

EDUCATION, CULTURE AND SPORT COMMITTEE

Wednesday 17 January 2001
(*Morning*)

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EDUCATION, CULTURE AND SPORT COMMITTEE

2nd Meeting 2001, Session 1

CONVENER

*Karen Gillon (Clydesdale) (Lab)

DEPUTY CONVENER

*Cathy Peattie (Falkirk East) (Lab)

COMMITTEE MEMBERS

*Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

*Irene McGugan (North-East Scotland) (SNP)

*Mr Brian Monteith (Mid Scotland and Fife) (Con)

*Michael Russell (South of Scotland) (SNP)

*attended

WITNESSES

Kate Cherry (Her Majesty's Inspectors of Schools)

Graham Donaldson (Her Majesty's Inspectors of Schools)

Linda Kinney (Association of Directors of Education in Scotland)

Liz Lewis (Scottish Executive Health Department)

Bernard McLeary (Association of Directors of Education in Scotland)

Jane Morgan (Scottish Executive Education Department)

CLERK TO THE COMMITTEE

Martin Verity

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 3

Scottish Parliament

Education, Culture and Sport Committee

Wednesday 17 January 2001

(Morning)

[THE CONVENER opened the meeting at 10:03]

The Convener (Karen Gillon): Okay, let us make a start. This morning there is a slight problem, as the witnesses who are coming to give evidence on behalf of the Executive are currently giving evidence to the Health and Community Care Committee on the same subject. I suggest that we move items 5 and 6—the schools infrastructure inquiry and the special educational needs inquiry—up the agenda. We can discuss those items at the beginning of the meeting and we can then take evidence from the witnesses when they arrive.

The committee must agree whether to take items 5 and 6 in private or in public. I suggest that consideration of the committee's draft report should be private. We previously considered the schools infrastructure inquiry in private, because we were discussing witnesses who might be called. If the committee agrees, we will take items 5 and 6 in private now, and take the other items on the agenda in public.

Michael Russell (South of Scotland) (SNP): Did you say that we could take items 5 and 6 at the beginning, rather than halfway through the meeting?

The Convener: Yes, for convenience. Are we agreed?

Members indicated agreement.

10:04

Meeting continued in private.

10:37

Meeting resumed in public.

Film Industry

The Convener: We now move back into public session. Item 2 on the agenda is the film industry inquiry. The committee has received a report by Mike Russell on an inquiry that he undertook into the Scottish film industry on behalf of the committee. I ask Mike Russell to introduce his paper.

Michael Russell: On 3 November 1999, the committee appointed several reporters, of whom I was one. The gestation period of the report has therefore been longer than that of an elephant. That has not been all my fault, as the committee's inquiries got in the way. I was asked to take written evidence from organisations and to synthesise their views into recommendations for further action by the committee. The committee identified the Scottish film industry as an area in which it wanted to be of assistance by producing positive work and positive thinking, but it needed to be clear about the issues.

I am grateful to the bodies that gave me information, which are listed on the back page of the report. I also spoke to individuals who work in the industry and who were known to me personally. The report brings together all that evidence, I hope briefly and to the point.

The background is taken as read. I identified several key issues that emerged from the evidence: terms and conditions and remuneration for those who work in the industry; training; encouraging indigenous production; developing a film studio; tax and fiscal incentives; creating a film-friendly environment; funding of script and project development; and funding of distribution. I briefly outlined views on each issue.

If we narrow what is in the report down to the subjects on which the committee could be of most use, two issues emerge quite strongly. The first relates to training. Provision is diverse for those who wish to train professionally for the industry. Scotland has a major advantage in its considerable expertise in producing computer games, because the skills for producing them are similar—sometimes identical—to those that one would use in the film and television industry. If training brought together a range of individuals and courses, a critical mass of production could be created. The committee might want to consider that in the light of existing provision and plans for expanded provision. The Royal Scottish Academy of Music and Drama has secured funding to introduce a new course but has not yet secured

the Executive's permission to increase its student numbers. That argument is being conducted at the moment.

The RSAMD is but one institution; Duncan of Jordanstone College of Art and Design is another, and one or two others have made contributions. It might be possible to bring their courses together in a collegiate fashion to begin to develop a national film, television and multimedia school. It might be possible thereafter to build on that possibility and to argue that a new institution is required. The committee could help in examining that.

The committee might also help to put to rest the myth that the profusion of media studies courses trains people for work in the film and television industries. That is a cynical manipulation of young people. As members know, I still do occasional work as an independent producer. Like all independent producers, I receive two or three letters a week from young people who want to work in the industry and who believe that their media studies courses at school or university have given them that opportunity, but that is not the case. Media studies has a place in a school or university curriculum in providing an understanding of the language of the media, which is important for all, but media studies does not prepare people for production work.

Fiscal incentives are also worth investigating. There is no doubt that increasing globalisation means that companies in the vastly competitive worlds of film and television production are looking for the best deal possible wherever they plan to film. Scottish companies that are trying to develop productions often find that difficult because of unacceptable costs and because it might be cheaper to work elsewhere. We are all familiar with the "Braveheart" example—part of it was filmed in Ireland because of the fiscal incentives there.

The Parliament does not control the tax system, except in a very small way. It would not therefore be possible for the Parliament to do what the Irish did. They created, under finance legislation, a model of tax incentives for incoming production, which has had its own difficulties and has created a creative bottleneck in some sectors, but has massively increased incoming and indigenous production. There is a range of similar examples around the world, such as the system in Canada and the favourable regime in the Isle of Man.

It would be creative for the committee to consider that problem in the context of devolution, to find out whether action could be taken to encourage indigenous and incoming production and put in place a regime of fiscal incentives, married with the continued development of a film-friendly Scotland that encourages production and is organised to welcome it. Scottish Screen's film

charter is one part of that idea, as is the establishment of a range of film commissions and film offices, largely through local authorities. Bringing together fiscal incentives and film-friendly structures might provide a major boost.

10:45

I have not, for various reasons, recommended that we investigate the establishment of a studio. In the report I express only my opinion—it does not really matter whether the committee shares it—that instead of investing £6 million of public money in a studio at Pacific quay, that money could be better used elsewhere. I am not saying that to spend that money at Pacific quay would be a total waste of money; I am saying that, if one wanted to invest £6 million in the film industry, Pacific quay would not be one's first choice, because of its location and because of issues that surround the public funding of a film studio, such as the fact that film studios that are supported by the market and that have a throughput of market product are more likely to do well than those that do not. Publicly funding a film studio without having a secure throughput of product would be a risky and fruitless venture.

In the report, I have narrowed down the issue to two possible areas of investigation. The committee might want to consider one or both for inclusion in its work programme for the year. If it did so, the committee would be making a useful contribution to a Scottish industry that is a considerable earner, and which has the potential to be an even greater earner.

The Convener: I thank Michael Russell for his report and recommendations. If we want to do something useful in this area, we should consult our colleagues on the Enterprise and Lifelong Learning Committee because there are areas of overlap in relation to fiscal incentives and training. That committee might want to send a reporter along if we consider the area in more detail.

