

EDUCATION, CULTURE AND SPORT COMMITTEE

Tuesday 18 September 2001
(*Afternoon*)

Session 1

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EDUCATION, CULTURE AND SPORT COMMITTEE

23rd 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

Alison Cleland (Napier University School of Law)

Roddy Macdonald (Scottish Executive Health Department)

Mr Alasdair Morrison (Deputy Minister for Enterprise and Lifelong Learning and Gaelic)

Angela Wiseman (Scottish Executive Education Department)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Judith Evans

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 1

Scottish Parliament

Education, Culture and Sport Committee

Tuesday 18 September 2001

(Afternoon)

[THE CONVENER *opened the meeting at 13:33*]

The Convener (Karen Gillon): I call this meeting of the Education, Culture and Sport Committee to order. Do we have any apologies?

Martin Verity (Clerk): We have received apologies from Mr Brian Monteith.

The Convener: Please ensure that all mobile phones and pagers are silent or switched off.

Item in Private

The Convener: The first item on the agenda is to consider whether to discuss item 7 in private. There is a difficulty, because the adviser feels that her position might be slightly compromised if she gives information and advice to the committee in public. I am interested to hear members' views.

Michael Russell (South of Scotland) (SNP): I am, as you know from previous discussions, reluctant to discuss in private items other than draft reports or matters that are of such sensitivity that discussing them publicly would damage individuals. I do not think that there is any strong reason to discuss the item in private. I accept that the adviser is giving opinions, but that is what advisers are for. We should proceed with this important inquiry, to which we are all deeply committed, in the clear light of day.

Cathy Peattie (Falkirk East) (Lab): I agree.

The Convener: Is it therefore agreed that we will discuss item 7 in public?

Members *indicated agreement.*

Gaelic Broadcasting

The Convener: Item 2 on the agenda is the final evidence-taking session of our inquiry into Gaelic broadcasting. I welcome to the meeting Alasdair Morrison, Deputy Minister for Enterprise and Lifelong Learning and Gaelic. Thank you for coming, minister. I believe that you want to make some opening comments and I ask you to do that now.

The Deputy Minister for Enterprise and Lifelong Learning and Gaelic (Mr Alasdair Morrison): Thank you. I was hoping at this stage to introduce one of my officials, Francis Brewis. I saw him at one o' clock, but I do not know whether he has managed to negotiate the distance between parliamentary headquarters and this building. However, I have no doubt that he will join us later.

I am grateful to the committee and to you, convener, for allowing me to come at this late stage of your proceedings. I understand that I was scheduled to come on a previous date, which unfortunately clashed with a prior engagement. I thank the committee for its forbearance.

Francis Brewis is now on my right. Francis is an official from our sports, arts and culture division, who deals with the Gaelic portfolio.

The United Kingdom Government and the Executive are examining the proposition that there should be development of digital technology and a new regulatory system to provide an opportunity for the Gaelic community to harness the power of modern communications to support linguistic, cultural and economic development aims. Members might have heard it said in previous evidence that there are expectations on minority-language broadcasting that are not placed on majority-language broadcasting. For example, minority-language broadcasting is asked to support linguistic development and to play a cultural role. The imperative to succeed and the capacity for failing are greater in minority-language broadcasting. That places additional burdens on those who are responsible for it, including legislators.

In recent years there has been a shift in emphasis in broadcasting legislation from defending cultural values to meeting economic development objectives. That has stemmed from the broadcasting industry being increasingly recognised as a significant economic force in the creative industry and the broadcast spectrum, as well as being a valuable economic and cultural asset. That is one of the reasons why the forthcoming communications bill is so important. Government must ensure the continuation of

protection for public service broadcasting values such as quality, universal access, affordability, innovation and range of programming, while legislating for a regulatory framework that will enable the UK creative and communication industries to compete in the global marketplace.

If Gaelic broadcasting is to be sustained in the competitive digital environment of the 21st century, it must be placed within the framework of regulation and it must be established under UK legislation. It must be normalised, not marginalised. The Gaelic creative community should be encouraged and enabled to engage with the cultural industries to allow it to exploit the opportunity that broadcasting can provide for economic as well as cultural and linguistic development. On the basis of the evidence given to the Milne task force and the public evidence given to the committee, current arrangements for Gaelic broadcasting—whatever their merits or demerits in the analogue environment—do not adequately equip the Gaelic community to meet those challenges.

Despite the drawbacks inherent in the limitation of the powers of the Gaelic Broadcasting Committee—Comataidh Craolaidh Gàidhlig, or CCG—and its dependence on ITV schedules, the CCG's experience has shown that much can be achieved by an organisation that is dedicated to Gaelic broadcasting development. That is evident in CCG strategies for funding, research, training, development and production, and in its activities in supporting and complementing the work of Gaelic language education and arts development organisations.

It is important that a minority-language broadcaster in the digital age, while being first and foremost a broadcaster, is equipped to deal with the dual set of expectations—linguistic and cultural—that are held by the community, and with the responsibility for delivering value for money. That points to the need, in the Gaelic context, for the establishment of an organisation that is empowered to operate independently in the digital broadcasting environment while co-operating with Gaelic development organisations to meet common aims.

The Gaelic broadcasting organisation in the future must not be beholden to competing channel broadcasters, but must be free to compete for audiences. That is a powerful incentive for ensuring relevance and quality of output. It should also be free to add value to its core public funding by seeking sponsorship and advertising revenue, by maximising programme sales and by negotiating co-production arrangements.

It is possible to envisage a Gaelic broadcasting organisation that is established under UK legislation and which works within the

broadcasting industry and with the Gaelic community and the Gaelic organisations—supported by the Scottish Executive—to meet the dual set of expectations inherent in minority languages. That is why it is so important for the Scottish Executive to continue to work with the Scotland Office to determine the appropriate structure for Gaelic broadcasting in future. The solution they deliver should recognise Gaelic broadcasting as a UK and Scottish issue and should be designed to support linguistic development initiatives as well as meeting public service broadcasting objectives.

Michael Russell: I am grateful to the minister for his paper and introduction, which are helpful. In the spirit of being helpful, and as this is a Scottish issue and you are the minister who has responsibility for Gaelic, I will not debate the role—apart from the legislative one—that the UK should have in this matter. I will leave all that aside. I want to ask a couple of specific questions about things that you have said or that have arisen in our inquiry.

I think that you are familiar with the *Official Reports* of the committee's inquiry. You mentioned a Gaelic broadcasting organisation as something for the future, but the question of the structure that that organisation will fit into is difficult, given the move away from a diverse series of regulatory bodies. How do you see a Gaelic broadcasting organisation fitting into the much looser structure of regulation that appears to be developing?

Mr Morrison: I hope that every Gael and every person around this table is supportive of the principle of establishing a Gaelic organisation that is responsible for broadcasting. We must appreciate what has been achieved over the past 10 years. There were weaknesses in the way in which Gaelic broadcasting was established, which is recognised not only by those who work with and oversee the moneys, but by those involved in broadcasting and many viewers. As I explained in my paper and my introductory remarks, we are working closely with UK colleagues. I know that Mr Russell does not want to be difficult, which is a great departure from his usual ways of engaging.

Michael Russell: I hope that you welcome the novelty.

Mr Morrison: Absolutely. We have work to do and there is a clear timetable for UK legislation. We will work with the Secretary of State for Scotland and ensure that officials from the Scottish Executive, the Scotland Office, HM Treasury and the Department for Culture, Media and Sport are working to the UK timetable. The Executive and the committee have a role in that process. The committee's views will be noted and used by the individuals, the officials and the

ministers that are involved. I hope to meet before the Christmas recess with Dr Kim Howells, the minister who is charged with taking the Office of Communications Bill through Westminster. I understand that, by that stage, I will be armed with the committee's report, as the committee will be reporting before the October recess.

Michael Russell: The report will be published after the October recess, I hope about the end of October.

Mr Morrison: That will be useful—it will help to inform what the Executive does and it will be fed into the UK network.

Michael Russell: To take that a stage further, we should think about what structures will emerge. There will be a British Broadcasting Corporation that is governed by some form of charter and which will be a wider organisation than the one that we have at present. There will be a range of broadcasters in the independent sector, whose regulation will perhaps be lighter and more different, but there will be a range of regulation.

One of the problems that you alluded to in your opening statement is the difficulty that the CCG has—and its predecessor the Comataidh Telebhisein Gàidhlig had—in operating across that divide. It is a body that does not commission programmes, yet pays for programmes. It does not schedule programmes, yet there is an expectation that programmes will achieve the maximum possible audience.

The minister might not be able to answer the question of where a new Gaelic broadcasting organisation will fit, but he might be prepared to accept that that question will be crucial in discussions on that organisation. The matter is not technical—it is a matter of whether the organisation can get programmes on screen. Therefore the way in which the organisation is regulated is important.

13:45

Mr Morrison: We are retracing our steps in relation to the weaknesses of the current arrangements. The CCG administers moneys, but it cannot schedule or determine what happens in broadcasting. Mr Russell's question is fundamental and it must be addressed during the process. I do not want to commit myself in a public forum. I am happy to share with members my private views on what should happen, but given that the meeting is in public, we should tread carefully and sensibly during this important process.

Michael Russell: I accept that and I look forward to hearing the minister's private views on the matter, which I am sure will be influential. I will

choose a subject that it is easier for you to talk about.

Clear evidence has been presented to the committee that the Gaelic broadcasting fund, although affected by the lack of increase in resources, has had an important role in sustaining Gaelic in the past 10 years. The fund is one of the key platforms of the policy to sustain Gaelic. However, the minister is well aware that the number of Gaelic speakers continues to fall and that the census figures are not awaited with excitement or anticipation. What wider role can Gaelic broadcasting have at this time, given that the problem of declining numbers exists and is getting worse? What sectors should Gaelic broadcasting be playing to? Should it be spending more money on education? What are its key priorities for the next 10 years, given that the Executive has established a task force and a working group that are examining seriously the problems and possibilities of Gaelic?

Mr Morrison: In an ideal world, Gaelic broadcasting would be working across the same sectors that one would expect any broadcasting facility to work across. On my way to the meeting, I received a copy of Dr Finlay MacLeod's written submission to the committee. I do not want to add to or detract from what Dr MacLeod said to the committee. The second paragraph of that submission states:

"No modern culture and its associated language can function adequately without the normal fabric of communications and media, so that such a culture is in touch with itself and with the wider world. Gaelic Scotland requires no more and no less. A Gaelic television service is a necessary element in Gaelic society."

Dr MacLeod summed up ably and succinctly what we should be about—normalising as opposed to marginalising provision for Gaelic. What has been achieved during the past 10 years has been remarkable, in both education and the way in which the CCG has managed to link with other important organisations in Gaeldom. I hope that we will build on what has been achieved and widen its scope.

Michael Russell: My question was about priorities. Socialism might no longer be the language of priority and you might reject both definitions, but I asked about priorities, in terms of the limited amount of money that is available. What should be prioritised in your overall strategy to help you to deliver your objectives as minister with responsibility for Gaelic, and to help Scotland to deliver the objectives of sustaining and building the language?

Mr Morrison: As Michael Russell knows, one of the Executive's priorities with Gaelic is education. Since 1996 we have made considerable strides and have continued to build on the success of

Gaelic education. There is no point in educating children in Gaelic if Gaelic is not relevant. Television helps to make Gaelic relevant. That is an area in which there are obvious benefits in Gaelic broadcasting that complement what we are doing in Gaelic education. Children in the Gaelic education system are able to relate to and view television, like any other child in Scotland.

