that things worked, came together. That needs to be formalised. Rather than having an autism group, a Down's group, and so on, we need a partnership with parents, including not only parents of children with special educational needs, but all parents.

Laura Morrison: All parents, whether or not their children have special needs, want their children to go to school and to be happy and safe. We all have the same goals. Children may leave school with different certificates, but as they go through school, parents want the same for them.

Kim Nicoll: Local authorities do not actively encourage that.

Carina Mitchell: I was recently employed by Perth and Kinross Council, which has started forming parents support groups in schools. It is about giving the group a room once a week. The council has built up a library. It does not take a lot.

Mr Macintosh: You recommended, at point 6, that

"An independent local appeals committee should be appointed for each authority".

The last group of witnesses suggested something similar. They talked about an independent tribunal to assess applications to grant-maintained schools. Am I right that you want such a committee to be a vehicle for accessing mainstream provision?

Laura Morrison: The intention is to prevent disputes being dragged out for years. If people could go to an independent tribunal, where both sides had to listen to what they are saying, disputes would be cleared up earlier and rifts would be avoided. It would save the damage that is caused to children by being out of school.

Kim Nicoll: My son has been out of school for 18 months. He will be out of school for another year before we get him to the sheriff court—that is how long the process takes. He will be 16 and will have received 6 months of secondary education. He is a well-ordered, polite and intelligent young man, who happens to have an autistic-spectrum disorder. I am in dispute with the local authority

because I have asked them to give two weeks training to staff who have never met anyone on the autistic spectrum. Two weeks training—and he has been out of school for 18 months.

Mr Macintosh: The Forum on Scottish Education told us who it thought should be on the independent tribunal. Do you have any views on who should be on it?

Kim Nicoll: It would have to be independent.

Mr Macintosh: Independent of the local authority?

Laura Morrison: Yes. The Inclusion Group works, partly, because we are not funded by the local authority. Nobody is telling anyone that their job is on the line. Parents trust an independent body because they know that nobody is pulling its strings and that it will find out as much information as it can. The tribunal would have to be independent so that people would not be warned that they would lose their job if they joined it.

Kim Nicoll: It should be independent. However, someone with knowledge or expertise of the child's difficulty—whether it is behavioural problems, blindness or deafness—should sit on the panel. Disputes often arise because parents, if they want to have a meaningful relationship with their child, have no choice but to become informed about their child's condition. The professionals should echo that. We cannot expect the educational psychologist or the person in charge of learning support to be as knowledgeable about a child's condition as its parents are.

A tribunal would have to be independent and would have to include someone with at least a minimum of expert knowledge, who would understand the dispute.

Mr Macintosh: Is the problem that you do not like the fact that local authorities are both the assessor of a child's needs and the provider of the services?

Kim Nicoll: There is a conflict of interests.

16:00

Fiona McLeod: You have heard the discussion about the record of needs that has been going on in the committee for weeks. Does the record of needs need to be tinkered with or replaced completely? In the work that you have been doing, Laura, is there a place within a new record of needs—an individualised education plan or whatever—for the child's view to be given due weight and due recognition?

Laura Morrison: As it stands, the record of needs should be scrapped; it should have been scrapped a long time ago. I stopped sending mine back. I put them in the bin—they are not worth the

paper they are written on. I have told the local authority that. They waste everybody's time, and should be taken back to the drawing board. They need the agreement of everybody who contributes to them, including parents, about how much they wish to contribute.

The child's point of view should also be heard—there should be a special section for that. We have the UN Convention on the Rights of the Child, yet children's rights are still being trampled on.

Kim Nicoll: A person would have to be appointed who could get the child's views out of them. It would be no good the teacher doing it. It should be someone independent, perhaps with training in the child's disability. From the child's point of view, being part of the decision-making process will benefit them for the rest of their life. For children, it is a big lesson to know that their view is worth listening to.