Cathy Peattie (Falkirk East) (Lab): I enjoyed reading the report; it contains some useful observations. I support the idea of examining training in more detail and perhaps doing some work on the issue in the autumn. I agree wholeheartedly with Michael Russell that there must be links between the colleges and universities and the industry. I am concerned that young people who enter media courses at educational institutions expect to get jobs in the film industry when there appears to be no clear link between the courses and the outcome in terms of jobs. There is potential in the idea of linked work courses, which link academic study with work experience in relevant organisations. That system is not in place at the moment. The establishment of a Scottish film and television school would give

people not only academic qualifications, but work experience and an opportunity to make progress in the field. Such a school is needed and should have been established a long time ago.

I accept what the convener said about there being a role for the Enterprise and Lifelong Learning Committee in our investigation and I agree that using a reporter might be a way to facilitate that.

Mr Frank McAveety (Glasgow Shettleston) (Lab): It would make sense to examine training, education and employment. Opportunities could be created by initiatives such as tax incentives and a range of fiscal approaches. There are a number of different players in the industry in Scotland, such as local authorities and major companies. The problem is that there is a lack of a means through which good ideas can be filtered.

I disagree with what Michael Russell said about Pacific quay. The issue is not only about the development of the studio; it is to do with economic and social impacts. It would be valid, however, to argue about how that could be filtered through in a broader Scottish context.

I have a couple of points to raise about the report. The first is to do with typographical issues. Page 2 appears to talk about a new type of film called "Holywood". That might be an interesting genre to develop.

Michael Russell: It could deal with religious epics.

Mr McAveety: Given this country's history, that would be interesting. Page 2 also seems to talk about a failed character from "EastEnders", called "Whisky Galore". It is important to raise those points—people will pick them up.

On the broader debate, in developing film charters and so on, it is important that we do not bring together only people in urban Scotland who have resources. A consortium approach could be taken. The paper is facing the right direction and the two points that Michael Russell has identified are genuinely worth exploring.

Mr Brian Monteith (Mid Scotland and Fife) (Con): I welcome Mike Russell's report. It is a useful document that states the current position. However, I am disappointed that it does not go further in some respects and I am curious about some aspects of it.

I welcome what Mike Russell says, and I support and share his view on the idea of a film studio and the possible investment of £6 million in Pacific quay. That might be the end of the matter—Scotland will have a film studio and everything will be fine and dandy—but serious questions must be raised about that investment. Will it deliver the sort of cultural and financial returns that we would

want? I shall return to some suggestions on that. I agree completely with Mike on the viability of the project. The level of production does not justify a commercial studio and there is no indication that a studio would secure a greater level of production. That must be taken into account. I had hoped that Mike would be able to give us more detail on the issue of film studios. There is much to be debated and I have further suggestions to make.

I find it curious that paragraphs 3.7 and 3.8 raise the fiscal difficulties that Scotland faces in comparison to the situation in Ireland. Mike Russell rightly points out that some films with Scottish subjects have been co-produced in Ireland, but that is not just a Scottish problem; it is a British problem. The fiscal solution to that problem is to provide attractive tax breaks or other means of drawing business in. It is a British problem that requires a British solution. Paragraphs 3.7 and 3.8 do not allude to that.

A great deal of "Saving Private Ryan" was filmed in Ireland and "Tess"—which was set in Devon—was filmed in Normandy. Often, although locations are available in Britain, they are not used because there are financial reasons for filming in places such as Ireland. Although the Scottish Parliament might be able to change the situation if it had tax powers, those tax powers are available to the British Government. The report might have mentioned that. However—although I am sure that this is not the reason for that omission—some people would like the Scottish Parliament to have greater tax powers, and I have a sneaking suspicion that that might have been in the back of Michael Russell's mind.

The idea of a sound stage or film studio merits a great deal of consideration. Now that the committee has received the report, it is possible to take some evidence on that issue. I hope that Mike Russell will support that suggestion. If £6 million is going to be invested in a film studio at Pacific quay, through support for Scottish Screen as part of the national cultural strategy, and as we were concerned enough to take evidence on the investment in Hampden and Scottish Opera, we should give proper consideration to that major step. We could take evidence from Scottish Screen, from some of the commercial developers and from the minister to determine the potential cultural benefits. If the Audit Committee wanted to raise questions on the investment, it would be for that committee to conduct such an inquiry. We could consider the cultural aspects of providing support for a film studio.

The Convener: Thank you, Brian. However, your mention of Scottish Opera and Hampden are sailing close to the wind. Those were areas of concern because specific problems were associated with those investments. I do not think

that Mike Russell was suggesting that there is a problem with the funding for a film studio.

Mr Monteith: I was anticipating the problem.

The Convener: Brian, let us not always see the bad in things; let us try to look for the good.

Mr McAveety: On raising the debate about tax in the UK, I must point out that there are ways that we in Scotland can shape and influence that. The issue is not necessarily an argument against the unitary nature of the British state, Brian.

Mr Monteith: I pointed out merely that the report does not mention that issue.

Mr McAveety: There is no need to flag it up all the time.

The Convener: Can we try not to have a discussion across the table? I ask Michael Russell to comment on the points that have been raised.

Michael Russell: I welcome the support of Cathy Peattie and Frank McAveety on training, which is the issue that we should start on, although I also want us to bear it in mind that we should continue to have a discussion about fiscal incentives.

I did not suggest action by the British Parliament because I am not a member of the British Parliament and I was producing a report for a committee of the Scottish Parliament. There is another solution to the problem, which is to have independence and to be able to have a full—

Mr Monteith: There he goes.

The Convener: He mentioned the word.

Michael Russell: I mention independence quite often. That would solve the problem because we could have the right type of tax regime. We should be clear about the fact that a UK tax regime that encouraged incoming production would not necessarily help the Scottish film industry. It would be more than likely that production would be drawn to studios in the south of England rather than to Scotland. Although it would have an effect, it would not have the more beneficial effect that specifically Scottish fiscal incentives might have. Of course, even if there were a UK tax regime that favoured film production, we would still want to have specific incentives in Scotland to maximise our position in that market. The matter is complex and worth considering. It requires imagination to consider it within a devolved settlement as opposed to within an independent Scotland, but that might be worth doing.

I will not support Brian Monteith's suggestion that we should have an inquiry into the proposal for a film studio. There are genuine differences of opinion about the matter, which I do not think this committee could resolve. The committee could

ventilate the differences, but it could not resolve them. I respect the fact that Scottish Screen has spent a lot of time and effort coming to the conclusion that the right location would be Pacific quay. I have spent less time considering the issue, but I have read the reports, which convince me that it is not the right solution in terms of geography, capability for expansion and public investment. I accept Frank McAveety's point that there should be media development in Pacific quay and I think that it is an ideal site for it. However, I do not think that that element fits in with the proposal.

A number of other proposals are on the table: the Inverness proposals are apparently likely to come to fruition and there are some flexible proposals for the former post office building in Edinburgh that involve small studios. There is the purely commercial Gleneagles proposal, which might be one of the first to be implemented and there is the well-known Edinburgh proposal involving David Murray and Sean Connery, which requires rezoning of land before planning permission can be sought. As I said, although we politicians can have views on the issue, I do not think that the committee can contribute a great deal. It will be more productive for us to decide whether to examine training issues or fiscal incentives first. I appreciate what committee members have said and would be happy if we could schedule an inquiry into training for film, television and the multimedia industry for later in the year, perhaps in the autumn. It would be wise to ask for a reporter from the Enterprise and Lifelong Learning Committee to join us.