Personal anecdotes are sometimes useful. I am experiencing those benefits through my daughter, who is two and a half. She rightly expects to see, and is thoroughly engrossed and engaged in, Gaelic cartoons. One day she will realise that she has been duped because she is watching continual repeats of the same cartoons. I hope that by that time we will be working on improving the situation.

It is important for me as a parent, and I am sure that the same is true for many other people, that there is normal provision for their children because children expect and appreciate cartoons. Some Gaelic cartoons are more challenging than some daytime television.

Cathy Peattie: My student daughter also watches Gaelic cartoons, although she is much older than your daughter.

I am interested in the promotion of Gaelic. You say rightly that education plays a great role in that. Arts and culture are likewise important in encouraging people to hold on to their language or to learn a language, yet I hear from those who know that Gaelic broadcasting contains fewer cultural and arts programmes at the moment. Why? What should happen to ensure that listeners, stakeholders and people who want to promote the language have a say in what is broadcast?

Mr Morrison: Cathy Peattie might be aware that the BBC is filming a series on the island of Harris, which is to be broadcast in February 2002. The cost of such productions must be appreciated. I am not aware of the criticism that there is a lack of arts production. People make a similar criticism that there is inadequate coverage of sports such as shinty, which is indigenous and one of Scotland's oldest games. I hear regularly from people who say rightly that sports provision is inadequate.

I am not here to defend provision. I put up my hand immediately and say, "Of course there isn't enough." The broadcasters and the CCG must work within the constraints of their budgeting formula. I have been told that broadcasting one Premiership football match costs about £6.5 million. That puts the Gaelic television budget in context.

Cathy Peattie: Do you agree that it is important that broadcasters listen to comments and that

some way of gathering information is found, to ensure that they reach their target audience?

Mr Morrison: That is an essential part of any broadcaster's responsibilities. I have no doubt that broadcasters will respond to constructive criticism and suggestions from the community that they serve.

The Convener: The inquiry has been many committee members' first delve into the world of Gaelic broadcasting. Many members began with a small knowledge base. A couple of issues struck other committee members and me when we visited Stornoway. The first was the strength of feeling among local people that a dedicated Gaelic channel was needed. That matter is under debate. I would be interested to hear your views on whether a Scottish channel that Gaelic broadcasters could buy into should be established, or whether a dedicated Gaelic channel should be established. Arguments for both options were made vociferously, for different reasons.

The other issue that the committee heard about concerned the location of the headquarters of such a Gaelic organisation. Strong arguments were made on both sides of the debate about whether it was necessary to have the headquarters in the Gaelic heartlands, regardless of whether that is in the Western Isles, on Skye or in central Scotland—some argued that more Gaelic speakers lived there. The minister has a constituency interest, so I do not ask him to declare which part of the Gaelic heartlands he would like the headquarters to be located in, but a debate is being conducted about the location, which is a symbolic issue.

Mr Morrison: I thank the convener for helpfully raising those issues. The convener is right—as the minister who is responsible for Gaelic, I must take an all-Scotland view, while recognising the legitimate aspirations of my constituents. I have discussed informally with members the fact that the obvious place to locate every Gaelic organisation is my own native island of North Uist, where 94 per cent of the population speaks Gaelic, but I do not imagine that other islands and other parts of the Gaidhealtachd of Scotland would appreciate the merits of that argument. I say that in jest.

I support the establishment of a dedicated Gaelic channel. I hope that all members are signed up to seeking such a channel. I appreciate the merits of a Scottish channel and of people developing relationships with other cultural communities in Scotland, but my concern is that Gaelic would be shunted to the margins again, instead of determining its own priorities and the Gaelic community determining when broadcasts are made and what the feeding or sustaining services are. We should have a dedicated channel

that is run by those who know, who appreciate the concerns that Cathy Peattie mentioned, while serving the arts community and those who want shinty coverage, for example. A dedicated channel must be established. That is the only way forward.

The channel should be firmly located in the Gaidhealtachd. The Gaidhealtachd is the heartland. For historic reasons, the Western Isles are recognised as the last heartlands, although other communities, such as Tiree and Islay, rightly claim their place in the Gaidhealtachd. I recognise the argument about the central belt. I assume that some broadcasters—because of their interests—would not wish their control over infrastructure and other matters to be loosened. Those arguments are important, but the channel should be firmly located in the Gaidhealtachd.

The Convener: It is obvious that a dedicated channel is some time away, because it will not be created until—and if—the relevant legislation is passed. Another big criticism about Gaelic broadcasting is that the programmes are scheduled at inaccessible times or not given proper priority. Much of that concerns reserved matters, but what role can we have in influencing scheduling or promoting the fact that Gaelic programmes should be given slots at which people can watch them, rather than their being scheduled at 1 am, when people cannot watch them as freely as we can watch mainstream broadcasting?

Mr Morrison: The answer comes down to the argument about normalisation. Over the years, the way in which some broadcasters have happily taken the pound and the pence and have broadcast programmes at ludicrous times has been nothing short of disgraceful. We are looking for normalisation, not marginalisation. I will not begin to cite the many examples of programmes with good production values that have been broadcast in the middle of the night. That is an appalling betrayal by some broadcasters. As I said, they happily sign up and access the moneys that are available to make programmes, but they drop those programmes in a 3 am slot.

Irene McGugan (North-East Scotland) (SNP): You said that the role of minority broadcasting was more than merely cultural, that it does more than preserve the language and that it had to have an economic element. I have a question about the jobs that have been created and the new skills that have been acquired in the past 10 years. Are you satisfied that the training course at Sabhal Mòr Ostaig and other initiatives to encourage writers, directors, producers, technicians, actors and presenters have been as successful as you would like? If they have been successful, how do you envisage continuing such initiatives?

Mr Morrison: One pillar of the argument of those who railed against making any provision for

Gaels and Gaelic broadcasting was that we would not be able to produce enough broadcasters, producers, journalists and trained technicians to work in the industry. That argument has been well and truly obliterated.

Irene McGugan mentioned training courses, which have been successful. They moved in the right direction, but did they fill the gaps? They moved at a reasonable pace. We hope to build on the successes of Sabhal Mòr Ostaig's training. I cannot remember offhand the details of the jobs that have been created, but from cursory glances through the evidence that the committee took, I assume that the committee has a detailed explanation about those jobs.

Such jobs are important to the wider economy of the Gaidhealtachd and to the island communities. Historically, people have left the islands to go through the university system and to graduate. Gaelic television and broadcasting have afforded those people the opportunity to return to the Gaidhealtachd. We want to encourage and build on that. Are we satisfied? I concede that we are not. We want more to be done and more development. We are all signed up to that.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): Most of the points that I wanted to make have been covered. You said that good programmes with high production values had been shunted from mainstream times by unsympathetic schedulers.

There were difficulties in producing up to 200 hours a year of programmes—that is what the figure was, although it is now falling. If a Gaelic broadcasting organisation tried to cover a much wider spectrum, would that threaten production values? Such an organisation might try to do more with not enough. To what output should the Gaelic broadcasting organisation aspire? Are you talking about an output of one day, two days or so many evenings a week? How would a Gaelic broadcasting organisation cover the territory?

14:00

Mr Morrison: I hope that such an organisation would be able to cover the territory in much the same way that, for example, the BBC Gaelic radio service has covered the territory and carried out remarkable work over many years. I would hope for a normal service that begins at 7.30 am, continues to midday and then continues at 5 pm with youth programming thereafter—people seek that normality.

Obviously, the Milne report's aspiration to produce three hours a day every day involves a significant BBC element. We seek normality and normalisation. Radio nan Gaidheal's daily work involves a spectrum of work and high production

values. We would like that radio model to be replicated on television.

Ian Jenkins: Nationally, the BBC uses many American programmes and there is much repetition. I wonder about the feasibility of full-scale broadcasting using small resources.

Mr Morrison: Mr Jenkins raises an important issue. The aspiration is not to have a 6 am until 6 am schedule—that would simply not be feasible. People will want to move to the BBC radio model, where there is an air of normality about the provision of broadcasting. Arts, sport and current affairs are covered and not just in a Scottish context. There would be the same news provision that one would expect from Radio 4, Radio 5 or Radio Scotland.

Michael Russell: I think that there is broad agreement that we are in transition from one model to another. When will we have the new model? When will a digital broadcasting service in Gaelic be established?

Mr Morrison: A communications bill is expected in the 2002-03 session at Westminster. As I outlined in response to an earlier question, DCMS officials are working on that. The Scottish Executive is hooking in with and working towards that timetable. I will have a meeting before the Christmas recess with Kim Howells to discuss the timetable and its important milestones.

Michael Russell: You spoke about a comparatively normal service with a range of different programmes. With the best will in the world, the infrastructure to produce four, five or six hours of programming a day does not exist, at least not yet. Assuming that resources are made available, what run-up would be required between legislation being passed and a channel coming on air? What is your best guess?

Mr Morrison: Ideally, a channel would come on air the day after the legislation was passed, but that aspiration is not realistic. I have worked in broadcasting, but I am not an expert on production. I cannot give a straightforward or meaningful answer on the timetable, but a channel would come on air as quickly as people could provide one.

Mr Frank McAveety (Glasgow Shettleston) (Lab): I am intrigued by what the minister said about cartoons. My television experience might be enhanced if cartoons such as "The Simpsons" and Daffy Duck were put on more frequently.

The minister mentioned an appalling betrayal by broadcasters and the main broadcasting companies. What can we do about that? What signals can we send that would address concerns about the role that they play, particularly in scheduling and in the quality of and support that

they give to programmes?

The committee has copies of the recent edition of the "Regional Film & Video". The headline is "Gaelic Broadcasting in Crisis". I am not convinced that that is confirmed in the report, but Matt McIver indicates that the resource base—particularly between 1999 and 2001—has meant a reduction of broadcasting hours. Will that change? If the minister cannot enlighten the committee on that today, it would be helpful if he could at another time.

The key recommendation in the Milne report concerns a dedicated channel—we have tried to tease out a time scale for that. Would the minister comment on those points?

Mr Morrison: I reaffirm my commitment to a dedicated channel as outlined in the Milne report. On cartoons, I recommend "Sam Smàlaidh" and "Pàdraig Post" to Mr McAveety. His life experience will be greatly enhanced if he sits down and watches them for hours on end.

I recognise what the BBC is doing. It broadcasts at sensible hours—in post-teatime slots—but that cannot be said about SMG, which I think has a commitment of 30 minutes per week. That does not come within a million miles of the normality that we seek.

I would be greatly indebted to the committee if, on behalf of the wider Gaelic community—and indeed, on behalf of the many thousands outwith the Gaelic community who have accessed Gaelic programmes over the years—it could send a strong signal to broadcasters about their moral obligation to the communities that they are meant to serve. We are not talking about Gaelic in isolation and the 60,000 to 70,000 people who still use the language daily and for whom Gaelic is their first language. The learners out there are another important constituency. Tens of thousands of Scots have accessed Gaelic current affairs programmes and drama series.

The Convener: I thank the minister for giving evidence. We aim to publish the report by the end of October and we will ensure that he has a copy.

Michael Russell: It is more likely to be published in the first week in November.

The Convener: It may be published in the first week in November—anyhow, the minister will have a copy before he goes south for his discussions.

We have all been struck by the Gaelic community's strength of feeling and its desire for a dedicated Gaelic channel—that will bear heavily on the committee's deliberations.