The Convener: Thank you for attending the committee this afternoon. I hope that what you heard was informative. Thank you for answering our questions.

Disabled Athletics

The Convener: Item 2, which is held over from last week, concerns an issue that was raised by Fiona McLeod. We had asked a number of people to submit their views. Members have those views in front of them, including the response from sportscotland, which we did not have last week.

Fiona, do you wish to add anything?

Fiona McLeod: Three of the four submissions make it clear that there is a deep-seated problem, as highlighted in the press, with ensuring that UK Athletics does not insist that the way it is done in England is the way everybody has to do it. Since the issue was raised in the committee, I have received representations indicating that the same problem exists in judo, gymnastics and ice-skating. One wonders how long this will continue.

Having heard everybody else's views, we could usefully ask the Executive for its opinion on how the issue should be tackled. Following that answer, we may have to appoint a reporter to investigate how far this goes through Scottish sports and how much it disadvantages Scottish athletes. That is what this is about. Three of the four submissions make it clear that Scottish athletes are being disadvantaged.

The Convener: Are there any other comments or questions?

Mr Macintosh: I suggest that we write to the Executive.

The Convener: I agree with Fiona McLeod. There is an issue here. I was somewhat reassured that, following our inquiries, it seems that the Scottish Athletics Federation and UK Athletics are now speaking to each other. I hope that that will continue, but it might be useful to give our findings to Rhona Brankin, as Fiona McLeod suggested, to see what response the Executive makes to us.

Fiona McLeod: Given that the issue raised was a time-limited one about the disabled athletes going to the paralympics, could we ask the minister for a reply and give a date by which we want a reply?

The Convener: I will be quite happy to inform Rhona Brankin that we raised this quickly because of the time barrier, so it would be helpful if she could respond to us likewise.

Petition

The Convener: Item 3 is petition PE213, on the establishment of a children's commissioner specifically to consider the rights of children with special needs. Given that the committee has agreed to consider the issue of a children's commissioner, I suggest that we include this matter in that inquiry, which will take place in the autumn, that we keep Ms Silavi and Miss Silavi informed of that and that we pick this matter up again when we have the inquiry. Is that acceptable to members?

Members *indicated agreement.*

Committee Business

The Convener: Item 4 is an update on committee business. Does anyone want to raise any issues?

Michael Russell (South of Scotland) (SNP): My voice has not been heard on this committee for a while.

The Convener: Who are you again?

Michael Russell: Exactly. If you have forgotten me, I must try harder.

As the committee restructuring takes place, I suspect that there will be reductions and changes in membership. Gillian Baxendine has informed me that we are getting responses to the film inquiry. I hope to examine those after the closing date, which is this Friday. I have had a couple of meetings and will have more over the summer. I will bring you a report in the autumn as promised, whether or not I am a member of the committee.

The Convener: Good. We look forward to that.

Fiona McLeod: Karen Gillon was doing an investigation into sport in schools, how are we getting on with that and what is the time scale?

The Convener: I will ask Gillian Baxendine to update us.

Gillian Baxendine (Clerk Team Leader): Karen Gillon has undertaken to bring a report back to the first meeting after the recess.

Fiona McLeod: I will raise one other issue. I am not sure whether this is the right place to do so, but I am not sure where else to raise it. It has become apparent over the past few weeks of this inquiry that we are not giving witnesses enough time. I know that we have a tight work schedule, but at times we have been quite discourteous because we have had to push along the questioning. This is too important a matter on which to ask witnesses to come along and to give

them an hour and a quarter out of a three-hour meeting. If it runs over, we feel under pressure and put them under pressure. We should give due consideration to courtesy to witnesses.

The Convener: That is an on-going issue. Given the work load, we need to keep moving the discussion along. However, I appreciate your comment that we run out of time with many of our witnesses. I hope that they do not think that we are being discourteous; it is purely pressure of time. We will continue to review this as we invite witnesses to the committee.