The Convener: Obviously, if Michael Russell's colleague Mr Salmond is successful in his election, he can pursue the fiscal issue at Westminster.

Michael Russell: I am certain that he will be able to do so with the help of a large group of SNP MPs.

The Convener: I promise to tell Margo MacDonald that you mentioned independence twice.

Michael Russell: Let me mention it a third time to get the hat trick—independence.

Mr McAveety: Is there an election presently?

The Convener: I suggest that we factor in an inquiry into education and training in the media industry.

Michael Russell: Industries.

The Convener: Industries. That inquiry should focus in particular on our cultural and educational role. We will invite colleagues from the Enterprise and Lifelong Learning Committee to join us.

I do not pick up support from committee members for Brian Monteith's wish to have an inquiry into the Pacific quay issue. If Brian wants to make a specific proposal, I shall put it to a vote, but I advise Brian that he would probably lose.

Mr Monteith: I would like to make a specific proposal and put it to a vote. Let me explain why.

The Convener: We are all aware of the arguments on both sides.

Mr Monteith: Michael Russell made an important point, which I have not had a chance to reply to. I am happy to restrict my comments to that.

The Convener: I shall give you 30 seconds to do so.

Mr Monteith: Michael Russell said that there are strong views and that all we can do is ventilate the issues. Surely it is the committee's job to speak to and hear from quangos. The only way in which we can scrutinise their operations is to bring them before the committee. If the committees do not do that, it is certainly not going to happen in the chamber. We have seen with the Scottish Qualifications Authority what happens when nobody is looking at how a quango operates.

11:00

The Convener: I am sure that members are more than aware of the committee's role in scrutinising quangos and public bodies. If there was a will within the committee to fulfil that role in this case, we would do it. Do members support Brian Monteith's proposal?

Members *indicated disagreement.*

The Convener: As no members have indicated their support, I suggest that, at this point, we do not conduct an inquiry into Scottish Screen's Pacific quay proposal but that we hold an inquiry on training and education. If that inquiry, which we would hold in the second half of the year, leads to a discussion of the Parliament's fiscal powers, we can consider that issue as well. Is that agreed?

Members *indicated agreement.*

Reporters

The Convener: The next item concerns remits for committee reporters. If members are happy with their remits, I suggest that, before the meeting in two weeks' time, they draw up a work plan of what they will be doing. If they want to undertake any visits, they should put together a bid for funding, which I will take to the conveners group.

Michael Russell: I have submitted a remit and a time scale. Last week, I spoke to the Gaelic Broadcasting Committee, which has been discussing what it would be most useful to do; I have synthesised its paper into the remit. It has said that it is more than happy to co-operate fully with the inquiry, to give evidence to the committee when we meet in Stornoway and to provide the information that we would need for the starter report. In the light of that progress, I have drafted a remit suggesting that we produce the starter report by the end of April 2001, visit the Gaelic Broadcasting Committee in mid to late June 2001, produce a draft report by September 2001 and issue a final report by the end of September or early October 2001. I hope that that suggestion is acceptable to the committee. If it is, I shall start to organise the information.

The Convener: The report has been circulated to committee members. Do you envisage the session in Stornoway being a formal committee meeting?

Michael Russell: I hope so. No committee has taken evidence in the Western Isles.

Cathy Peattie: The Rural Affairs Committee did.

Michael Russell: I am sorry; so it did. There is a need to take evidence from where things should happen. There is an attempt to make the Western Isles a production base for Gaelic broadcasting and the islands are, of course, the centre of the language. Holding a meeting in Stornoway would send all the right messages and I hope that the Parliamentary Bureau will accept that a visit by this committee to the Western Isles can only be of benefit.

The Convener: The conveners group now approves such visits. If you could pull together something in time for the meeting a fortnight from now, that would be helpful.

Michael Russell: If I can do a costing, will you take it to the conveners group?

The Convener: Indeed I will, if members agree to that course of action. Is that agreed?

Members *indicated agreement.*

Mr Monteith: I have a small concern about the proposed remit. The second line of the paper

mentions the

“economic, social and cultural benefit”.

That might suggest that there is a blank cheque. I know that there is not, Michael Russell knows that there is not and I am sure other members know that there is not. A different form of wording, such as “economic, social and cultural costs and benefits” might be better. We seem to be looking only at benefits. That may not be Michael’s intention.

I am sure that the statistics will be available and will reveal what the costs are, but we will have to relate which of the different projects are the best ones to back. I am not sure whether we need to change the remit, but I think that we need to consider the costs and the benefits that can be derived. Priority can be given to the right things to back.

The Convener: I suggest that, if Mike Russell agrees, we could change the wording to “economic, social and cultural impact”.

Michael Russell: That is fine.

The Convener: If that is agreed, we can move on. Mike Russell can proceed with his costing and people will be able to factor the relevant dates into their diaries.

Michael Russell: Can we agree that I will proceed and gather the appropriate information?

The Convener: Yes.

Irene McGugan (North-East Scotland) (SNP): I would like to persuade the committee to refocus the remit of my proposed reporting on

“language teaching in schools, including Gaelic, Scots and foreign languages.”

My feeling is that the context for that should be the cultural strategy, not education policy or schools. The word “teaching” should be deleted; the issue is wider than education alone and is more about support and development. I accept that there is a whole issue around language teaching, particularly modern language teaching, but that is a different, specific matter. We have all received copies of “Citizens of a Multilingual World”, which focuses on languages in this country. That cuts across the remit that I have been given.

There are specific issues about Scots in particular, but also about Gaelic, especially in relation to the support—or lack of support—that exists or is perceived to exist. It would be most useful for our committee inquiry to focus on a strategy to review the place of Scots and Gaelic in our schools and in a wider cultural context. The inquiry should cover both cultural and educational policy and provision; it should address the concerns about how to broaden the use of Scots

and Gaelic in the cultural strategy. However, I am open to further suggestions.

Cathy Peattie: I was also concerned about teaching in schools, but I agree that the issue is broader than that. I wonder whether there could also be space for minority languages. Some families in Scotland feel that their language is not represented. It might be worth including minority languages in the remit, but it is particularly important to examine the position of Scots, given its importance for the cultural strategy.

The Convener: I think that this stems from last week’s discussion, when Brian Monteith suggested that we should examine the teaching of foreign languages in schools—although it is perhaps not correct to put that together with consideration of Scots and Gaelic. Foreign language teaching in schools could be the subject of a separate report.

Mr Monteith: That was the point that I was about to raise. I raised the matter last week because the document “Citizens of a Multilingual World” arrived on my desk. I linked foreign languages to Gaelic in the context of the discussion about the benefits of immersion teaching in learning Gaelic or French, for example. There was some crossover between the issues in the context of language teaching, but not in a wider cultural sense. That might merit investigation.

I understand entirely Irene McGugan’s points about the cultural aspects, but it is important for us to respond to “Citizens of a Multilingual World”, which investigates the teaching of foreign languages in Scottish schools. If it is the committee’s suggestion that we should split the cultural and educational aspects, that would have my agreement.