Mr Morrison: I thank the convener for the opportunity to attend the meeting. I would be

grateful for a copy of the report. As I said, I hope that I will have a meeting with the UK minister before the Christmas recess and the report would be useful.

Meeting adjourned at 14:07.

14:09

On resuming—

Work Programme

The Convener: Item 3 is the committee's work programme for the next year. As members know, we had a useful two days last week discussing the work programme with various experts and ministers.

I highlight one piece of work that is on the agenda—the issue of a children's commissioner. Members will be aware that we have been working on that for some time. Last year, our work was delayed because of the Scottish Qualifications Authority inquiry. However, the committee is absolutely and whole-heartedly committed to the idea and an adviser is working on it.

I was therefore surprised and disappointed to read in the *Sunday Herald* that an Executive source held the view that the Minister for Education, Europe and External Affairs is considering taking responsibility for the children's commissioner inquiry away from the committee. I do not think that that is in the gift of the Executive. Following the committee's discussions with the minister last week, I was surprised to read that. I intend to write to the First Minister to ask for an assurance that there is no Executive plan to remove the responsibility from the committee for investigating and proposing legislation on a children's commissioner. I have had no indication from the Executive that it holds that view, but it would be useful to have that on record and to have reassurance from the First Minister.

There is a slot in the work programme between now and Christmas. I envisage the committee using most of, if not all, that time to take evidence on a children's commissioner. We could also use that time to hold a conference for children and young people—something that the Executive would not do if it took charge of the issue. From the evidence that we took at the conference on 25 June, it struck me that children and young people have different views, expectations and hopes of a children's commissioner from the views, aspirations and hopes of the organisations that work with children. The committee feels strongly that we should organise a civic participation event that involves children and young people from all sections of society in Scotland to take their views on what the role and responsibilities of a children's commissioner should be.

That is an important piece of work for the committee and I welcome members' views on what I have said about the committee's role and on how we should proceed with the issue.

Michael Russell: I endorse your view, convener. As I understand it, the committee has a unanimous and strong commitment to developing the idea of a children's commissioner. Symbolically, if for no other reason, it is important that that work be done across the parties with a measure of independence from the Executive. That principle has guided all our thinking. We should consider not proceeding in that way only if there is an issue of urgency and time.

The Executive's legislative programme appears to be full. The difficulty with the time scale would be in finishing the consultation and getting assistance with drafting, both of which could be facilitated if the Executive assisted the committee, particularly with the drafting.

In the circumstances, I, too, was surprised by what I read in the newspapers. I do not believe that there is any power in the world by which a minister can remove an item from a committee. The committee is autonomous and serves the Parliament. Certainly, the Executive could suggest that it takes on the item and it could negotiate and discuss the issue with the committee. In some circumstances, the Executive might just start on something and to hell with whether the committee is involved. However, to give the impression that the committee is a grace-and-favour instrument of the minister in acting on the issue would be entirely wrong. The committee is undertaking the project because it has a commitment to the idea, it wants it to succeed and it is doing the right things.

The committee needs to take action as promptly as possible. I am grateful to the convener for indicating that the committee's priority between now and Christmas should be to complete an inquiry. I hope that the Executive will lend some resources to the committee for the drafting of a bill thereafter. We should then be able to introduce and complete the progress of that bill during 2002. That should be distinctly possible and it would be an achievement not for us but for the young people of Scotland.

14:15

Cathy Peattie: Convener, I support your statement and what Mike Russell has said. We have started down the road and there are expectations that we will continue with that work.

The seminar that was held at the end of last year to hear what young people had to say was a clear indication that young people in Scotland expect some kind of structure that will listen to what they are saying.

I have met some young people and organisations that work with young people. They are gearing up to give evidence on a children's commissioner. Likewise, some local authorities

are keen to develop their children's commissioner with a view to linking into a national children's commissioner. Those local commissioners would be independent.

The idea that the committee would proceed with the bill for a children's commissioner has been welcomed. I was therefore surprised by the article in the *Sunday Herald*. I would like the matter to be checked out.

I agree with Mike Russell. It would be helpful to get some assistance with drafting somewhere down the line. This will be a big piece of work but the committee is up to doing that work. The time scale is important. We want to get the legislation in place as soon as possible. We have an adviser in place. We have the mechanism to start the work and we need to get on with it.

Ian Jenkins: I do not want to take up too much time. I agree with everything that has been said. I have learned not to believe everything that I read in the papers and I hope that the report was mistaken. The report indicates that a children's commissioner is a good idea, so the Executive ought to work with the committee to get the legislation through as quickly as possible. As has been said, we are in a better position because of the groundwork that has already been done and the methods that we have introduced to consult young people. We can show that the idea is in the ownership of the nation, including the young people of the nation. I hope that we can go ahead with the idea with Executive help.

The Convener: In the constructive discussions that we had with the minister last week, he indicated that he would consider giving Executive support for drafting. He gave no indication that he wished to take the issue over. I will give him the benefit of the doubt until someone tells me otherwise, but I will seek reassurance from the First Minister.

I assume that we are agreed that the issue should be a work priority between now and Christmas and that we should aim to have a report concluded before the Christmas recess. We would then be able to propose legislation for inclusion in the legislative programme for September 2002. The bill will be a committee bill, which will require us to dedicate a substantial chunk of the timetable to it, but I know that members are willing to do that.

We will also have to consider putting in a bid to hold a civic participation event for young people towards the end of the consultation process. The logistics of that will be difficult. We should hold that event and we should make a bid to the conveners liaison group for funds. That will be well worth doing and a host of young people and children from across Scotland would want to become

involved. As members who represent a wide cross-section of Scotland, we also have a role in holding discussions with young people and children in our constituencies to get a local view. To some extent, that has already happened in Glasgow.

If members are agreed, I suggest that the clerks draw up a paper seeking funding for the civic participation event and that we present it to the conveners liaison group as soon as possible. Once we have spoken with our adviser this afternoon, we should timetable the various evidence-taking sessions. I also suggest that we write to everyone who took part in the event on 25 June. There is general consensus that a children's commissioner is a good idea, but we need to put some meat on the bones—to deal with the practicalities of, for example, how that person would interact with other bodies. Our adviser has suggested a list of questions that we might want to examine. We want to ask everyone who gave evidence to and participated in the conference in June for their views.

Michael Russell: Are we discussing the matter under agenda item 7?

The Convener: We will discuss it in fuller detail under item 7.

Irene McGugan: When we are planning the next event in consultation with children and young people, will we bear in mind the findings of our report on best practice on how to consult children and young people?

The Convener: Absolutely. We cannot criticise anyone else if we do not do that.

Let us discuss other issues that members want to put on the agenda. I suggest that we first consider any short inquiries that members wish us to conduct over the coming weeks. Ian Jenkins and Mike Russell have views on that.

Ian Jenkins: I draw to the attention of the committee the problems associated with the overspend in the Scottish Borders Council education budget over the past couple of years—I know that members are already aware of the situation—and the controversy that has arisen out of the council's attempt to deal with the matter, which has involved cuts across the board in education. As the committee conducted such a big inquiry into special educational needs provision, it will be particularly interested in how the cuts have affected SEN provision.

I have indicated throughout that there is a need for transparency and accountability in the way that the issue is dealt with. On 28 June, I asked the Minister for Education, Europe and External Affairs to consider bringing in the inspectors and to hold an independent audit. Those proposals have been

agreed to and, to that extent, the situation will be scrutinised.

However, I still think that the committee can do a great deal in ensuring transparency. There is a strong feeling in the Borders community that questions need to be examined and answered in public. I would be grateful if the committee came to the Borders to hold some evidence sessions, including a formal committee meeting, and perhaps to visit some schools and meet those who are now called stakeholders—teachers, parents and young people, whom Irene McGugan would want us to consult.

I hope that we will find time for that in our schedule. The issue has implications not just for the Borders; there are wider implications to do with the funding of special educational needs and other financial matters such as budgeting and ring fencing. In the meantime, until the audit has been delivered to the council and to the public, I suggest that we ask for some written evidence as a basis for the proposed visit. At that point it would be useful for us, even though Her Majesty's Inspectorate of Education might not have been in by that time, to conduct some sessions that would raise issues in public.

The Convener: That is one bid.

Michael Russell: Before I put in my bid, let me say that Ian Jenkins has made some sensible points. I am sure that we all agree with him and want to help him.

What he said was curiously reminiscent of comments that were made last Tuesday evening or Wednesday morning in a press release in the name of Ian Jenkins. In the same press release, those comments were welcomed by Drew Tulley, the convener of the Scottish Borders Council. We were told that the committee had been requested to have a meeting—a request that had been granted. I do not know whether Mr Jenkins's press releases operate a week ahead of actuality. I would be happy to share the press release, which the local paper has reported, with Mr Jenkins—I have a copy on my desk.

Mr Jenkins is right in principle, even if he has asked the committee to hold that meeting a week after he told the Scottish Borders Council that the meeting was going to happen. We should go to the Borders to consider the matter, which is causing great concern, and to determine whether we can assist. I am sure that we will be ably led by Mr Jenkins in that task.

The Convener: I am sure that we all find it amusing to take lectures from Mr Russell on press releases.

Michael Russell: I merely suggest a modicum of good timing.

The Convener: Carry on with your suggestion.

Michael Russell: The situation at Scottish Ballet has caused considerable concern to many people. The committee undertook an extensive inquiry into the national arts companies—it was one of the committee's first major inquiries—in December 1999.

Those of us who have watched the situation at Scottish Ballet unfolding believe that it is another "Groundhog Day". Staff were not told of changes until 20 minutes before a press release went out. Alarmingly on that occasion, in a statement in the press release, the Scottish Arts Council assented to the changes without having consulted anyone. As press coverage and statements demonstrate, there is a need to consider maturely and in the full light of day the management of the company, which many regard as woeful—again—and the policy that is being pursued.

I am sure that one afternoon would do us. The problem is that the meeting must be arranged quickly, as things are developing rapidly. We would need to meet the chairman and chief executive of the company, people from the Scottish Arts Council and from the company—including the artistic director, Robert North, who, I believe, has been treated scandalously—the trade unions and perhaps another group, such as the Friends of Scottish Ballet. That would give us the opportunity to issue, two years on, a supplementary report to our national arts companies report and to make a constructive contribution.

In a parliamentary answer to a question that I lodged, the Deputy Minister for Sport, the Arts and Culture last week indicated that he thought that there should be consultation and discussion about the matter. We could play our part in that helpful process.

The Convener: Are there any other suggestions for short inquiries? Are members agreed that those two should go ahead?

Members *indicated agreement.*

The Convener: The Scottish Ballet inquiry is urgent. We have a slot in our timetable next week and I suggest that today we ask the individuals that Mr Russell has mentioned to come to the committee next week. I appreciate that that is short notice, but the situation has moved on and there are many views on it. Therefore, it would be helpful for us to have the discussion and to hear from, in particular, the trade unions, as the jobs and livelihoods of some people will depend on what happens. There are also cultural issues about Scottish Ballet and our place in the world of dance.

Michael Russell: We have arranged to meet

next week in committee room 3. Given the public interest, that might be a problem logistically. I wonder whether the clerks could arrange a swap.

The Convener: We have arranged for a move to committee room 1, which will allow for broadcasting.

Michael Russell: I will liaise with Martin Verity on the names that I suggested.