Nicola Sturgeon: It would help if we kept questions brief.

The Convener: I agree; members could keep questions briefer so that the answers could be longer, but far be it from me to cut members off when they are in the middle of asking a question. We are all aware of time constraints.

I will raise one further matter. Members may have noticed that we have an additional face at the table. I introduce Martin Verity, who is a clerk team leader and will take over from Gillian Baxendine when she goes on maternity leave in August. It is a face you will get to know much more over the coming months.

Rural Schools

The Convener: We move on to item 5. I welcome Duncan Hamilton back to the committee.

Unfortunately, Jamie Stone is not able to be with us. Although Jamie's report has been circulated and I am sure we have all read it, we will not take comments on it today because he is not here.

I am quite happy to pick up on points on Cathy Peattie's report, which may overlap with Jamie Stone's report.

Michael Russell: The report that I have is written by Ellen Van Scoyoc, whoever she is, intern to Jamie Stone. Is she not available to question?

Cathy Peattie: I think she has gone.

The Convener: She is not here, Mike. Jamie Stone obviously sought assistance wherever he thought appropriate.

Nicola Sturgeon: When will we discuss Jamie Stone's report?

The Convener: We will put it on the agenda for next week. I assume that Jamie Stone will be here next week, as he has not told me otherwise.

We will move on to the report prepared by Cathy Peattie, who is here to answer questions on it.

Cathy will say a few words first.

Cathy Peattie: I did not have a lot of time and as the days went on, more and more e-mails arrived. When we were busy trying to get this e-mail off to Ian Cowan on Friday, even more were coming in and more had arrived by Monday morning. We have received a lot of information. There is a lot of strong feeling on this matter. I hope that the report gives that impression.

Members will recall that when we discussed the petition, I expressed fairly strongly the view that it is not our role to tell councils what to do. It is not my role and it is not the role of this committee. My remit was to consider the consultation process. That is what I have tried to do. I have made recommendations on page 11 of my report. The committee might want to discuss them. I hope members find the information useful.

I think that the council worked through its consultation process. I have copies of it here, if members want to examine it. I spoke to elected members and they clearly felt that they were working in the best interests of local people. However, I think that the consultation process is flawed for several reasons. I have stated that in my report.

The Convener: It is appropriate to congratulate

Cathy Peattie on doing the report so quickly. It was essential that it was done quickly, but I appreciate the difficulties that that will have caused her. We are all grateful for your efforts.

First, we will take questions on the report; we will then take suggestions as to how we should proceed.

Michael Russell: I echo your congratulations, convener. Initially, I did not support Cathy Peattie doing this. She has done a remarkable job. I know that this report has been circulated to the schools concerned; one of them e-mailed me last night—the curse of the e-mail is one of the problems in Argyll—to say that it is euphoric about how fair, honest and accurate Cathy has been.

However, I want to ask Cathy a question. The report states that whether there has been prejudicial action against parents and schools will be measured by the extent to which the council reconsiders this matter. Does Cathy Peattie want to expand on that important statement? As we know, there is to be a meeting of the education committee and of the full council tomorrow.

Cathy Peattie: Thank you for that lovely question, Michael.

Michael Russell: I always try to help, Cathy.

Cathy Peattie: I know.

It is up to Argyll and Bute Council to make its own decisions, but I hope that it has read this report. I cannot tell the council what to do, but I suggest that it review its consultation process. The report contains the views of parents in Argyll and Bute and the council now has that information. All those people cannot be wrong. The council will say that it must make decisions based on budgets, forecasts and so on. While it is not for me to tell the council how to do its job, I hope that it will take into consideration what people in Argyll and Bute have told me.

Michael Russell: I was pleased to find that you refer to prejudice in your report, which contains a lot of information. Can you guide me to where that word can be found in your report?

Cathy Peattie: It is near the end.

Mr Macintosh: It is on page 10.