The Convener: Should we treat the two issues separately? Irene McGugan might want to consider some of the teaching aspects, if that is appropriate.

Irene McGugan: Certainly in the context of schools, yes.

The Convener: Shall we factor consideration of the document on the teaching of languages in schools into a future agenda?

Members indicated agreement.

The Convener: If members have no further comments on the reporters’ proposed remits, we can close this agenda item. Before we hear evidence, I suggest that we break for a few minutes.

11:07

Meeting adjourned.

11:17

On resuming—

Regulation of Care (Scotland) Bill: Stage 1

The Convener: Item 4 on the agenda is the Regulation of Care (Scotland) Bill. The committee will take evidence this morning from the Scottish Executive education department, Her Majesty's inspectors of schools and the Association of Directors of Education in Scotland.

This is stage 1 of the Regulation of Care (Scotland) Bill. We will report to the Health and Community Care Committee, which is the lead committee. I understand that the witnesses have attended that committee this morning.

I thank the Scottish Executive officials for coming. They can assume that we have read the papers that have been sent to us. I ask Liz Lewis, who is the regulation of care project leader, to introduce her colleagues and make an introductory statement.

Liz Lewis (Scottish Executive Health Department): I am the leader of the regulation of care project in the Scottish Executive. I am accompanied by Roddy Macdonald, who heads the bill team in the project, and by Jane Morgan, who is head of the children and families division in the education department, with responsibilities that are relevant to the remit of the committee.

You will have seen the supporting documents that set out the policy intentions and financial implications of the bill. The three main aims are the improvement of user experience of services, a higher quality of care for service users and their carers, and a confident, expert and effective work force. The bill will meet those aims by creating two new bodies: the Scottish commission for the regulation of care, which will regulate care services, and the Scottish social services council, which will regulate the work force. The bill will affect about 500,000 people in Scotland, including every pre-school child. The services that are covered are wide ranging. The number of staff involved is about 100,000.

For the regulation of services, the bill provides a regulatory framework, which will apply in the same way to all the care services that are to be regulated—those services are described in section 2. Presumably, the committee will be particularly interested in early education, day care for children, childminders, care and welfare in boarding schools and school hostels, and care homes for children. It is intended that the bill will also regulate adoption and fostering agencies, although it was not

possible to include the relevant provisions in the bill when it was introduced. Ministers hope to add a provision to that effect in section 2, by means of a stage 2 amendment.

All services will be regulated to national care standards, which are being produced by the national care standards committee. Those standards will focus on quality of life and will be drawn up from the point of view of the users rather than of the inspectors of services.

For the work force, the bill provides for the registration of social service workers, which will be undertaken in phases. The first phase will cover social workers and all staff in residential child care and the second phase will include all staff in early education and child care, so that, by the end of the second phase, all the staff who are of interest to the committee will be covered. All staff and their employers will be expected to adhere to the codes of practice and conduct that the council will promulgate.

We have developed the proposals in close consultation with the interests that are involved, and in particular with the users of services and their carers. There have been five consultation papers. A reference group of outside interests has worked with us throughout and will continue to do so as we implement the proposals. The national care standards committee has 14 sub-groups and several focus groups, involving all stakeholders, users and carers. We are holding a series of meetings with other regulatory bodies, such as the General Teaching Council for Scotland, to ensure that what we are doing meshes in with their work and that we are working to a sensible overall map. We also issue a newsletter, principally for staff—although it is distributed to other people, too—and we have an interactive website, which will be operational by the end of the month. The newsletter and website will allow us to keep in close touch with people and keep them up to date. A series of working groups on the single care home concept and on inspection methodology has been set up and will work with us in the coming months.

As a result of the consultation, there were many changes to the original proposals in the white paper. The range of services that the commission will regulate was extended to include early education—about which Jane Morgan will say more in a moment—nurse agencies, boarding schools and school hostels, and housing support services. We expanded the definition of home care for registration. We also changed the proposals on the phasing in of the commission's assumption of regulatory functions from the local authorities and health boards, at the request of those bodies, to allow them to work most effectively. The number of groups that will be registered by the council was

expanded.

There have also been changes to the proposals that affect the regulation of child care. Jane Morgan will briefly give you the background to that and describe the changes that have been made.

Jane Morgan (Scottish Executive Education Department): As members will have realised, child care over the past 10 years has been regulated by local authorities under provisions of the Children Act 1989. When the child care green paper was issued in 1998, there was a promise to consult on how the system might be improved. The consultation paper issued in March 1999, alongside the proposals for the commission, suggested that the commission should regulate child care and considered what child care activities should be regulated and to what standards. When we set out the proposals last May, we received further comments, which we have taken on board.

Apart from the changes that Liz Lewis has outlined, there are two specific changes to early education and child care. Services for children under eight are currently regulated, although older children who use those services also receive the benefits of that regulation. In the May paper, we proposed the regulation of services for any child of primary school age and that the staff providing services to children exclusively of secondary school age should be subject to fit-person checks. After receiving comments about that proposal, we re-examined the issue and, in December, ministers announced their intention to apply the regulatory system to early education and child care and to child care services for children up to the age of 16. That is the first main change.

The other main change on which proposals have developed over the past two years is that the commission will regulate all education and care services for children under five. It is increasingly acknowledged that good-quality care involves education and that good-quality education involves good care. We are also aware of the fact that people who might initially have been child care providers are providing pre-school education and that people who might initially have provided such education are branching out into child care. The objective is to have a regulatory system that provides one structure or system of expectations for those providers.

Although the commission will regulate, HMI will still inspect people who are pre-school providers as part of its normal cycle of regulation. I know that the committee has asked HMI to attend today's meeting. HMI will ensure that pre-school providers have the required educational focus on the curriculum; however, the commission's standards for inspection and HMI's performance measures will be closely aligned, so that providers face one set of expectations.

The Convener: For this session, I will invite members to ask a question with one supplementary if needed. Other members can then come in with any questions on the same subject, after which we will move to a different line of questioning.

Irene McGugan: I will start where Jane Morgan finished, with the integration of services. Most people working in early-years education support the move towards integrated care and education. However, the requirement for separate inspections by HMI and the commission seems to undermine that approach. You have acknowledged that, in some local authorities, many day care providers such as childminders are now delivering pre-school provision for three and four-year-olds where parents choose that option. Even in domestic settings, two inspections will be required. What steps will the Executive take to ensure that the inspection standards of HMI and the commission mesh and that there is no undue imposition on day care providers to meet two different sets of requirements? Why is it not possible to consider care and education in the round?

Jane Morgan: There are two aspects to my answer. First, the Executive and a working group made up of a range of interests are currently developing the care standards by which the commission will inspect. However, there is an explicit intention that those standards should be closely aligned with HMI's revised performance indicators. Kate Cherry from HMI is on that working group; she and I are the Scottish Executive representatives on the group, which contains about 10 other people. That means that there will be a very close alignment of the commission's standards and the HMI performance measures. Secondly, unless there are potential problems with a facility or the facility is new, we do not expect there to be two inspections in the same year.