The Convener: I hope that we can keep the meeting to one afternoon. If individuals cannot make it, I will allow some leeway—a part slot could be used the following week. However, I would not like the evidence taking to go on beyond that.

Michael Russell: Written evidence should be requested, too.

The Convener: Yes, we can request that today. We can put a notice on the website, asking for the evidence to be sent in as quickly as possible. Most of us will have already received representations from members of the public and from organisations.

On Ian Jenkins's request, I declare an interest—I was educated in the Borders, at Jedburgh Grammar School. Obviously, people get a fine education in the Borders. I am sure that that will continue.

I suggest that we write to the council and to the Executive—to the Minister for Education, Europe and External Affairs and to the Minister for Finance and Local Government—and ask for information on what they are doing. We should go down to the Borders to show the people of the Borders that, if nothing else, we are interested in their situation. Our powers are limited—it is for the local authority to decide how it uses its budgets. However, we should be able to take evidence and to make representations to the authority.

It would be useful to get as many people as possible involved in what would be an informal evidence-taking session. I appreciate the logistical difficulties of having a formal committee meeting—the need to have staff from the official report and so on—but we should aim to have one meeting there. Having discussed the matter with Mike Russell and Ian Jenkins, I know that there are two or three locations around the Borders that would be beneficial for that type of inquiry. Galashiels is the obvious place in which to hold a committee meeting because facilities are available there, but it might be useful for us to venture further south. Obviously, I have an interest in our going to somewhere like Jedburgh.

Michael Russell: Not somewhere like Jedburgh, but Jedburgh itself.

The Convener: Jedburgh would be fine. I suggest that we go to Jedburgh to take evidence.

We could also go to Hawick, because a number of issues concerning the national grid for learning affect Hawick High School. Those are the potential venues.

Michael Russell: Kelso should also feature.

14:30

The Convener: Kelso should also feature. I know that people in the Borders would welcome it if we were to deal with the south and north of the council area. I suggest that we have our evidence-taking sessions in the Borders around the beginning of November.

The committee will also deal with legislation, the first piece of which will be the school education (amendment) (Scotland) bill. The bill will not be particularly controversial, but we will want to take evidence at stage 1 on issues such as placing requests and we should report to the Parliament as soon as possible. If it is practical, we could schedule that for 23 October, which is after the recess. That would allow us to consider the bill at stage 2 towards the end of November, so that the Parliament can perhaps deal with it before the Christmas recess—I do not know the Parliament's timetable, so I would need to talk to the business managers about that.

Michael Russell: It should not be difficult for the Parliament to deal with the bill before Christmas.

The Convener: The other bill for which we will have responsibility is the protection of children bill, which we had thought would be sent to one of the justice committees. The good news is that we will be the lead committee. We will need to take advice from the Parliamentary Bureau on how that bill is to be timetabled. I think that that bill is not as far down the line as the school education bill, but as soon as I have information I will inform the committee. Again, although there may be amendments at stage 2, the general principles of the bill will not be controversial so we should be able to tie up the evidence taking in a couple of days. To date, I have had no indication that we will be considering that bill before Christmas.

Our report on Gaelic broadcasting also needs to be scheduled into our timetable. Can Mike Russell indicate when he will bring that forward?

Michael Russell: I am grateful to Judith Evans for working with me on some of the ideas for an outline draft report. We could consider the draft report in approximately a month's time, around 23 October. I do not expect much difficulty in producing a final report for the following week and, given that we have not had many diverse opinions, we could publish the report the week after that. In outline, the timetable would be that we consider the draft report on 23 October and the final report

on 30 October. We would then publish it the following week.

The Convener: That seems fine.

We will also need to make space in the timetable for the budget proposals for 2002-03, on which Allan Wilson has agreed to give evidence on or around 23 October. We should also ask Nicol Stephen and Jack McConnell, the Minister for Education, Europe and External Affairs, to come to the committee. We were all critical of last year's budget process and we need to give adequate notice to the ministers. We want to take evidence on that before Christmas. Is that agreed?

Members indicated agreement.

The Convener: That ties up all the other loose stuff. Last week, we discussed our priorities. There was a consensus that we should do something specific on each of our three areas of responsibility of education, culture and sport. Let me begin with education. From our discussions last week, where do members think we are going?

Cathy Peattie: The background is that we have been firefighting. Although we have looked at problems, we have never had an opportunity to do some blue-skies thinking on where education in Scotland is going. It would be good if we could consider what education is for. We could ask the stakeholders involved in education in Scotland what they think education is for and what changes are required. That would be a big piece of work on which we could start fairly quickly. I know that other members are quite keen to develop that. Our committee could do something positive for education in Scotland.

Michael Russell: There is a desire to ask some big questions about education. The biggest question of all is, "What is education for?" If we know what it is for, we can then ask how it can best be delivered. I understand that the Executive no longer has a commitment to publish a green paper on education this year. The committee could usefully ask those big questions.

The mechanism by which we should do that is by commissioning academic thinkers and practical thinkers to do a piece of work for us that would open up the issue. A joint paper could be written asking lots of questions and making some suggestions. We could then put that paper out for wide consultation in as many unconventional ways as we can think of. We could consider the responses, put in our views and develop a vision of where education in Scotland should be going. In our discussion last week, there was unanimity that that would be an exciting thing to do.

Ian Jenkins: I agree with that. The Executive—like its predecessors and like us—gets carried away by events, which prevent people from

standing back to think about things. It is important that we do that. We need to ask the big questions and then critically examine how we are delivering and assessing all the things that go on in education.

The Convener: If members are agreed, we will make a submission to the conveners liaison group to commission a paper from four academics. We will indicate that, arising from our discussions last week, we would like Lindsay Paterson, Keir Bloomer and two others to be involved in that process. Does Cathy Peattie have some thoughts?

Cathy Peattie: I am keen that Sally Brown should be involved.

Michael Russell: A fourth possibility was also considered last week.

The Convener: That covers a number of different views on the future of education and will help us to produce a wide-ranging paper with a number of questions. The committee can then discuss how to consult on that.

It is realistic to commission the paper and put it out for consultation around Christmas. That can be followed by a period of consultation in which we should use the most imaginative ways that are open to us. We can commission an opinion poll, survey or focus group—whatever is the best way of consulting widely. That will ensure that we get the genuine views of ordinary Scots about their concerns, hopes and aspirations for their children. We can also consult the young people who are in the system at present—those who want it to stay the same and those who wish to see change. All those views will be appreciated.

Following the Easter recess, we can go out to the furthest parts of our communities in Scotland to put to people some of the big questions that we want to ask. If members agree, I propose that we put in a bid for funding from next year's budget for that part of our work programme.

Mr McAveety: I wonder whether there is space in the proposal to include among the big thinkers we invite to give evidence practitioners who may have turned around a school or an education environment. No names come to mind, but we may be able to find someone who, against the odds, has tried something that has made a genuine difference. We should find space for that to happen, as well as for the positive stuff that we received last week from some of the bigger thinkers in education.

Michael Russell: We should understand that, at the outset, we are making a genuine attempt to achieve a wide-ranging paper, following which we will seek everybody's response. We are not trying to produce a paper that threatens vested interests

or is representative of anything. The paper will not be representative of anything except the views of the people who write it. We are talking about finding people who have interesting ideas and responding to those ideas. We are trying not to threaten vested interests, lay down policy or narrow options, but to offer the best opportunity for this generation to debate education outwith the usual partisan, narrow battleground. Let us encourage people to be positive. Let us have the courage of our convictions to start the debate with a unique paper from four unique individuals who hold unique views.

The Convener: If we do this right, it will be an exciting development for Scottish education, which could help to shape events in the years to come. The process starts not with an attempt to develop policy but with an attempt to ascertain the views, hopes and aspirations of the people of Scotland. That is a novel approach, which is to be welcomed.

Are we agreed that we put the proposal to the relevant body for funding?

Members indicated agreement.

The Convener: I will let the committee know the funding body's response as soon as it is received.

We move on to the next area, which is culture. Cathy Peattie—

Michael Russell: Cathy Peattie is culture.

The Convener: Cathy, give us a song.

Cathy Peattie: A song is no problem, but there is much more to Scottish culture than singing.

There has been a wide debate on the need to examine cultural tourism. Questions have been asked as to whether people come to Scotland to look at Edinburgh Castle or to hear and to participate in our music and our language. Do they come to visit our galleries? Why do people come to Scotland and how do we promote Scotland?

Tourism does not form part of our remit, but culture most certainly does. The opportunity exists to examine culture in a positive way: to identify the links between coming to look at Edinburgh Castle and participation in the music and other aspects of Scottish culture. For a long time, folk in Scotland have been shouting that someone should be promoting cultural tourism. Those folk point to Ireland and saying that it has exploited its cultural tourism. The inquiry is important and I look forward to seeing it progress.

Ian Jenkins: Cathy Peattie rightly says that we are not supposed to be coming from the tourism end of the argument. However, if properly undertaken and promoted, cultural tourism is of benefit to the culture of a country, as it gives the culture of a country a vibrancy and sustainability

that allows it to flourish. If cultural tourism is not undertaken properly, culture might wither on the vine. Cultural tourism generates value in Scotland and it brings other people into the country to share in and influence our culture.

14:45

The Convener: It would be helpful for us to examine how cultural tourism impacts on the cultural industries and infrastructure of Scotland. Colleagues in Northern Ireland and the Republic of Ireland have looked at that issue. We could set up links with them, so that we can learn from their experience. We could work together, as there may be common ground on which we can build.

We need to examine how Scotland can use cultural tourism to develop and support more effectively its cultural industries. Our built heritage is excellent, as are our high and community arts, our traditional music and our language development. All those areas are part of our culture and yet we do not use them to the greatest effect. If we undertake an inquiry, I suggest that the period between the Christmas and Easter recesses is appropriate.

Cathy Peattie: Should we appoint an adviser to undertake that piece of work or will the committee take evidence?

The Convener: I am open to views from members on that question. We could commission a paper from the clerks on how best to progress the matter. The paper could be presented to the committee at a later date. Are we agreed?

Members indicated agreement.

The Convener: The final area is sport. As I have an unfinished inquiry into sport, I will kick off.

Last week, we had a substantial debate on whether Scottish sport is in need of improvement. We also discussed the underachievement of our national teams over recent months. Arguments were raised as to why that is the case. We should examine seriously how we improve sporting attainment and achievement at a high level and at the grass roots. We are talking about how young people and people who are not so young participate in sport for social inclusion, health and sporting reasons.

I continue to have a responsibility to carry out an initial inquiry on the committee's behalf. I suggest that I report to the committee at the beginning of next year. I further suggest that the committee should progress my initial inquiry by taking evidence as and when required. There are a number of good initiatives in Scotland and overseas. We should look at how other countries of a similar size to Scotland manage—or do not manage—to progress sporting achievement and

attainment.

I will come to the next meeting with a fuller breakdown of how my inquiry will be set out. I will also suggest how the committee might get involved following the presentation of my report. Are we agreed?

Members indicated agreement.

The Convener: That concludes our discussion on the work programme. We have set ourselves a number of forward-thinking and exciting tasks. Far from being an over-worked committee that needs to speed up its processes, we are a committee that is doing its utmost to develop education, culture and sport in Scotland, as it is our remit to do.

Reporters' Inquiries

The Convener: We move on to item 4, which is an update from reporters on the state of their inquiries. Next week, I will bring a paper to the committee on sport strategy. Mike Russell's inquiry into Gaelic broadcasting has become a committee inquiry and it is progressing.