16:15

Michael Russell: The report says:

"Whether such inaccuracies and flaws are prejudicial depends upon the extent to which the Council is prepared to reconsider its proposals in the light of valid criticisms".

I do not want to put words in your mouth, but can you confirm that you are saying that, from the evidence that you have taken, there is a risk that ignoring your report would be prejudicial to the

parents?

Cathy Peattie: Yes.

Michael Russell: Right.

Lewis Macdonald (Aberdeen Central) (Lab): I want to ask about the letter from Councillor Campbell Cameron, who is the chair of Argyll and Bute Council's education committee. I believe that since the production of your report, that letter has been circulated to members and that it attempts to respond to the criticisms that you describe in considerable detail in your report.

The Convener: Have members seen a copy of that response? It arrived only today.

Cathy Peattie: I had not seen it before the committee meeting.

Lewis Macdonald: Colleagues will correct me if, in summarising Councillor Cameron's response, I misrepresent him, but he seems to question Cathy Peattie's interpretation of the Accounts Commission report. He says that it is not the council's policy to assume a need to present occupancy targets and that the council agrees with the Accounts Commission's view that 60 per cent capacity is a realistic figure.

Councillor Campbell also challenges Cathy Peattie's conclusions about the use of incorrect material facts. Given the detail of his response and the fact that Cathy has not had the opportunity to consider the letter, it is probably not appropriate to ask her to respond, but Councillor Campbell is presenting alternative figures for school rolls and so on and is making a case that, over a given period of time, the council's position is defensible.

The most interesting point relates to the proportionate advantage. Perhaps that is the issue on which we could focus. Councillor Cameron says that while there is little evidence that the test of proportionate advantage has been applied—as Cathy Peattie said—his view is that there is no official guidance on what that test should be. Can you respond to that point? If he is right, the Education, Culture and Sport Committee might want to take a wider view on that. In other words, if the stated Government policy—that there should be a test of proportionate advantage—is not backed up by criteria, we might want to consider that point further.

Cathy Peattie: The lack of guidance was a theme that ran through all the issues.

I met the Audit Commission after my visit to Argyll and Bute. It is clear that the guidance on capacity is Scotland-wide. The figures of 60 per cent or 80 per cent are not relevant to rural schools, so as far as I could see from the Audit Commission's documents, clear information is not being provided to schools. Bill Magee made the

point in his letter to Neil Kay that 60 per cent or 80 per cent is a Scotland-wide aim, but the Audit Commission accepts that its information is out of date—it was produced when Strathclyde Regional Council and the other much bigger local authorities were still in existence. Therefore, perhaps the issues of capacity percentage should be reconsidered.

The guidance that is available for local authorities, including Argyll and Bute, is not as good as it might be. I suggested to the Audit Commission that it reconsider the information it sends out. In a rural area, 60 per cent capacity, or even 40 per cent capacity, is totally unrealistic. That guidance does not help local authorities, nor does it help local people. I have a copy of the slides that the council used and some back-up information from the Audit Commission, should members wish to view them.

People are clear that the information that they received from the council was negative. They were told, "This will happen; that will happen; this will happen." The council did not weigh up the issues and present the pros and cons. They did not say, "This is what we are faced with and this is how we will move forward." That approach was not taken, although it should have been.

I can see where different people were coming from. For example, I stress the fact that there are no guidelines on school closures or on measuring for local authorities. I also met the Convention of Scottish Local Authorities, as members will see from my report. COSLA has agreed to bring local authorities together to produce a code of practice to help councils such as Argyll and Bute Council make decisions.

I have not read the letter from Argyll and Bute Council, but some of the information that it might have been able to use and that might have been helpful does not exist. I thought that I would be able to get the relevant papers and benchmarks off the shelf, so that I could examine what had happened, but that sort of information is not available. Such benchmarks must be developed not only for councils but for parents. Misinformation in such circumstances is not helpful.