The provider should face more or less one set of expectations with more detail relating to the curriculum if they are a pre-school provider. It is also worth saying that, although the bill provides for the commission to inspect, it also says that there is no need for it to inspect in the same year as there is an HMI inspection. However, the bill does not preclude ministers or Parliament from moving to further integration if so desired. The make-up of the inspection teams is a matter to be decided on.

11:30

Irene McGugan: Could you expand on that last point?

Jane Morgan: The bill allows the commission to

undertake inspections. Perhaps the committee will need to explore this matter with ministers, because it is still speculation to some extent. All I am saying is that the bill requires the commission to inspect. The make-up of the inspection teams is a matter for ministers and the commission, which means that HMI could be included in any decisions. At the moment, ministers wish the commission to inspect and HMI to undertake separate inspections. A key issue for HMI apart from the curriculum is continuity with primary education, which is a matter that the committee might want to pursue further with Graham Donaldson.

Mr Monteith: I detected in your answer the possibility of joint inspections, or at least an inspection in which the team might be made up of representatives from two bodies. If that were the case, which would be the lead body?

Jane Morgan: Such inspections might be a possibility. There are similar proposals for residential care, which is not a matter that I deal with. Graham Donaldson might be able to tell you more about proposals for residential care or boarding schools and how HMI and the commission will work together.

Cathy Peattie: Your information has been helpful. The bill is long overdue and is very welcome.

I am particularly interested in the role of the voluntary sector in providing pre-school education. There has been a long history of the sector providing fairly informal pre-school education and it has been argued that such an informal setting has been good for a young child's development. I am concerned that we could move pre-school playgroups into a different category. Perhaps I will also put this question to HMI: how will pre-school playgroups or such informal settings be treated?

Jane Morgan: The regulatory system will give all providers the same set of expectations. We are trying to set up a system that does not favour particular providers or encourage expansion for perverse reasons—we want a level playing field.

Cathy Peattie: It may be difficult for the voluntary sector to meet the increased costs of registration and so on.

Jane Morgan: Fees will increase, because the general principle of the bill—about which Liz Lewis can say more—is that the system should be self-financing. However, ministers have announced that they intend to make available a subsidy for early education and child care, in recognition of the fact that the market is fragile, particularly in relation to child care. If the fees are too high, the child care sector could be damaged. In that sense, child care is being treated as a special case.

Mr McAveety: You said that the original concept did not include making provision in the bill for foster care and adoption. The committee is considering an investigation of adoption in Scotland over the next year or so and it would be helpful if you would clarify what is going to happen to the regulation and supervision of adoption.

Liz Lewis: It was always intended that the commission would regulate fostering and adoption agencies. Difficulties emerged and, for technical reasons, it was not possible to draft provisions so that they were in a state to be included in the bill as introduced, although they will be introduced at stage 2. Although the commission will regulate fostering and adoption agencies and the arrangements that local authorities and voluntary and other organisations make, it will not regulate foster homes or adoption families.

Care standards for fostering and adoption agencies will be produced, but that work has not yet begun, as it is part of the third tranche of the national care standards. It will begin around Easter and will be well advanced by the summer. During the summer, or immediately thereafter, the committee may wish to examine both that work and the consultation paper on standards that will be produced.

Mr McAveety: There are a number of issues around adoption, which we can consider when we get to that stage, if appropriate. The big issue relates to the variations in the adoption process in Scotland—never mind the brouhaha of the past 24 hours over international adoption—in relation to time scales, costs and how people are dealt with. Indeed, the costs of different agencies and processes have come to the attention of a number of MSPs.

Jane Morgan: I hesitate to say much, as adoption is not my area. However, I believe that there is an intention to examine adoption. As Liz Lewis said, adoption is not linked directly to the bill, other than through the regulation of agencies.

Irene McGugan: While I accept the value of national standards and of an agreed framework that covers the whole country, some people are concerned that the commission will work from only five regional offices. How can you reassure those people that the local connection will be maintained? Local knowledge is all important in picking up what is happening in child care, particularly as some child care is underground, so to speak, and unregulated. How confident are you that commission staff who work more remotely will be able to pick up and deal with local issues adequately and respond to them quickly and effectively?

Liz Lewis: We are aware of the considerable concerns that exist about that proposal, which we

have discussed with a range of bodies. While it is intended that there should be five regional offices, the people who inspect in local authorities and health boards will continue to be spread throughout Scotland, working in local teams in local areas.

The intention is that there should be a team for each area, which will develop and maintain the local knowledge that already exists, so teams will not be parachuted in from a regional office to visit several parts of Scotland; there will be a local team for the area. There will not be a local office for every area, but there will be local teams, and in some areas, where one regional office will not be sufficient geographically, there will be local bases or touchdown centres, or whatever we call them, to provide coverage.

The considerable knowledge that inspectors develop of their local area is a great strength of the system, which will continue in the new system. The inspectors who are already out there working and who want to move to the commission will continue to work in their areas, dealing with the same providers that they are dealing with at the moment, and deepening the local knowledge that they already have.

Irene McGugan: Could you expand on that? You are correct that it is anticipated that a number of staff who currently are working for local authorities will transfer to the commission and continue their work. Are you implying that they will continue in the same office space? Will they continue to be in local authority offices?

Liz Lewis: No, they will not. Having said that, they may in some areas, if that is the best solution. Letters have been sent to local authorities and local enterprise companies asking for proposals for the five offices that might be used. Ministers will consider those proposals with some others and come to a decision soon on where the five offices will be, so we do not know yet where the offices will be.

It is unlikely that existing offices will be used. We want to make it clear that this is not the old system that has just been brought together, but that it is something new. There is a strong presentational argument for having something that is not based in existing local authority or health board offices, but the decision on where the offices will be has not been made yet.

Mr Monteith: Without meaning to sound disparaging, am I right in thinking that what you are really talking about is creating a new bureaucracy or a new organisation, which will not be seen just to be taking people or services from local authorities or other providers, but will be clearly identified as standalone?

Liz Lewis: Yes, there will be a new body. We

hope that it will have a reasonably high public profile, and that people will know that there is a new body which nationally is regulating child care and all the other forms of care that it deals with. Clearly, that is a bureaucracy—that is not disparaging—and there is no way round it.

Jane Morgan: Of course, the commission will regulate local authority provision of child care, and it will look at local authority education provision, which, in a sense, does not happen in a formal regulatory way at the moment.

Mr Monteith: In a sense, you have both identified that there could be a conflict of interest, were the commission simply to put out to tender to bodies that were inspecting themselves.

Liz Lewis: I am sorry, but I am not sure that I understood that point.

Mr Monteith: If the commission was just an enabling body—if it was visible and known to exist—and it did not have its own staff but instead procured staff from local authorities, in effect, local authorities would be inspecting themselves, and there might be a concern about conflicts of interest.

Liz Lewis: Yes, indeed. As you will have seen from the policy memorandum, part of the impetus behind setting up the commission is to ensure that it is seen as independent, so that there is a level playing field. Private and voluntary sector providers—not particularly in child care, although I am sure that it applies, but in residential homes for older people—frequently say that the playing field is not level, and that the regulatory system works against their interests. The idea is that there should be a national independent body that looks at all providers in exactly the same way. For that reason, a link with an existing system, such as being based in a local authority office, would be difficult presentationally, although not impossible.