Cathy Peattie: Although I do not yet have a written report, my inquiry is under way. I have contacted each local authority to find out how it supports traditional arts. Furthermore, I have met a number of people in Dingwall and Plockton and I plan to visit the Borders and Skye and look at St Andrew's centre for Scottish music and dance in Glasgow. I expect my report to be ready by late October and we will need to work out when we can timetable the inquiry. The traditional arts sector in Scotland is expecting the report and has been very helpful in providing me with information.

The Convener: Excellent.

Irene McGugan: I was asked to undertake an inquiry into Scotland's languages. Although, unlike Cathy Peattie, I have not visited anywhere, my call for evidence at the start of the summer has resulted in an enormous body of written information from a wide range of organisations and individuals with an interest in the subject. We are focusing on the educational and cultural aspects of languages and on policies and practices that might help to promote their development.

As that very healthy flow of evidence has now slowed to a trickle, we can assume that everyone who was keen to comment has probably done so. We are starting the huge work of assimilating the information and pulling it together into a draft report. I hope that within a few weeks we will bring that report to the committee.

Mr McAveety: I expect to bring a draft report on my inquiry to the committee some time in November. I have met a number of local authorities that are involved in popular music development and there has been some participation from the cross-party group on the Scottish contemporary music industry and from the industry itself. That said, I have not quite managed to persuade anyone to get me an invitation to the South by Southwest music conference and festival in Austin, but I am still desperately trying, because that is a major event as far as developments in popular music are concerned. I am also gathering many responses from local authorities, which feel that their work on popular music is undervalued. I think that the draft report will be ready by mid-November. However, like Cathy Peattie, I want to get access to slightly

more remote areas and find out how they target young people. I might follow up some of my ideas with the clerk.

Ian Jenkins: I have not made much progress at all on my report on early-years education. However, in light of the new developments in pre-school education and initiatives such as sure start Scotland and early intervention, we need to stand back and consider the whole picture of changes in education for children up to the ages of seven and eight. We must also find out how everything is pulling together and identify points that arise from those changes. For example, how is formal education introduced? Is a child's entry into primary school at the age of five part of a real process or is it merely determined by the calendar?

We must also address organisational issues about how education is delivered to children from when they enter school until the age of eight. Questions about transport, philosophies of education and so on might tie in with some of the broader issues that we raised in our discussions of the earlier paper. I apologise for not having progressed the report. I will do my best to draw it together soon.

The Deputy Convener (Cathy Peattie): In addition, the committee agreed to conduct an inquiry into education and training in the film industry, which will be included in our future work programme. As yet, there is no remit for that inquiry.

I remind members that the committee needs to seek approval for any meetings held outwith Edinburgh. If members plan to travel, they must inform the committee and the clerk.

Public Petition: East of Scotland Supporters Association

The Convener: Item 5 is consideration of petition PE380, on ways to promote fans' participation in the decision-making process within senior Scottish football.

Mr McAveety: Although I welcome the petition, the challenge that it presents will require an enormous commitment. Given how professional football has developed in the past four or five years and that two or three larger Scottish clubs want further developments—if we carefully read comments that were made at the weekend—we need to get the balance right. Any inquiry that we undertake should deal with general access to sport as well as participation in the decision-making process.

Although I have no firm or fixed views about how we should proceed with the petition—and bearing in mind the current commitments in my timetable—I am keen to find some way of addressing the points that it raises and not just to set it aside. Certain supporters of all clubs feel very strongly that they should have a greater say in the running of the clubs and in the decision-making process itself.

Cathy Peattie: As I am a Falkirk MSP, it would be remiss of me not to acknowledge the need for supporters to be involved in what is happening in their clubs. I have met a number of supporters who have been frustrated that they have not had a voice in many decisions affecting local football clubs. As Frank McAveety pointed out, it is important for people to have a say in matters that involve them. We are back to the word “stakeholder” again. Although football clubs would not exist without supporters, the same supporters are the last people to know whether there is a crisis or to be involved in any developments in the club.

Although I am not necessarily a football fan, I think that, if the sport is to flourish, clubs must acknowledge that supporters have a role. I am not sure how we will deal with the petition; perhaps we should ask Frank McAveety to do some work on it.

The Convener: That is a thought.

Cathy Peattie: We should welcome the petition and find out how we can support its development.

Irene McGugan: Activists and organisations have been conducting a long-running campaign to establish in Scotland something similar to the suggestion in the petition and the facility that exists in England and Wales. The Deputy Minister for Sport, the Arts and Culture has been lobbied extensively for his views, but it has been difficult to

determine his position. I have with me two conflicting pieces of information that are dated a month apart. It might be useful for members to know that when I asked the minister about the help that would be given to fund the establishment of supporters trusts, he unequivocally said that the Executive has

“no plans to help fund the establishment of football supporters' trusts”.—[*Official Report, Written Answers*, 8 March 2001; Vol 11, p 121.]

However, a newspaper article a month later says:

“Scottish football fans have received a firm commitment from Allan Wilson ... that they will receive similar rights to their English and Welsh counterparts”.

As a result, irrespective of whatever action the committee might take, the Executive's sympathies about the idea are unclear. Such a lack of any clear indication of support from the Executive has not helped the people who are keen for the issue to move forward.

The Convener: Perhaps the press reports suggest that lobbying is working and that the Executive is moving towards the idea.

As an avid football fan, I think that this is a very important issue for the committee to investigate. It is vital that fans are involved in the decision-making process, particularly in light of some of the developments that have been mooted over the past months.

If Rangers and Celtic moved south at some point in the future, that would have huge implications for their fans, who would face substantial travelling times and costs in travelling to away games. That might result in a substantial change in culture towards people not going to away games and participating only in home matches. It would also have huge implications for fans of other teams in Scotland, although whether the impact would be positive or negative would depend on the point of view of the individual fan.

I know that Frank McAveety has an interest in this area and I suggest that he conduct an initial investigation before coming to the committee with suggestions about how we should progress this matter in the 18 months that we have left. Perhaps Frank could discuss the matter with the minister to find out his views. Will you do that, Frank?

Mr McAveety: Yes.

Subordinate Legislation

15:00

The Convener: All the pieces of subordinate legislation that we have before us today are subject to negative procedure. However, I felt that it would be useful for the committee if members of the Scottish Executive came to advise us on what the instruments are about.

Martin Verity: Officials have been invited who may be able to answer questions on the first and second instruments. I am not sure whether the officials who are present will be able to answer questions about the Protection of Wrecks (Designation) (Scotland) Order 2001 (SSI 2001/242).

The Convener: The purpose of the Child Minding and Day Care (Registration and Inspection Fees) Amendment (Scotland) Regulations 2001 (SSI 2001/214) is to increase the registration and inspection fees for providers of day care and for childminders. That is in line with Government policy that the reasonable costs of regulation should be met by providers and is a move towards the introduction of a unified fee structure in the light of the establishment next year of the Scottish commission for the regulation of care. Members will have the Executive note that gives a fuller explanation of the details.

Ian Jenkins: In the Subordinate Legislation Committee, there was comment on the breach of the 21-day rule, which states that, after an instrument is laid, there should be a 21-day period before it takes effect. The fact that that did not happen in this case is drawn to our attention. It is no big deal, but constitutes a minor rap over the Executive's knuckles.

Also in the Subordinate Legislation Committee, a question was asked about the large hike in inspection fees. I would like the officials present to explain why the hike was so great, just for interest's sake. The Subordinate Legislation Committee recognised that a principle had been introduced in relation to the fees. Perhaps someone would like to explain that.

Roddy Macdonald (Scottish Executive Health Department): The rise that is proposed in this regulation is fairly small and sticks to our 10 per cent rise policy. Mr Jenkins is probably referring to certain other regulations, such as those relating to nurse agencies and care homes. Those sectors have been subject to larger increases in fees, but that is because of factors such as the fact that fees in nurse agencies had not risen since the 1960s. The rise seems large but is, in fact, a rise from 4/6d to about £400.

Childminding fees are kept low, with a rise of only 10 per cent a year, because the Scottish Executive's policy is to subsidise fees relating to childminding and early education. The Executive does not have a policy of subsidising the fees of regulated services such as care homes and nurse agencies. In relation to those services, the policy is to arrive at full cost recovery by 2004-05.

The Convener: That explanation is helpful. This committee shares the concern of the Subordinate Legislation Committee that the 21-day rule was broken. I hope that the Scottish Executive will give an appropriate explanation of that to the Presiding Officer.

Ian Jenkins: The argument was that, because of the Regulation of Care (Scotland) Bill, the civil servants were under extreme pressure. That was recognised by the Subordinate Legislation Committee as an explanation that, while it should not be used all the time, was acceptable in this case.

The Convener: While we can accept that the civil servants were under pressure at the time, we should endeavour to ensure that the 21-day rule, which is helpful and allows for proper discussion and consultation, is met by the Executive. It is appropriate for the Subordinate Legislation Committee to draw the attention of the Scottish Parliament to the fact that it was not. There appears to be no strong feeling in the committee on this matter and I therefore suggest that our report recommend that Parliament accepts the instrument.

The second instrument for consideration is the Adoption of Children from Overseas (Scotland) Regulations 2001 (SSI 2001/236). The instrument has been the subject of some considerable speculation and press interest because of events south of the border in relation to the Kilshaw family's attempt to adopt over the internet. All of us were concerned about those events, particularly the effect that the situation had on the children involved.

I ask the officials to detail what is in the regulation.

Angela Wiseman (Scottish Executive Education Department): The regulation seeks to place duties on prospective adopters and on local authorities' adoption agencies. Before prospective adopters bring children into the country for the purposes of adoption, they have to apply to an approved adoption agency for assessment and the adoption agency has to have approved them. That did not happen in the Kilshaw case. The prospective adopters must also have notification from the Secretary of State for Health that he is prepared to certify them as suitable adopters. Once the child is brought in, the adopters must

notify their local authority that the child is there so that the local authority can take protective measures to look after the child while it is awaiting full adoption.

The other duties that are placed on the adoption agency and the adoption panel are that they must assess anyone who applies to them for inter-country adoption. That means that inter-country adoption procedures and domestic adoption procedures are now in line in terms of assessment of prospective adopters.

Irene McGugan: When we debated issues around this matter in April, there was general agreement that this loophole needed to be closed. While the proposed requirements are fairly stringent, the top priority must be to safeguard children and we must do whatever is necessary to do so. What is being presented to us today will achieve that.

The Convener: I think that that is the unanimous view of the committee. We will therefore make no recommendation. I thank our witnesses for their time.

The final instrument for consideration is the Protection of Wrecks (Designation) (Scotland) Order 2001 (SSI 2001/242). The purpose of this order is to designate as restricted an area around the wreck of a vessel and its cargo that is considered to be of historical and archaeological importance, to protect it from unauthorised interference. Do members have any comments on the order?

Michael Russell: I am slightly annoyed that no civil servant is present to answer questions on this order. I would have thought that someone might want to appear before us to explain the importance of the instrument, because it is important.

There are a number of questions that I would like to ask, although I cannot get an answer to them. First, how many such designation orders are in place at present? Secondly, what notification is given of the orders? In the note from Historic Scotland there is reference to a consultation period. What is that consultation period and how is the consultation undertaken?