Mr Duncan Hamilton (Highlands and Islands) (SNP): I thank Cathy Peattie for her work in producing a good, strong and clear report, which will be welcomed by those who are waiting for it.

To me, the report brings out the sense that the consultation process was less an attempt to explore and discuss the potential for school closures and more an attempt to justify a decision that had been made already—that view was also evident from local representations—so only partial information was presented. Is that a fair summary

of Cathy Peattie's report? Does she agree that the incorrect material facts and the slides that relate to the Accounts Commission suggest that there was a concerted attempt to justify the decision rather than to open up the process and to have a fair consultation?

It is important that the committee recognises that the report is not, and should not be, an attempt to tell the council what to do, as that is not the role of any parliamentary committee. However, it is fair to say that the petitioners have gone through exactly the right procedure: they submitted a petition that has been reviewed by two parliamentary committees. It seems from the report that they have been found to be absolutely correct. Therefore, when the committee decides what action to take, I urge members to bear in mind that the council, which we cannot instruct, should be left in no doubt as to the view of this cross-party committee on the process that it followed, or rather did not follow.

Cathy Peattie: The council, quite rightly, told me that 28 days was allowed for consultation, but that the consultation process had taken up to six weeks, so it had allowed enough time. I challenge the fact that it made the decision in the spring, as that is not the best time to start any consultation. The process went downhill from there. I can talk only about what people told me, but the consultees felt that they had been given an ultimatum and that they were being told things about their schools, about budgets and about the audit process that were not necessarily the case. That does not help with finding a way forward.

When school rationalisation is being considered, it is important that everyone gets round the table. Parents, teachers and local elected members should have an opportunity to sit down and look at the issues and decide together how to deal with a school closure. That has not happened.

I cannot comment on Jamie Stone's report at this stage, but we need to look at the wider implications for rural areas and the benefits for rural schools. If schools have to close, there has to be a consultation mechanism to take on board what people are saying. I have always believed that consultation should start with a blank sheet of paper. You should listen to what people have to say then go back to them and say, "This is what we think you said. This is our situation. This is where we are with the information that we have gathered." You should then ask them what they think of what has been produced. Producing the kind of information that has been produced in this case and then consulting is not the best way forward.

The Convener: Cathy Peattie's recommendations are a sensible way forward for the committee. We all take on board her point that

it is not the role of this committee to tell the council how it should proceed on school closures. While it is clear from the report that the council has abided by the rules that are set down and that it has tried to follow the scarce guidance that is available, parents are completely dissatisfied. It has to take that on board. Cathy's recommendations on how we should proceed are clear. Does the committee feel likewise? Are there any other suggestions?

Nicola Sturgeon: The recommendations are sensible, but there are two issues that we have to keep separate. The first point that Cathy Peattie's report—and, to a lesser extent, Jamie Stone's report—has thrown up is where we go from here on rural schools and the changes to the national procedures that are required. We should hold over that discussion until Jamie Stone is here and we can talk about it in the context of his report.

The second issue is specific to Argyll and Bute. While the committee has to be conscious of the limits of its role and authority and to be seen not to be attempting to railroad a council into a decision—or away from a decision—we have to be conscious of Duncan Hamilton's point that the petitioner has followed our procedures to the letter. We investigated the petition and certain aspects of it were shown to be well founded. We have to take this matter a stage further and make our views clear. We have to decide how we communicate our views to the council and on what terms.

The council will take decisions on this matter tomorrow, so we are not left with much time, but there is no doubt that we should send a message to the council that in our opinion—it is only an opinion—the flaws in the consultation procedure are such that going ahead would be seriously prejudicial to parents in Argyll and Bute. We should make it as clear as we can that that should be taken into account when the council reaches its decision tomorrow.

We may also want to make clear to the council that we sympathise with its predicament, in that the national guidance and the context in which the council is operating are not clear, and that we can understand why some of what has happened has happened—but we cannot escape the conclusion that moving ahead on the basis of a fundamentally flawed consultation would prejudice the parents of the children at those schools.