The Convener: I want to ask about training. Obviously, post-McCrone expectations of training for teaching staff have increased, which will have an impact on non-teaching staff and those providing child care and early-years education. How will the Executive support training for workers who are affected by the changes? You mentioned registration in the context of the second phase, but is there a detailed timetable for that?

Liz Lewis: Do you mean for the registration of staff?

The Convener: Yes.

11:45

Liz Lewis: The order in which the first phase should be done has been set out, as you will see from the policy position paper. We have not set an

exact timetable, because we are conscious that it is a huge task for the social services council to register large numbers of staff while making sure that the system is meaningful and works appropriately. Given that the staff are paying a fee for registration, it has to be real and meaningful. We are not setting deadlines, although once the council is up and running, we expect it to look at its deadlines and set out a programme that it will make public. We will not do so until we have more experience of how the process works and what the difficulties are.

Jane Morgan will say more about the education and child care side of training, but in general, we expect the resources that currently go into the system for education and training—and I am thinking in particular about section 9 grants for social work and so on—to be focused on training staff so that they can meet the requirements for registration, and so that the standards that are applied can be implemented effectively.

Jane Morgan: At the moment, there is a requirement that half the staff have a relevant qualification. The papers that have been provided indicate that that requirement will continue for the very near future. Ministers have made a commitment to move towards a fully qualified work force, but we have to allow some time for that, because it is a big commitment. Work also has to be done on simplifying the qualifications structure. It is not an area that I work on directly, but an action plan for training for the child care work force was produced last year. The intention is that over time, the council will expect all child care workers to hold a relevant qualification.

The Convener: Is it expected that that training will take place in work time? Many people in that field have significant responsibilities, including their own child care, outside work time, so to put additional training requirements on them might cause them to leave the profession.

Jane Morgan: No. At the moment, many people pursue Scottish vocational qualifications while they are working, and it is expected that that would continue.

The Convener: Are there any other general questions?

Mr Monteith: Mine is more a philosophical question. Inspections are for pre-schools and residential schools. Has any thought been given to introducing inspections after pre-school education, and once the regulations have bedded in, extending them to primary schools, for example? Why is it believed that inspections should stop at pre-school education?

Jane Morgan: I suppose that the overlap between education and care is clearest in the under-five group. There is the added issue that the

providers of child care often are commissioned to provide pre-school education as an integral part of their activity, and local authority nursery schools may provide wraparound child care, so the activities clearly overlap and are integrated. You raise a relevant issue about primary education, because there are aspects of education and care in it. Today, we do at least have some concept of the school day and after-school care, but the world is changing.

Irene McGugan: The bill has provision for the commission to deal with any complaints about care services. In England and Wales, legislation on children's services has gone further and established a post of commissioner—or, in England's case, a children's rights director. That person's job is specifically to look into concerns over care issues. Has the Executive considered establishing such a post in the bill? If not, why not?

Jane Morgan: That issue was not considered in the context of the bill. As you know, Mr Galbraith, when Minister for Children and Education, asked the committee to consider the issue of a children's commissioner. A memorandum from the Scottish Executive was provided in May. The issue is therefore still up for debate.

The Convener: The issue is still on the committee's agenda.

Irene McGugan: But that would not have precluded it from being part of the bill, would it?

Jane Morgan: No—but we did not have specific proposals. I think that it is fair to say that the memorandum that the committee was given is neutral. It identifies issues that committee members and others may wish to consider, but it does not set out an explicit policy position.

The Convener: I thank the witnesses for coming. Your evidence was very helpful.

We will now hear from witnesses from Her Majesty's inspectors of schools. I thank them for coming, and ask Graham Donaldson to introduce his colleague and make some brief opening remarks.

Graham Donaldson (Her Majesty's Inspectors of Schools): Thank you, convener. As deputy senior chief inspector, I have general responsibility across the inspectorate. As part of that, I have responsibility for pre-school provision and for inspection of boarding and hostel accommodation. My colleague, Kate Cherry, is lead officer in the inspectorate with responsibility for pre-school inspection. She has also been involved in the inspection of residential provision.

We have provided committee members with a brief statement covering the areas that we thought you would be interested in. Rather than trying to

prejudge your questions, I would be happy to go straight into questions on the statement.

The Convener: You are the kind of witnesses we like. One of the big issues that everyone who has given evidence has mentioned is the need to integrate the inspection process. How can you ensure, if not integration, effective joint working between you and the commission?

Graham Donaldson: That issue has come up throughout consideration of the bill. We are conscious of the implications for our work, and we believe that the way in which any inspection regime impacts on the providers should be the minimum necessary to safeguard the interests of young people. Throughout our discussions, we have tried to ensure that that will be the case.

There is a difference between inspection and regulation. HMI is not a regulatory force; our job is inspection. Inspection has a number of purposes. At a basic level, the purpose is to ensure that the basic conditions are in place for effective care and learning, which are two sides of the same coin. Another role of inspection is public accountability. There are two other important roles: one is to give an independent report on the quality of provision to users and providers; and the other, which is especially important, is to be part of a more comprehensive improvement agenda. An important part of what we do in inspection is to satisfy ourselves, in discussion with the institution or establishment that is being inspected, that that institution or establishment is committed to self-evaluation and has a process in place to identify its strengths and weaknesses and to ensure self-improvement. When considering the pre-five sector and the residential provision sector, we have been concerned to ensure that those purposes of inspection are appropriately catered for within whatever external scrutiny regime is put in place.

We are satisfied with the bill as it stands. It allows for discretion. If an HMI inspection had taken place, the bill opens up the possibility that the commission would not operate that year. That would not be mandatory, but it would be a possibility. Once the commission is in being, we would be able to discuss with it the ways in which we can discharge our functions—or in which our functions can be discharged by others—so that the interests of young people can be safeguarded without the external scrutiny regime being oppressive.

We are satisfied that the bill provides a framework that will allow us to move forward with the commission and perhaps institute pilot exercises to investigate different ways in which our functions can be discharged so that we arrive at a sensible regime. The inspectorate is committed to an inspection regime that is minimal but which is

consistent with safeguarding the interests of young people.

Cathy Peattie: I want to ask about your role with the less formal organisations such as playgroups and after-school clubs.

Kate Cherry (Her Majesty's Inspectors of Schools): As you will know, the playgroup sector—voluntary and private organisations—played a big part in the expansion of provision for education. Many playgroups have been funded to provide education for children. We therefore expect to inspect them in the same way as we would inspect pre-school provision. If playgroups are funded to provide education, we want a level playing field of quality for the children. Expansion of education was not meant to be at the expense of quality.

Cathy Peattie: Would your indicators be the same for a playgroup as for a nursery?

Kate Cherry: Absolutely. As I said, we want a level playing field, so we use the same indicators in the voluntary sector, in the private sector, in education authorities and in independent schools.

Cathy Peattie: And after-school clubs? There has been concern that after-school clubs should be part of the package. What would be your role with after-school clubs? Is there one?

Kate Cherry: Our role with after-school clubs has not been identified. That decision will be for the commission.