Thirdly, I am concerned about a point arising from the documentation that accompanies the order, which is not very complete. The site was discovered in 1998. After that date the National Museums of Scotland were involved and identified the vessel as a possible Armada wreck. There were then more investigations. The Archaeological Diving Unit in St Andrews examined the wreck and decided that it was of importance. Over what period did those investigations take place? The order was not laid until 19 June, but the accompanying documentation indicates that the

Archaeological Diving Unit examined the wreck last year. Presumably if any information was available about the site between last year and 19 June 2001 it could have been interfered with. Why has it taken about a year from the investigations, and about three years from the discovery of the wreck, for the Executive to lay this order before the Parliament? Does that not put sites at risk? Is there no faster procedure?

I would like answers to those questions. There is no point in our opposing this instrument, which is good in principle. However, it would have been nice if someone could have been here to answer our questions, instead of our having to ask them into the ether.

The Convener: I take responsibility for the fact that there is no one here to answer members' questions. I realised that there were issues arising from the Adoption of Children from Overseas (Scotland) Regulations 2001, and I thought that it would be useful to have those explained to us. However, I take on board the points that Mike Russell has made and suggest that we write to the relevant minister for an explanation. The member also said that there was no point in our opposing this order. Unfortunately, we will not be able to obtain the information required before our next meeting, so I suggest that we allow the order to proceed but seek the relevant information that Mike Russell has requested.

Michael Russell: This instrument is also in breach of the 21-day rule. I cannot imagine that that was caused by pressure of work, so I would like to know in more detail the reasons for it.

The Convener: Absolutely.

Children's Commissioner Inquiry

The Convener: We move to item 7 on our agenda. I invite Alison Cleland to join us at the big table. Alison is our adviser for the children's commissioner inquiry and will, I hope, take us through the good and thorough paper that is before us. On behalf of the committee, I thank her for that. It is an excellent piece of work and helps us to focus our minds on where we are and where we need to go. That is exactly what we need to do. I appreciate the fact that Alison is giving advice and information to the committee, and I am sure that we will find that helpful and informative in our deliberations on this matter.

Alison Cleland (Napier University School of Law): This is the first time that I have been involved in work of this kind, so I ask members to direct me as they see fit. If I am not answering the questions that they want me to answer, they should let me know what issues I should address.

In my paper I tried to keep to the remit of the committee's inquiry. I should point out that in this first paper, on emerging themes, I wanted simply to give the committee all the information available, without indicating how it should take matters forward. The fact that I suggest that the committee may want to accept the arguments set out in the paper does not mean that there has to be a commissioner. However, there was a great deal of evidence in support of the arguments that other people were using in favour of there being a commissioner, on which I did not think the committee needed further information. The committee may decide to accept an argument, without accepting that a commissioner would do what is suggested. I hope that that is clear from the paper.

The Convener: Absolutely.

15:15

Alison Cleland: I also indicated the number of responses, to give members an idea of the feeling that exists concerning this matter. Members were present at the seminar in June and will have a good idea of the priorities of those who attended it. However, I wanted to crystallise the issues that were given top priority. For example, point 11 on page 1 of the paper states:

"Children are consumers of public services and should have right to complain".

That issue was raised specifically in only one submission. There may be other issues that arise from it, but I was not sure whether the committee wanted to pursue the issues raised by those who have already submitted written evidence, or whether it would like to follow up its own angles.

I have set out the arguments for having a commissioner, before summarising the information that is in the public domain and is available to the committee or could be given to it by me or by others. Before I go on, do members have any questions about arguments 1, 2 and 3?

The Convener: I do not think so. Please carry on.

Alison Cleland: It is clear from the written evidence that has been submitted to the committee and from the inquiries in Wales and Northern Ireland that there is real support for making the United Nations Convention on the Rights of the Child, which I shall call UNCROC, the focus for a children's commissioner. The same view is expressed in online and written information that is available from New Zealand and Norway, for example. However, the committee needs to ask itself whether it wants a commissioner to investigate the extent to which Scotland has implemented the UN convention. That is a huge piece of work in itself. The commissioner could gather information that would be vital for anybody who wanted to check whether the convention had been implemented in full.

The UK Government produces reports on the implementation of the convention, and the commissioner could be involved in that process. However, it is not entirely clear whether the commissioner, who would be an independent figure, would do such work. That question was not put specifically to the people who submitted written evidence to committee, although they may have clear views on it. They all said that the convention was great and relevant, but they did not ask themselves what time the commissioner would have to do other things if they were responsible for investigating the implementation of UNCROC. The committee may want to clarify that issue.

Cathy Peattie: What you have said is absolutely right. Clearly, the Government needs to deliver on the implementation of the convention. However, if the commissioner were investigating that, they would not be able to do all the other things that they have been asked to do and that might eventually make a difference. We need to ask what a commissioner could achieve and what difference they could make by investigating implementation of UNCROC. I would be concerned if we were to go down that route.

The Convener: That is worthy of further investigation. I would not want us to absolve the Government of responsibility for implementing the UNCROC. It is the Government's responsibility to take that forward and to ensure that it makes progress. The commissioner may have a role in monitoring that. Perhaps we should investigate the issue further with the people who will give

evidence to the committee in the coming weeks.

Irene McGugan: I absolutely agree. If the ethos of a commissioner is bedded in children's rights, that is something that we cannot ignore. Like Cathy Peattie, I do not think that investigation is solely the responsibility of the commissioner, but the commissioner would have a role in ensuring that those obligations were recognised and adhered to in a way that currently does not happen.

Cathy Peattie: I agree that that is wise, Irene. The commissioner's role may well be to facilitate young people questioning whether Government is delivering rather than to question it themselves. The creation of a commissioner is about promoting children's rights and about children seeking their rights. The commissioner has a role of facilitating, rather than simply being involved in—

Irene McGugan: That role should perhaps be stronger than facilitating.

Cathy Peattie: I am trying to be—

The Convener: It is worthy of further investigation.

Alison Cleland: I took the fifth and sixth arguments, about public awareness of the rights and welfare of children and the lack of positive profile, together. I said at the top of page 3 of the summary that the committee might want to accept the arguments, at least in part. Although many of the organisations talked about the negative coverage of children and young people in the media—and presumably committee members can think of examples of that—it might be useful to have more concrete examples, rather than just a feeling, to go on for a report.

For example, the committee has not heard directly from young people's groups and others who might be able to give examples, such as that of the Hamilton curfew and how they feel about it. It might be useful to take one or two issues and say that although the committee agrees with the feelings, you want concrete examples.

Michael Russell: I am slightly concerned about the way in which the fifth argument is phrased. That is not a criticism. The committee has to be careful about endorsing a view that the public is similarly unaware of the rights and welfare of children. Many people would say to themselves that although there are some spectacular examples of inability to take care of children's welfare and although it is a commonplace that there is no real understanding of children's rights, it is not a commonplace that there is no appreciation of children's welfare.

It could be paternalistic, in both the literal and metaphorical meaning of the word, it could be insensitive, but there is a degree of concern about

children's welfare that is exhibited every day and that we have to see exhibited every day. We have to be pretty accurate about what we mean. Perhaps the public is similarly unaware of children's rights and the way in which they relate to the welfare of children, but let us be careful about that. Once we start making sweeping statements about that, we will find ourselves in trouble.

The Convener: People have made that argument in giving evidence to the committee. We have to decide whether we accept that argument. Mike Russell is right that there is an issue about that.

Michael Russell: We are not talking about organisations that exist or individuals that are called into being because there is widespread contempt for or neglect of the welfare of individual children. That would be an item on which we would lose sympathy rather than gain sympathy.

The Convener: As Mike Russell said, there are some spectacular cases of failure. The example from Glasgow of the wee girl with the plaster is the one that springs to mind. That was outrageous, but generally the situation is not as bad as that.

We need to get further information on children's rights. There is huge ignorance about that among the general public and probably among organisations and statutory bodies that were set up to act on some of those issues.

Alison is right that we need to get more information on that from children—children need to have input.

Alison Cleland: I accept the comment about making sweeping statements. There are a number of organisations, such as Children 1st and Barnardos, which have run advertising campaigns to raise awareness about child abuse. Mike Russell was quite right to say that there is an understanding about welfare that does not appear in the paper. There might be organisations that would argue that there is not an understanding of abuse, of what it means and of how it is experienced. I do not know whether the committee wants to take more information on that.

Michael Russell: It opens up an area of philosophical difficulty, in the light of last week's debate on the physical punishment of children. There are issues such as the relationship between children and parents and parenting that we are going to have to think through carefully. Those are not simple issues in terms of inalienable rights; they are confused by the relationships, which we need to consider.

Irene McGugan: However, if we keep the UN Convention on the Rights of the Child as our starting point, everything else flows from that; it

contains clear and specifically outlined rights. The use of the word welfare implies that when those rights are breached, as they are every day either wittingly or unwittingly by people and organisations, children's welfare suffers.

Mr McAveety: That raises a deep philosophical point.

The Convener: That is probably the crux of our debate.

Michael Russell: That is a matter for considerable exploration. I do not disagree with what Irene McGugan said, but we need to explore that issue carefully.

The Convener: It is also one of those areas that is open to considerable interpretation.

Michael Russell: Indeed.

The Convener: That is where some of the emotive, and not always helpful, language comes from. We need to consider the issue in some detail at a future point.

Michael Russell: I do not undermine and I have a strong support for the role of the children's commissioner, but as we examine that closely, we will want to explore those issues carefully. It is also important that the idea of a children's commissioner is supported by people right across the community, including those people who have never thought about it. Those people have to be approached properly.

The Convener: That is the crux of what we are doing. Until now, many people would see the suggestion of a children's commissioner as a motherhood and apple pie type of suggestion. They would not see the relevance. We have to take those people with us as well as the people who are committed and have bought into the project.

I have reservations about how the proposal fits into the structure and how it can work itself through. We need to ensure that we work at that to the best of our ability. We would not be doing the work properly if we did not deal with some of the difficult issues, face up to the different perceptions and arguments and have an open and frank discussion on them, which is what our role and remit is.

Alison Cleland: The ninth argument is about legal representation.

Michael Russell: Did we deal with arguments 7 and 8?

Alison Cleland: No, we did not. I am sorry.

Michael Russell: I have a slight reservation about wording again. We have to be careful about saying that the children have "no social or political

power". Do you think that that is absolutely true? Children have very limited social and political power and we want to empower them more. The sweeping statement that they have none is not entirely true. It is not worth quibbling about but we have to be careful about how we express statements.

The Convener: You are right, but the evidence that we have heard has been from people who would say that children have no way of expressing themselves. Alison is expressing—

Michael Russell: The report says:

"If the Committee has accepted the previous arguments that children have no social or political power and that they are unaware of their rights, it is submitted that it can logically accept the argument that help is needed for them to be able to express views at political and policy level."

In reality, even if the committee has not accepted the argument that children have no social and political power, we could still, and I argue that we should, accept that we need a children's commissioner to express views. That is to empower children more, rather than to say that they have no power whatsoever. That is an exaggeration of the viewpoint that we might hold. It does not weaken the conclusion, but I do not think that we should exaggerate that viewpoint.

Alison Cleland: That is precisely why I worded the arguments as I did. On page 1, I have given you the arguments without any gloss from me. Those are the arguments as they appeared. If they did not appear or if they did not have support, they are not in the paper. The committee will not come to the same conclusions; it may decide that it does not accept them.

Michael Russell: I do not accept that children have no social power, except perhaps at a very low level. That is my only reservation. I stress it because the way in which we talk about this subject will be very important indeed as we go through the inquiry.