Michael Russell: I agree. The report recognises, rightly, that it is not the role of this committee to tell Argyll and Bute Council which schools to keep open and which to close. In the letter of response that we were provided with at the meeting, there are what Cathy Peattie calls incorrect material facts at paragraphs 2.1 and 2.2. I declare an interest because they relate to two school closures that I was involved with. Having

said that, the important issue is how we communicate the conclusions of this report to the council. Cathy Peattie's recommendations in section 10 are sound. They should be taken in conjunction with anything that arises from what apparently is to be called the Stone report. Tomorrow—this is a key issue—two days before the end of term, decisions will be made on six schools. All committee members will agree that the petitioners who came to the Parliament have been proved correct on the substantial flaws in the consultation procedure.

16:30

Everybody has sympathy with Argyll and Bute Council because there are no guidelines and because of its financial difficulties. The council needs the special islands needs allowance and I am in favour of its getting it, but that does not invalidate the fact that tomorrow, decisions will be made about the future of six schools on the basis of what this committee believes to be a flawed consultation process. The council should be left in no doubt about the committee's view. The clerk must communicate with the council urgently so that a letter is available to the council tomorrow saying, "It is your decision, and we appreciate your difficulties, but our view as a committee, based on the rapporteur's report, is that there are real problems with this consultation process, and it may be that if you make a final decision you will be prejudicing individuals."

Nicola Sturgeon: Mike Russell made a point that is worth stressing, and which is sympathetic to the council. While I do not think that moving forward on the basis of this consultation process would be justifiable, we have to recognise that the council has a budgetary problem. We should make it absolutely clear to the council that as part of any wider investigation into rural schools, the funding of rural schools will be a priority for us and we will not hesitate to make strong representations to the Executive about the difficult position that councils such as Argyll and Bute find themselves in as a result of the additional costs of keeping rural schools going, if we feel justified in doing so. In fairness to the council, it is important to ensure that it knows that we are not going to give it this report and then run away without supporting it with its other difficulties.

The Convener: It is important that we do not prejudge where we are going with the Stone report, as Mike referred to it.

Nicola Sturgeon: Whatever we decide to do on the Stone report, there are recommendations in Cathy Peattie's report that we will want to take forward. I have already suggested that we hold up the discussion until next week, but there is no doubt that we want to proceed.

The Convener: That is fine. Before we formalise this I am anxious to hear other views.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): I broadly agree with what Nicola Sturgeon and Mike Russell are saying—and with Cathy Peattie's conclusions. If I were in Argyll and Bute Council's shoes tomorrow I would be thinking, "What can we do?" The criticisms that Cathy has made apply to the process, so they apply to all the school closures, but I can imagine that there may be stronger cases for one school over another. I do not know whether the committee expects the council to defer decisions on all the schools or accepts that the council could accept the drift of the report but still feel that some action has to be taken.

I worry about a lot of things in this process. We have heard about a school that came under threat, won its battle, and then, two years later, came back under threat again. When a decision is made on a school, there ought to be a period during which it can be assumed it will not come under threat again.

Cathy Peattie: That is why the consultation process is important. If people have been round the table considering the issues for the area and the community, and if there has been an 11th hour reprieve for a school, the threat should not come back the next spring.

Nicola Sturgeon: Consultation is not the only thing to consider; the point made about funding is important. If any or all of the schools under discussion are reprieved—as I hope that they are—Argyll and Bute Council, come next April, will find itself with a budgetary problem that may be bigger than before because of decisions taken this year. We have to send strong supportive signals to the council indicating that we recognise the extent to which this is a financial problem.

Michael Russell: Point 3.11 of Cathy's report indicates that there may be a "significant number" of further school closures—a phrase that came, I presume, directly from the director of education.