Graham Donaldson: The purpose of an inspection is to ensure that young people's education is as good as it can be. As I said, that is part of a general process of improvement. Where there is a clearly educative component—for example in a homework club or something that is clearly designed as an extension to the main activities of the day—we would follow that through as part of a normal inspection. Inspection is not confined to the hours of formal schooling.

Another area of discussion with the commission will concern the appropriate roles for us and the commission in relation to after-school activities. That also applies to residential provision in hostels and boarding schools. Although the commission will take responsibility from us on the inspection of care, which is perfectly proper, when we inspect a school we will still want to follow the inspection through to the residential accommodation to ensure that it complements what is happening in the school and that there is an appropriate stimulating educational environment in the residential setting. That would be an extension of our inspection of the mainstream provision in the school.

12:00

Irene McGugan: I am sure that we all support the view that we should not oppress providers unnecessarily by having all kinds of inspection. If the proposal in the bill stands, it will mean that HMI will inspect one year and the commission will inspect the following year, which means that there would be two years between each care inspection and each education inspection. It therefore seems more than sensible to try to formulate some kind of joint inspection procedure. I am surprised that discussions about that have not already started and that there is not more discussion between the witnesses and their colleagues and the authorities that carry out care inspections about how to formulate provisions that will meet the demands of both agencies. How proactively is that being driven forward?

Graham Donaldson: It is important to remember that the bulk of pre-school provision for three to five-year-olds takes place in nursery classes that are attached to schools. One of the reasons why it is important for us to retain a role in pre-five inspections is that if we were to pull out, two separate inspection regimes would operate at school level. As the member is aware, it is not easy to reconcile the complexity of the context within which pre-school provision is delivered and the nature of the inspection or regulation regime that should surround that. Obviously, there is not a commission at the moment. That is what I meant when I said that we would have to wait until the commission was established before we could engage.

Work has been done on preparing a common set of indicators through the child at the centre initiative, which covers care and education and provides a sound basis for moving forward. We have a common point of reference on care and education for those involved in external scrutiny and, importantly, for the deliverers, who can use the framework for self-evaluation. There is a process of continuous improvement. There is a joint exercise between internal and external evaluators to try to bring about that improvement.

There has been quite a bit of preparatory work to ensure that the way we move forward will provide a common framework and a joint approach to safeguarding the interests of young people. The next stage must be that we have a commission to which we relate. We need to work out the mechanics of that, which is what we will do as soon as the commission is in being.

Mr McAveety: In your introduction, you said that you are focused on inspection rather than regulation. One of the issues that has been raised with the committee is the fact that the two bodies will be doing that. While you may have a clear view of the distinct approaches, others perceive

them as similar things. Having experienced the pleasures of an HMI inspection on two occasions in my career—

Graham Donaldson: That is always a problem for us.

Mr McAveety: I am loth to wish it on anybody else, because you need care after the trauma and hiding photocopies.

It strikes me that the issue is how to build confidence in folk. Potentially, there will be two stressful, but necessary, visits over a period of time. The visits will take place much more frequently than previously. Teachers used to think, "They were here two years ago so maybe they'll get to me the next time." The inspection and regulation structure needs to be seen as supportive. How will the distinction that you tried to identify in your opening remarks be clarified?

Graham Donaldson: It is probably some time since you were last inspected—

Mr McAveety: I am still suffering.

Graham Donaldson: Generally, there is a major effort from the outset, in advance of the inspection, because we recognise that inspection is, potentially, a stressful experience for people—any external scrutiny has the potential to be stressful. We therefore try to put a human face to the inspection as soon as possible. The person who will lead the inspection meets the people who will be inspected and talks them through what it will mean for them. There is considerable up-front effort early on, to try to ensure that we explain exactly what we are about and to allay fears as far as we can.

One of our biggest problems is that people often have a view of inspection that is derived from newspaper headlines, not from reality. In the past two years, we have used System Three to undertake independent surveys of those who have been inspected. Interestingly, one of the clear findings is that people have a much more positive view of inspection after they have been inspected than they had beforehand—the experience of inspection is, by and large, positive. Sometimes, there is quite substantial movement.

I am conscious that there is an issue with confidence and that the inspectorate must get across throughout the process the fact that inspection is done not to you, but with you. I see some people looking sceptical. Getting that across is not easy, but that is the stance that we try to take.

Mr McAveety: I am trying to clarify the distinction that you drew between inspection and regulation. Someone on the ground may not perceive them to be different experiences. We need to get into the grey area. We need a

constructive development, which improves the quality of the educational experience for youngsters.

Graham Donaldson: Absolutely. The commission would be involved at least annually with the providers. We would be involved with the providers on our normal inspection cycle, which is probably every five years for pre-school providers. In relation to care, we are talking about a pretty secure annual process. For education, the work will be done, as it is at the moment, on a less frequent cycle, but we will go in and have a thorough look at the nature of the educational experience that the youngsters are getting and at whether those who are providing that educational experience have the required commitment to self-improvement and self-evaluation, which is a critical part of what we now do. We are trying to make inspection a joint inspection. Most of the time, that is how inspection happens in practice—not always, but most of the time.

Kate Cherry: Co-ordinating our inspection processes and the standards that will be used is a positive way forward. For the people who are being inspected, it makes for a more cohesive examination, because the standards by which they will be inspected, which will be shared with them, will be similar. The process will be less daunting if people know that every year people will come who will use the same standards. I should add that we do not inspect all pre-school provision, only the educational element.

Mr Monteith: In your written evidence, you mention the need to register under the Children Act 1989 and the fact that since the 1996 initiative on pre-school provision, HMI not only considers education provision, but takes account of key aspects of the care of children. You say:

"Since 1996, HMI have inspected and reported on some 1,200 centres."

We can consider the issue only loosely, and perhaps more detailed information could be provided to the committee. Can you tell us whether, in your reports on those 1,200 centres, you were ever critical of instances of poor care? If so, were instances of poor care common? What sort of comments have you made?

Kate Cherry: Each report that we publish on registration inspections covers elements of the children's care—their emotional, personal and social development, their relationships with the staff and the ethos of the centre. We have published such a report for each of the 1,200 centres.

We have also published annually a quality report of the registration inspections, which gives a summary, year on year, of where the weaknesses have lain. The weaknesses in the care side have

not necessarily been identified fully. The most basic deficiencies have been in areas such as self-evaluation, planning and assessment. The need to build better relationships with community and other centres and with professionals has been identified as an area that needs to be acted on. The reports can be made available to the committee.

The Convener: A final question, Brian?

Mr Monteith: I have two questions. Given that you have conducted inspections of more than 1,200 centres and that you are an independent body that applies national standards and has an agreed framework—to use Irene McGugan's phrase—would it be possible for the commission, if it existed, to delegate the task of inspecting care to HMI, whose role could be developed to include the regulation of care on its behalf? That would avoid any duplication of inspections.

Graham Donaldson: That would be a possibility and will have been considered when the bill was framed. You would have to ask the minister about the decision that would be taken.

Mr Monteith: I will.

The Convener: Thank you for answering our questions.

Mr Monteith: I have one more small question, about the written evidence.

Mr Donaldson, you mention that you have 150 part-time pre-school associate assessors. I assume that they will continue working for you because of the educational inspection needs and that none of them will be lost to you. Is that correct?