The Convener: If we accept that, we are devaluing the role that children and young people have when they make representations to people such as ourselves. When they come to visit us at surgeries, when they lobby us on various issues and when they speak to organisations, they have some influence, although they do not have as much influence as I would like them to have or as much as they should have.

I have heard the argument that young people have no voice and no power. As someone who was involved in youth work for a considerable number of years, and whose role was to facilitate and enable young people to express themselves and to have a voice, I take exception to that view. It devalues the work that is going on on the ground to ensure that young people have a voice in their

communities and can express themselves. Some people are putting that argument forward, but I do not accept that it is absolutely correct.

15:30

Irene McGugan: The difference between the way in which the argument is stated on pages 1 and 2, and the statement on page 3 to which our attention has been drawn, is that the word "real" has been dropped. The earlier statement says:

"Children have no real political, economic or social power".

That is closer to the mark. No one would deny that political power comes from having a vote, and children do not have votes, or that economic power comes from being a wage earner or having an income of some description, and children do not have an income. Perhaps it is all semantics, but regardless of the extent to which children may have power, they do not have real power.

The Convener: It may be the case that the only way of giving people political power is to give them the vote, but you cannot give the vote to a two-year-old, a seven-year-old or a nine-year-old. People can have political power in other ways than by having a vote. They can lobby people, and advocate for and discuss things with people.

Irene McGugan: But is that real power?

The Convener: In some ways, it is far more important than putting a cross on a ballot paper.

Michael Russell: How would you ensure real power? By giving votes to two-year-olds?

Irene McGugan: No. That is not what I am advocating. I am saying that we need some alternative, which might be a commissioner, to compensate for that lack.

Michael Russell: I do not think that any of us disagrees, but it is not a question of semantics. Semantics can be comparatively pointless, as you and I have often said. The reality is that, as the convener has said, this is a motherhood-and-apple-pie issue. If we approach it as wild-eyed radicals who are determined to give children the vote at two—and I am not saying that you are—certain elements in society and the press will not help us. We have a good, sensible proposal for something that needs to happen and is long overdue, so let us be careful how we propose it.

Mr McAveety: There is some validity in what Mike Russell says. Sensitivity in the use of language is important, because different people have different perspectives. For example, it is interesting to see how church organisations have responded, in person and in writing, on the treatment of children under the age of three. God's love does not seem to come across in the letters

that we have received from some folk.

We need to be careful with the language that we use. The key points in the paper, which summarise the submissions that were received, need to be filtered before we can start to identify the area of language in which we want to operate. We are entering into the private world of individuals, and we know from some of the language that we heard in last week's debates that people guard that jealously. People who have never before reacted to any issue are suddenly saying, "Wait a minute. This is intruding into my private world rather than staying in the public realm."

That concern has to be addressed sensitively, so we should summarise those points and come back with a refinement of the language. However, we should not miss the heart of the contributions, which is that young people—perhaps an easier phrase to use than "children"—cannot access the levers of political and social power as adults can. We should take that into account.

The Convener: There are adults who argue that they do not have political and economic power in any way, shape or form. If we structure our approach as suggested in the paper and progress on that basis, we will not emerge with a result that everybody will sign up to, because it will have been devalued in the process by people who did not want it to succeed in the first place. If, however, we accept that children have limited social and political power, that there is a need for that to be developed further, and that there is a need for children to be able to express their views more effectively at a political and policy level, that is—

Michael Russell: That is closer to what we might coalesce round.

The Convener: I do not think that we will agree, as there are already many different feelings around the table. Simply to say no is too cut and dried.

Cathy Peattie: We need to be cautious about our language. We want to listen to what people think and to gather evidence. Although we need to be clear about what is written down and what our aims are, I do not think that every i and t in the paper before us today is particularly important. The report that results from our inquiry will be more important. I worry that we may be getting bogged down in the debate on language.

Michael Russell: Let us start as we mean to go on.

Cathy Peattie: We must be clear about our remit, and we could have endless arguments about who has power. The convener is right to mention the fact that there are people and

communities who also feel that they have no power, even if they can vote. There are many issues around the question of what power means. I am less worried about the language, but we need to be clear about what we want to do.

The Convener: Have we had much evidence from children and young people themselves, or has the evidence really been only from organisations that seek to represent children and young people?

Alison Cleland: We have received submissions only from organisations that have worked with young people. However, Who Cares? Scotland was one of the organisations that did not send written evidence, so that is a gap. No youth organisations have sent in written evidence so far.

The Convener: At the event that we held, it struck me that the views and attitudes of the organisations, or vested interests, were often diametrically opposed to the views and aspirations of the young people. If we accept the arguments that the organisations have made, there may be young people out there who will say, "You're not on. We have done this ourselves by doing this, and we showed that we had teeth and we had power." We must be careful. I do not want us to tell those young people, "Well, you didn't really have power, because this organisation says you don't have any power, so you couldn't possibly have done that."

We can accept that people are making that argument, but we do not have to accept that as the view of Scotland as a whole or of Scotland's children and young people. We do not have to accept that argument for ourselves. We can recognise that the argument has been made, but conclude that children have some limited power, and we could agree that there is a need for greater transparency.

Irene McGugan: I totally agree with that, and I can suggest another reason why there is a gap in the evidence from young people themselves and young people's organisations. We have always referred to a children's commissioner, but there may be some doubt about the age range that we are talking about. Perhaps young people in their teens feel that a children's commissioner has little if any relevance to them. We may need to clarify at an early stage exactly what age range we are considering.

Cathy Peattie: Irene McGugan is right. Several organisations that are involved with children are keen to have a children's commissioner. However, some organisations that would describe themselves as youth organisations have reservations about the post. We need some clarity. Are we talking about children or young people? Are we proposing a young persons'

commissioner? The situation has been dealt with well in Wales and elsewhere. We need to be sure of our target audience and of whom we need to gather evidence from. If organisations are not gathering that evidence, we need the mechanisms to do it ourselves, or the help of other people to do it.

Ian Jenkins: At the seminar, it was suggested that young people up to the age of 25 might come under the commissioner's remit. However, there were not many supporters of that idea. I agree with Cathy Peattie and Irene McGugan that there is a need for clarity. The title of the post will make a difference.

The Convener: That is a key question to ask those from whom we will seek evidence. The choice is between a children's commissioner, a children and young persons' commissioner and a young persons' commissioner. Those titles will mean different things to different people. The age range of the young people might be up to 12, 16, 18, 21 or 25. All those proposals may attract support, and we will have to make a decision at some point. I am sure that, when the issue is debated in Parliament, amendments will be suggested to whatever we decide, as others will have different views. Nevertheless, we must try to gather further evidence on the subject.

Alison Cleland: At the seminar on the children's commissioner, there was no consensus on the age range. The majority of people chose to set the limit at 18, but many chose to set it at 16 and some chose to set it at 26. Several voluntary organisations also thought that the under-12s are ignored more often, and had an interest in suggesting that the commissioner should address that. The jury was out on the question.

Argument 9 in my paper concerns access to the legal system. It has been suggested that children and young people have difficulty in accessing the legal system and that that was a reason for having a commissioner. There is nothing in the evidence that the committee has received, nor in the public information that I have examined, that directly supports that argument.

The legal issue was considered especially important in Northern Ireland. In its inquiry, the committee there gave much consideration to the idea of individuals being able to take action on behalf of children. The Equal Opportunities Commission for Northern Ireland, likewise, can commence litigation if it has similar concerns. That sort of idea was flying about, but it did not gel with the information about individual young people. If the committee has an interest in that—although only two pieces of written evidence mentioned it—members might consider taking evidence from the Scottish Child Law Centre, the Law Society of Scotland and the law centres.

The Convener: We need to address this matter, especially in the light of what is happening with the children's hearing system and children's and young people's rights to representation in that system. We must obtain more evidence on that subject from the Scottish Child Law Centre, the Law Society of Scotland, the panel and the reporters system. We must also question the ministers on their plans for the future representation of young people at court hearings. We need to address that issue under the European convention on human rights.

Alison Cleland: I apologise. I did not refer to that because I was not sure how far you wanted me to go at this stage. I dealt simply with what is in the paper, although there are obviously many other issues.

The Convener: We need to explore that issue further in detail.

Alison Cleland: I have a question on legal representation. I am the convener of the Scottish Child Law Centre—that was known when the committee received my application—but there may be a conflict between what I advise and the centre's views. I just flag that up at this stage.

The Convener: We accept that you will act impartially in your role as the adviser to the committee and that, if evidence is submitted by the centre, you will put it before us just as you would any other evidence. If we had had any doubt about that, we would not have accepted you as the adviser to the committee.

Alison Cleland: Thank you.

The committee received almost no concrete evidence on legal rights issues and the way in which they are dealt with. There is quite a lot of information that I have not passed on to the committee, but which I could easily collate, about such things as class action lawsuits that are undertaken on behalf of children elsewhere. We cannot undertake such lawsuits here, but that information might give you a perspective on a commissioner's possible role.

15:45

The Convener: It would be useful for us to see that information.

A Scottish public sector ombudsman bill is to be introduced. It would be worth seeking clarification from the Executive on whether there will be an individual who will be responsible for ensuring that children are able to access that service as part and parcel of the creation of the commissioner. We cannot just assume that the commissioner will be able to do everything. If we acknowledge the fact that children do not make complaints about public services, perhaps we should suggest that

the new system should include a mechanism that recognises the views of children, which have been highlighted through consultation, and addresses their specific needs differently from those of adults.

Alison Cleland: I wondered whether you would want to direct me regarding other information about that. The paper on the public sector ombudsman addresses the same issue that the committee might want to consider—whether an ombudsman should cover all issues or whether there should be an ombudsman with different departments. For example, do we want the commissioner to cover all children's issues, or do we want issues such as abuse to be covered separately? That is the kind of pertinent question that we should ask.

The Convener: It would be useful to get some information on that.

Alison Cleland: That point is linked to the point that was made about UNCROC. The Scottish Executive education department has two divisions. The children and families division says, in its public statement, that it has a particular interest in young people's views on policies. The information analysis and communication division says that it has a particular interest in gathering statistical information about children. It has been suggested that the commissioner's remit would extend to those two specific areas, and several obvious questions follow from that. What do the two divisions do? How do they get their information? Would they be able to feed in that information to the commissioner? Would the commissioner be able to require the divisions to give information? Would there be liaison?

ChildLine said in its written evidence that young people attending conferences—run, I presume, by ChildLine—had said that they would be interested in and would support the idea of a commissioner. That was the only evidence we received from children and young people, and even before we began discussing this item, you suggested that a lot more than that is needed.

For the white paper "Scotland's Children", the Executive commissioned organisations to take young people's views on specific issues. That might be a way of reaching certain groups of children about whom there are particular concerns, such as young people in care or those in socially excluded areas. Ideas that are considered sound could then be put to a diverse group of young people.

I noted the comments about the public event and I accept that that is important to the committee. The only difference with such events is the information that would have to be readily available so that young people could discuss it.

What if they say that all they want is a youth enforcer—someone who will sue City of Edinburgh Council if something goes wrong? How would the position be squared if a proposal had enormous financial implications? Is it just a matter of saying to young people, “Okay, there is a limit on the budget. We are just taking your views and we will tell you later what we think of them”?