Lewis Macdonald: Cathy's report contains many positive things and I congratulate her on the work that has been done. I am a little worried that the Education, Culture and Sport Committee may appear to be guiding, directly or indirectly, Argyll and Bute Council on what its programme should be; I would be interested in Cathy's comments on that. As I read the report, the criticisms are of the system—or the process, as Ian called it—that applies nationally. They are not criticisms of Argyll and Bute Council specifically.

Members may have received a paper from parents at St Vigean's school in Arbroath. Those parents criticise the consultation process that has led to the proposed closure of the school by Angus

Council; their comments are similar to those that Cathy has heard from parents and other interested parties in Argyll and Bute.

We should support Cathy's report and its recommendations and we should consider how to approach COSLA and the Executive about the structure and guidelines for consultation on rural schools. I am not sure that Argyll and Bute Council has acted substantially differently from other councils, such as Angus, which are or have been in the same position. We should do no more than adopt a position on the general conclusions in Cathy's report; in other words, we should not adopt a position on what Argyll and Bute Council, Campbell Cameron and that education committee have done and suggest that this situation has been handled worse by the council than similar situations have been handled by other councils. This committee should endorse Cathy's conclusions and maintain its focus on national policy. However, it would be inappropriate for us to be a sort of shadow education committee for Argyll and Bute Council.

Cathy Peattie: My remit was to consider the consultation process and the petitioners' accusation that that process was flawed. I have done that and I believe that the process was indeed flawed. Lewis Macdonald is perfectly correct: I cannot comment on other councils because I have not studied them and I do not know how they have carried out consultation. The information that I received was from local people, parents and teachers in the Argyll and Bute area.

I have tried to consider a national solution so that people do not find themselves in similar positions in future. It is difficult. I have to be honest and say that I am with the parents and teachers in Argyll and Bute on this issue. I cannot tell Argyll and Bute what to do with its budget. However, people have to have a role in making decisions on schools closures. Decisions cannot be made for financial reasons alone. We cannot just cut up the cake and say that one part is for education and that is it.

Lewis Macdonald: I accept that point. In saying that the consultation process is flawed, are you saying that this consultation has failed to meet criteria that have already been set down, or are you saying that those criteria are not adequate?

Cathy Peattie: In my opinion, consultation should be about gathering information and—in weighing up the issues in proposed school closures—about exploring the pros and cons. That has not happened. Information that schools and parents have received has not been accurate. People feel strongly that the procedure has not worked. I am not saying that the council does not have a procedure for consultation—it has procedures that go back to the old Strathclyde

Regional Council days. People have also had six weeks instead of 28 days for consultation. However, I do not feel that the consultation was carried out in a way that allowed people to feel that they had been listened to.

Mr Hamilton: I reiterate what I said earlier—we must avoid the temptation to be too timid with this. If the petitioners have been proven correct, and if the report states explicitly a range of things that amount to a damning indictment, it would be wrong not to bring that to the attention of the council in a robust way. I hope that the committee will do that.

Any letter that we write to the council should mention the special islands needs allowance. It would be wrong simply to berate the council and to put additional burdens on it without saying that that allowance should be paid. It would be useful if the committee were to say that it was willing to work in concert with Argyll and Bute Council to push that agenda forward. The situation in Argyll and Bute, which does not receive the allowance, is unique, as I am sure Cathy will agree. It would reassure the council to know that it could try to access the special islands needs allowance by working with this committee. That would be a way of avoiding this situation happening year on year.

We are in danger of creating a false distinction between this committee commenting on specific schools and this committee commenting on the process. It is impossible to say that the process is fatally flawed without automatically saying that the result of that process is not at least potentially fatally flawed. By concentrating simply on the future, there is a danger that we ignore the real threat, in the here and now, that is the result of a process that we have agreed is not adequate.