Graham Donaldson: That is correct. There is a natural turnover in associate assessors as they are delivering pre-school care or are practising teachers. We train them and they work with us on a set number of inspections. That process of having associate assessors involved in the pre-school inspection would continue.

The Convener: I thank our witnesses for giving evidence.

I thank our final witnesses, from the Association of Directors of Education in Scotland, for their patience. I ask Bernard McLeary to introduce his colleague and make some introductory comments. Mr McLeary, you can assume that we have read your paper in full.

Bernard McLeary (Association of Directors of Education in Scotland): I am the director of education for Inverclyde Council and my colleague is Linda Kinney, who is head of children's services for Stirling Council. We have given the committee a brief paper, which we produced at extremely short notice. I would like to highlight a few areas

before Linda Kinney talks about a few more specific and interesting operational details.

ADES welcomes the Regulation of Care (Scotland) Bill but we would like some of the regulations to be considered. Account must be taken of the fact that in 15 of the local authorities in Scotland there is integrated child care and early education provision. We think that the practical and operational implications of that should be taken into account.

12:15

We want there to be integrated planning. We are told about seamless provision. For that to work, there are developments at Executive and local authority level that need to co-ordinate with the commission.

The local dimension is important and I think that the committee acknowledged that fact earlier. Linkages must be developed between the commission and whoever is working locally, whether it be groups or local authorities. Local knowledge is critical for the protection of children and for the improvement of quality. We understand that there will be practical difficulties in achieving that aim. There will be five regional offices, 15 health boards and 32 local authorities. Ensuring local linkage within that framework will be a complex task.

The bill will have implications for staffing in terms of the need for a clear definition of roles for staff who work in early education and child care at the pre- and post-registration inspection and the follow up. Local authorities will be important in that regard. Also important will be the practical issues relating to staff at the point of transition. Difficulties may arise from the decisions of staff either to take or not to take the option of moving. We want to remind the committee that, at the time of local government reorganisation, there was a form of staff commission—a short-term body that helped to resolve difficulties. That would be useful in the situation that we are discussing.

We hope that there will be transparency in the funding that will be taken away from local authorities to fund the regulation of care. We have concerns that the proposed model of self-financing might not be realistic. I am sure that more detailed work will have to be done in that area. Careful consideration must be given to the charging of registration fees. If they are not affordable, they might act as a disincentive to local provision.

Linda Kinney (Association of Directors of Education in Scotland): One of the key issues that has been raised this morning is the integration aspect of early education and early care. ADES welcomes the intention of having one structure and the acknowledgement that early education

and care are inseparable. However, we do not think that the current proposals will achieve that; we think that they will separate early education from early care, which is a matter of concern to all local authorities that operate early education and care, particularly to the 15 local authorities that have integrated provision.

I will give the committee the example of a nursery class operating in a primary school structure to illustrate how the set-up will look in practice. Because of the expansion in early-years and pre-school provision, there has been an expansion in the number of nursery classes. The nursery class that I have in mind operates within the structures of the primary school, is managed by the head teacher of the school and is subject to the quality-assurance processes that the local authority puts in place for education.

The proposals mean that that nursery provision will be inspected by HMI for the three-to-five curriculum aspects and will be inspected by the commission for the care aspect. Also, the head teacher, who is GTC registered and has satisfied all the local authority's requirements for being a head teacher, might have to register with the commission as the manager of an early-years provision institution. The nursery staff might also be subject to dual registration, which is a concern in the context of the integration of services.

A private nursery that operates zero-to-five provision all year round would be subject to care commission regulation and inspection and HMI regulation and inspection and have to satisfy some local authority quality assurance procedures in respect of commissioned places for pre-school education. That is the current situation, which the proposals would not change. That concerns us because ministers gave a commitment to harmonise registration and inspection procedures. In our view, the current model does not do that.

We urge the committee to reconsider some of the proposals that were set out in the policy memorandum, which would enable either the commission or HMI to inspect and regulate all early-years education provision, as has been the case down south.

Mr Monteith: I have a question about the fees for registration. You are probably familiar with the phrase top-slicing, which is often used to describe the difference between the amount of money that is passed on to the nursery and the amount that is received from central Government. That is explained by, among other things, local authorities making provision for training. Would any of that money be deemed part of registration? If that were the case, might we be simply changing the organisation of that money, in that the registration fees will increase but, correspondingly, the local authorities might reduce the amount of money that

they take away? For example, a nursery might receive more money from the local authority to meet the greater registration charge. I am curious as to whether registration is currently a component of top-slicing.

Linda Kinney: Currently, top-slicing money is not related to registration and inspection functions at all. Any top-slicing relates entirely to support, training and quality assurance; it is important to emphasise the fact that commissioning arrangements between a local authority and a private partner to buy a pre-school place is for that purpose only.

Bernard McLeary: In several authorities, the top-sliced element is greater—the local authority makes a greater contribution through its own services than the top-sliced element would provide.

Irene McGugan: Could you set out ADES's understanding of the financial implications of the transfer of staff and responsibilities from local authorities? Local authorities will no longer carry out the process of registration and inspection, but they will be charged fairly substantial registration fees for the services that they provide. How will that balance out? How will it affect local authority budgets?

Bernard McLeary: We are working on detailed costings at the moment. We cannot give any specific information. With COSLA, we are considering the financial implications. There are other implications. We have staff who spend perhaps half their time on registration and inspection and the rest of their time on other local authority duties. That makes decisions difficult, particularly in relation to staff choice.

Linda Kinney: Perhaps I may return to the example I gave a moment ago. Currently, the nursery class that I mentioned does not pay HMI any registration or inspection fee, but it will be required to pay a fee to the commission to be inspected for care. The current inspection fee for private day-care providers is £85 a year; they must pay a separate registration fee. The implication for local authorities is that they will be required to pay an inspection fee for all their own establishments. It has not yet been clarified whether they will have to pay a registration fee.

Stirling Council is a very small authority, but has calculated that it will cost between £7,000 and £8,000 to have the council nurseries inspected for care. That is perhaps a small amount of money, but it is important that that money is recognised in the budget. Similarly, it does not balance up in terms of the actual cost of inspecting that provision.

The Convener: Perhaps, when the figures are available, Bernard McLeary can pass them on to

the committee through the clerks.

Bernard McLeary: Certainly.

The Convener: Your evidence was comprehensive and very helpful.

Irene McGugan: In your written evidence, you mention that you have some concern about the establishment of two new bodies—the commission and the council—and suggest that the work load might be combined. Can you expand on that?

Bernard McLeary: It is not really sensible, for a range of pragmatic reasons, to have two new non-departmental public bodies. First, local authorities are seeking a one-door approach—not only for us, but for other providers. Secondly, local authorities operate under a best-value regime. We suggest that one regulatory body with a sub-committee structure serviced by a single office would better fit that. Finally, as a point of principle, the commission and the council would have to work together very closely and that demands a more integrated approach.

The Convener: Thank you for your evidence. I close the meeting. [*Laughter.*]

Mr McAveety: Convener, there is no truth in the rumour that Ian Jenkins was lurking outside the room for two hours, waiting for you to say that.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): I hope that my attendance will be noted.

The Convener: I thank members for their attendance.

Meeting closed at 12:25.

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