Cathy Peattie: I may be out of touch, but my experience of working with young people and finding out what they want and what they regard as important leads me to believe that they are fairly reasonable. Their views are sensible and realistic. Young people may want to do this, that and the next thing, but those who have been involved in participation exercises air their views with clarity. My experience is that their aims are realistic. They want to be treated the same as everyone else.

The Convener: When we enter into discussions with children and young people, it is most important to be honest with them. Far too often, people have unrealistic expectations of what children can and cannot do. Children then become disillusioned and disenfranchised because they have been made to make promises that they cannot keep.

We should be honest with young people and children and tell them that we are interested in their views and how they believe that things should develop. We must say to them that we cannot promise them that everything that they say will become law, as we must listen to the views of everyone. Getting them to agree on something will probably be as difficult as getting adults to agree with one other. The range of views will be diverse, but being honest at the outset of the discussions will be the key to working successfully with children and young people.

Alison Cleland: I have summarised the suggestions that have been made. I come now to the second part of the question—whether there is a need for a children’s commissioner. Even if we accept all the arguments that have been advanced, what about the views of other organisations? I am aware that there might be agencies that are unknown to those who submitted evidence, but which are known to members of the committee.

Members were clear in their remit that they did not want significant overlap, but I have sought information that would mean a certain amount of overlap. For example, those who attended the seminar said that a certain amount of overlap might be acceptable. No one has suggested that the commissioner will look primarily at maladministration. However, on the information available to me at present, there is not a massive overlap with what people want the commissioner

to do. There is potential overlap between various Government departments that would have information that the commissioner could use.

More information about how the Scottish youth parliament worked may be useful to the committee. Furthermore, members may be aware of local initiatives on which they want to take evidence. The children’s rights commissioners have probably done much work in local areas and information from them would be helpful.

I apologise to the committee if the next matter that I draw to its attention is not appropriate. I have examined information in the public domain and on the web about the commission in New Zealand. From personal interest, I know that the ministry that is responsible for youth affairs assists the commissioner by providing statistical and other information. The ministry has been established for several years and, because of such help, the commissioner does not have to conduct his or her own investigations. I regard such a function as significant. If the committee needs more information about that, written details can be obtained.

Irene McGugan: Alison Cleland has touched on some extremely interesting points. Like her, we are aware of other countries where such a proposal has been implemented successfully. We can look to those places for guidance. In reality, however, we must break new ground. No other country has the same infrastructure and governmental systems as Scotland. We are looking for a distinctive Scottish application of such a proposal for Scotland’s children and we must take account of what is in place at the moment.

We do not have a ministry with responsibility for youth affairs nor do we have a minister for children. Such matters must be taken into account when drafting the job specification for the commissioner who will deal meaningfully with children’s issues in Scotland. I draw attention to the fact that there is a Scottish children’s parliament as well as a youth parliament.

Alison Cleland: If the committee considers that it has enough information to identify a gap in the powers of an existing organisation, would it recommend that additional powers be given elsewhere, or would it deal only with the commissioner? For example, if the committee considered that the children and families division of the Scottish Executive education department could have certain powers, would it make such a recommendation?

Irene McGugan: Yes—if it becomes clear from our inquiry that we should make that kind of recommendation to ensure that all the bits fit together to give a cohesive infrastructure that

supports children and better looks after their needs, we should do so.

Cathy Peattie: That would be inevitable.

The Convener: If it were consequential to this inquiry, we could do that. It would be difficult for us just to do it off our own bat, but if it were consequential, we could—alongside our recommendations on legislation on the introduction of a commissioner on children—recommend that department X should be given this power and a particular organisation should be given that power. Whether such recommendations would be accepted is a matter for the Parliament, through other committees. If we were making recommendations on the roles and responsibilities of the local authority ombudsman or the health service ombudsman, other committees would have to become involved, but there is nothing to stop us making specific recommendations.

16:00

Alison Cleland: Page 4 of my paper refers to the roles and responsibilities of the commissioner. I should make it clear that all the suggested powers or duties appeared either in the written evidence that the committee received or in public information that was available to the committee. None of the powers or duties in the paper has come off the top of my head or been inferred from anybody's evidence. They were all concrete suggestions. Members may feel that some of them are unnecessary, badly phrased or not specific enough, but I have tried to collate all the suggestions for members to consider.

I presumed that if the committee is deciding on what a commissioner should do, it would help members to have a table of powers so that they can perhaps say, "No, some of these powers are not what we need, because for a Scottish version we will need a range of different powers." I am not suggesting that these powers are the ones members are looking for; all I have done is group the various arguments and the various powers that have been suggested.

The Convener: I have a suggestion for the layout of the paper. The idea that children and young people should be involved in the selection process for the commissioner should come first rather than second. If we are serious about that idea, it should be put right at the top. I was once interviewed for a job by children and young people; it was the most challenging and difficult interview I have ever had—even more challenging than the Labour party selection process. Young interviewers cut right to the quick: if you give an answer that is not quite what they want, they keep going until they get at what you really mean. Adults might let you away with jargon and

semantics, but young people do not. If the commissioner is going to do the job, young people and children will have to have confidence in that person.

However, I foresee a problem. We will have to think very carefully about who the children and young people involved in the selection process will be. We cannot just have the same old faces. In Lanarkshire, if names of young people were being suggested, I would probably know most of them. They would be the same young people as are involved in most things. It is important that we involve children and young people, but involving them will be a challenge. It will not be easy.

Alison Cleland: I would like to ask two questions. Would recruiting the commissioner be something that members would want to ask the young people about at the same time as you were asking them about the role of the commissioner?

The Convener: Perhaps we should be asking them what qualities they would like in a children's commissioner.

Alison Cleland: And get them to draw up the job specification, or the person specification?

The Convener: The person specification.

Michael Russell: Yes, we could ask the young people, "If there were a commissioner today, what would you be asking that commissioner?" We need a practical specification. We need to know what a commissioner—if there were one—would be used for.

The Convener: Yes—who would the commissioner be, what would he or she be like, and what would he or she do? It all ties in with asking children and young people about the work of the commissioner.

Alison Cleland: My second question is this: as members will know, young people were involved in the selection process for the Welsh commissioner, so would members like to have information about that process?

The Convener: Yes, definitely. I have spoken to some of the people who were involved in that process in Wales and they were very positive about the experience. It would be interesting to know how they went about it and what practical difficulties they encountered.

Alison Cleland: The only other thing that I wanted to say about the roles and responsibilities of the commissioner is that, in pulling all the evidence and information together, two kinds of powers emerged. One concerns things that the commissioner's office would do itself—for example commissioning research and speaking to young people. The other concerns things that the commissioner's office would require others to do—

for example demanding information and evidence so that the commissioner can work out whether something has gone wrong. I wanted to bring those two different kinds of powers to members' attention. In drafting a report, members may want the commissioner's office to be able to do certain things for itself but be able to call for evidence and require people and departments to co-operate.

The Convener: We will need to consider that in more detail. When we take oral evidence, we will be able to tease out some of those issues with groups, individuals and agencies that come to the committee. We will be able to get down to the nitty-gritty, to the nuts and bolts, of what this person will do and how he or she will interact with others. Most scepticism arises through concerns about how the person will interact with people who are already working in this area.

Alison Cleland: Very little information about that interaction has been received. Everybody says, "This is great; this person will have an overview," but only one or two submissions talk about how structures might be set up to ensure good liaison.

The Convener: That is key: if such structures are not set up at the beginning, they will not happen. There should be concordats on who does what, where and how.

Michael Russell: Let us not mention concordats.

The Convener: Yes—don't mention the war.

Alison Cleland: Do members have any questions that they would like to ask about the roles and responsibilities of the commissioner, bearing in mind what has been said about public sensitivities?

The Convener: At this stage, we are thinking of questions to ask, rather than suggesting the answers. Our questions can be as wide-ranging as we want them to be. We can wait and see what answers come back before deciding how to proceed.

Members indicated agreement.

Alison Cleland: On page 5 of the paper there are some tentative suggestions about the oral evidence and other information that may be required. Members have already suggested a range of subjects on which they would like further information. The first paragraph on the page is about oral evidence. It contains ideas that came from the information that was available to members.

I mention the powerline initiative because it was referred to in passing by the Norwegian commissioner when she gave evidence to the Northern Ireland inquiry—but she had no time to

explain it. Members might not have a great interest in that particular initiative, but I mention it because there is a lot of public information about the Norwegian ombudsperson and what is done. If the committee had the chance to speak to the person it might want to examine the nitty-gritty further.

The Convener: It would also be interesting to hear evidence from the Children's Commissioner for Wales because she is fairly new to the post and is probably tackling some of the teething problems that we are interested in.

Alison Cleland: I mention the children's rights officers because, along with one or two other local groups, they may well have a great deal of information about the kind of points that members mentioned earlier: the issues that young people raise when you talk to them. Children's rights officers have to deal with individual cases and policy issues. One of the unresolved issues, apart from the age range that a commissioner would cover, is whether a commissioner would take individual cases on board. It was not clear whether that was what participants in the seminar that you ran wanted. Children's rights officers have to juggle those two responsibilities all the time, so it might be useful to hear from them.

I have already made the point about UNCROC. Further information on the child strategy statement might help the committee to clarify its thoughts. The committee is well ahead of me on the point about consultation with children and young people.

The Convener: You make some useful suggestions that will complement those of the committee. Consultation with children and young people is crucial to what we are doing and it is important that we get it right. I am sure that you know of individuals and organisations that can help us in that respect.

Alison Cleland: To take a step back, there is also a lot of information from other independent researchers on how to talk to young people. You might prefer to read that information before you make a decision on how to proceed.

The Convener: We also have a policy paper on that issue that we will incorporate.

Alison Cleland: When we consider the remit of other agencies, the difficulty is that this could be a bottomless pit. However, despite the diversity of organisations, there are certain questions that could be asked of them all. That was the issue that my other paper addressed. If the committee had evidence about small numbers of children and young people who have gone to organisations and the kinds of things they went about, members could draw conclusions about the lack of overlap or gaps in provision.

Many organisations have written to the

committee with a positive idea about a commissioner, but they have not talked specifically about their organisations and what they do. Save the Children is a good example of a big service provider. The committee does not have information from such organisations about how they consult and how they use that information. Members should consider how that information might help the committee and how it might make clear what is already being done and so does not need to be done by the commissioner.

The Convener: That would be very helpful. It is a bottomless pit, but if we have a set series of questions that we are asking everyone to answer, it is up to people to respond.

It would also be useful to get information from the ombudspople on their experiences to date.

Alison Cleland: The Scottish Parliamentary Commissioner for Administration answered some of the questions before being asked them. We could ask the same questions of others.

The Convener: All in all it is a comprehensive report and a good start. Alison Cleland has pulled together all the copious evidence that came in. We were struggling to bring it together, but now we have a focus and a way forward. We know where we are going and how we are going to get there, but we must work together to fix a timetable and ensure that it happens. We must send written questions out to people.

If members have any particular changes or additions to make to the written questions, I suggest that they get them to us for next week so that the paper is ready to go out to the various organisations sooner rather than later. We can send that to everyone.

Alison Cleland: The implication was that you wanted all those who had already sent written evidence to be asked the questions. That had not occurred to me, but it is obvious that they have not been asked all the questions and they might be able to provide further information.

The Convener: Responses from key people are missing from the evidence that we have received. We need to plug those gaps. The list that Alison Cleland has provided will help to do that. It is an important piece of the jigsaw. Do we agree to proceed on the basis of our discussion this afternoon?

Members *indicated agreement.*

Meeting closed at 16:16.

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