Michael Russell: I suggest that we should formalise this discussion and focus on what seem to be areas of clear agreement. The only slight area of disagreement seems to be over what Lewis was saying about the way in which we should deal with the local authority. I am happy to endorse the view that we are not here as a shadow education authority. However, when individuals complain, when we take the time and trouble to appoint a rapporteur, and when Cathy does the work extremely well and comprehensively, we are entitled to draw the attention of the petitioners and of those petitioned against, so to speak, to the conclusions that we reach.

To formalise the discussion, we should first welcome the report, note its recommendations, and defer the consideration of the recommendations in section 10 to a future meeting, when we can discuss them with the Stone report. Secondly, we should note that tomorrow the council will make a decision on this

issue. The clerk should write to the council urgently—tonight—to draw its attention to the fact that we have accepted this report. The letter should say that, although the committee recognises the council's difficulties, we accept the possibility of prejudice against the complainants and ask the council to consider that as part of its discussion tomorrow. That would not be an admonition of any sort, but merely a request to consider the point. Thirdly, it is important in our conversations with individuals—and I know that Councillor Cameron and the petitioner are here—that we make it clear that that possibility of prejudice is an important and material fact.

Nicola Sturgeon: I would go along with that. The only thing that I would add is a more express invitation to the council to work with the committee to ensure that Argyll and Bute obtains special islands needs allowance, which is crucial and cannot be separated from the broader issue.

The Convener: Duncan Hamilton mentioned that. I will bring Cathy Peattie back in to comment on that specific aspect.

Cathy Peattie: I have commented on it in the report. Clearly, special islands needs allowance is an issue in Argyll and Bute, which does not meet the criteria, although other areas do. That seems a bit strange, especially if you look at the map, which shows the number of islands that the area covers. There is a case for the allowance.

The Convener: Mike, are you happy to add that?

Michael Russell: I am quite happy to do that.

The Convener: Mike, your second point was about the need to recognise the inadequacies of the process. I preferred Duncan Hamilton's wording, which mentioned not only the inadequacies of the process, but the possibility that the result would be flawed.

16:45

Michael Russell: I am entirely happy with that. I always defer to my former assistant.

Lewis Macdonald: My only concern with Mike's suggestion is the use of the word "prejudice" or "prejudicial". Could we have guidance on the legal result of our using that word in the covering advice to the council?

Michael Russell: Can we quote directly from the report? That would get us out of any difficulty in using the word as our own. The letter should quote paragraph 9.3 of the recommendations, which states:

"Whether such inaccuracies and flaws are prejudicial depends upon the extent to which the Council is prepared to reconsider its proposals in the light of valid criticisms that

have been made."

I am sure the clerks' excellent drafting skills could make something of that.

The Convener: Are there any comments on that addition to the wording?

Mr Macintosh: What was the suggestion about adding special island needs?

The Convener: The suggestion was that we add that as a fourth item that may need consideration in future.

Ian Jenkins: I am happy with that if Cathy Peattie is; I thought that I might be out of order to add it.

Michael Russell: It is in her report.

Ian Jenkins: That is fine. I am certainly in favour of Argyll and Bute getting the special islands needs allowance.

The Convener: The issue is raised in the report.

Nicola Sturgeon: All I am suggesting is that we acknowledge it as an issue that has a bearing on rural schools.

The Convener: Are members happy with that? Are we clear about what we have agreed?

Mr Macintosh: Perhaps you could summarise, convener.

The Convener: We have agreed unanimous support for the report. We have agreed to recognise that the process was inadequate and that that may lead to the result that the council comes to being flawed. We have agreed to ask the local authority to recognise the report and the points raised in it and we have agreed to consider in future the possibility of additional support through the island and rural authorities.

Michael Russell: We have also agreed to adopt section 10 of the report, but not to discuss it in detail until a future meeting. The second final point is extremely important in getting a clearly understood national policy.

The Convener: That is the way forward. I am grateful.

We move to item 6, which is on the school infrastructure inquiry. We will take this item in private.

16:49

Meeting continued in private until 17:11.

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