

EDUCATION, CULTURE AND SPORT COMMITTEE

Monday 5 November 2001
(*Afternoon*)

Session 1

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EDUCATION, CULTURE AND SPORT COMMITTEE

28th 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

THE FOLLOWING ALSO ATTENDED:

Euan Robson (Roxburgh and Berwickshire) (LD)

WITNESSES

Donna Allen (Borders Equality in Education)

Brian Bishop (Scottish Secondary Teachers Association)

Alan Bowman (Scottish Borders Council)

John Campbell (Scottish Borders Council)

Graeme Donald (Scottish Borders Council)

Councillor Thomas Dumble (Scottish Borders Council)

Maria Lucia Macconnachie (Scottish Borders Council)

David Mallen (Scottish Borders Council)

Kenneth Paterson (Scottish Borders Council)

Eileen Prior (Borders Equality in Education)

Sue Roberts (Educational Institute of Scotland)

Councillor Andrew Tulley (Scottish Borders Council)

Councillor Anne Younger (Scottish Borders Council)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Judith Evans

ASSISTANT CLERK

Ian Cowan

LOCATION

Volunteer Hall, St John Street, Galashiels

Scottish Parliament

Education, Culture and Sport Committee

Monday 5 November 2001

(Afternoon)

[THE CONVENER *opened the meeting at 14:06*]

Scottish Borders Education Inquiry

The Convener (Karen Gillon): Good afternoon, ladies and gentlemen. I welcome everyone to this meeting of the Education, Culture and Sport Committee. I ask members of the committee, the press and the public to ensure that all mobile phones are switched off and that pagers are on silent mode.

We are here to take evidence in our inquiry into Scottish Borders Council's current financial situation, in particular its education budget. I was brought up in the Borders, so it is a pleasure to be back in the area on official committee business for the first time, although I wish that my visit were taking place in happier circumstances.

We will take evidence from a series of witnesses. We requested the attendance of two further witnesses, one of whom is Councillor David Suckling, the former convener of the council's education committee. Unfortunately Councillor Suckling is unable to attend this afternoon, but he has indicated that he is willing to attend at another date. The other is Mr John Taylor, the former assistant director of education finance. I understand that Mr Taylor is currently unable to be with us, but given the importance of his role during the period in question, I ask the committee to agree to invite him to another meeting and, if appropriate—or necessary—to request that he be required to attend a future committee meeting. Are members agreed?

Members indicated agreement.

The Convener: The first set of witnesses are from Scottish Borders Council. They are the acting chief executive John Campbell, the head of financial administration Alan Bowman, and the chief legal officer Ian Wilkie. The witnesses are welcome to make an introductory statement of up to five minutes. If they do not wish to do that, we will proceed to questions.

John Campbell (Scottish Borders Council): I would like to make a short statement. We are

pleased to have been given the opportunity to meet the committee and to deal with any questions that members have. Two important education officials are not able to be with us today: Mr Christie, who is the director of lifelong learning, and Mr Buckley, who is the head of corporate finance. Both of them are off ill, but the officials who are here will try to answer the questions. *[Interruption.]*

The Convener: I indicate to members of the public that this is a meeting of a committee of the Scottish Parliament. Members of the public are not allowed to participate in committee sessions. There will be an opportunity this evening for members of the public to attend an event in Hawick. People who would like details of that should contact the clerks at the end of the meeting, who will ensure that they receive the details. At this meeting, only members may ask questions.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): I welcome the committee to the Borders and to Galashiels in particular. As members know, I taught in the Borders for almost 30 years and I have a great deal of pride in the Borders education system. I regret deeply the situation that brings us here. I am confident that a great deal of good work is still being done in the Borders. HM Inspectorate of Education's reports on schools are always positive and the results in national examinations are good. I do not want us to start or leave the session without recognising the good work that is done in the Borders education system. We are here in unfortunate circumstances.

How is it that, for three years in succession, the budget was overspent? Why, after the first year, when the situation became known, were the measures that now appear necessary not taken?

John Campbell: I want to clarify one point: we had an overspend in education for two years. Mr Jenkins is right that there was an overspend in 1999-2000. The council decided that most of it should be paid back to the council's reserves. The overspend arose mainly due to advance spending on devolved school management provision. The budget control procedures were tightened up in 2000-01 but, with hindsight, they were not tightened up enough. The overspend in 2000-01 arose because education staff committed expenditure for which there was no budget and financial services staff did not pick that up quickly enough. The council's education committee was informed of overspends but, with hindsight, the figures fell well short of the final situation—the cumulative total at the end of 2000-01 was £3.9 million.

Would the committee like the details?

The Convener: Carry on.

John Campbell: I draw members' attention to the controller of audit's report entitled "Scottish Borders Council Education Department Overspend". Exhibit 2 on page 6 of the report shows in tabular form where the overspend in 2000-01 arose in various elements of the education budget—nursery, primary, secondary and so on. The reasons are explained on pages 7 to 10 of the report, which go into some detail. We are happy with the factual accuracy. The areas of overspend are covered in pages 3 to 7 of the education working group report entitled "Scottish Borders Council Education Budget Overspends", which I believe members have.

I will try to summarise the series of reasons. Some of the overspend was demand led—expenditure was committed without taking other budgets into account and significant assurances were given to financial services staff about the projected overspend, which the financial services department had picked up at a fairly early stage. An element of trust had built up between the two departments over a number of years and education services had a good track record of working within budget. With hindsight, much more rigorous and vigorous checking should have been done. In previous years, projected overspends had disappeared towards the end of the financial year—which was described as rabbits being pulled out of hats. Assurances were taken on board in 2000-01 but—again with hindsight—that was wrong.

Most of the money was spent on education, but a small amount is under police investigation, which we will not go into. There is a large demand for education services, which has been met in the main, but the down side is that the budget has been exceeded.

14:15

The Convener: Mr Campbell referred to the controller of audit's report, of which members have a copy. Last week, I met officials of the Accounts Commission for Scotland which, properly, is carrying out investigations and will report in due course to the Audit Committee of the Scottish Parliament. That is its role and members should be aware where the boundaries lie.

I omitted to welcome Euan Robson MSP, who is the member for Roxburgh and Berwickshire and the Deputy Minister for Parliament. He has an obvious constituency interest.

Mr Frank McAveety (Glasgow Shettleston) (Lab): Mr Campbell, you are now acting chief executive. What was your role in the period under assessment?

John Campbell: I was director of financial services.

Mr McAveety: In that role, how many meetings did you have with senior finance staff in education services?

John Campbell: I tended not to have many monthly meetings with them, but the two assistant directors of finance had frequent meetings. Mr Buckley, who is not here, was one of the assistant directors of finance. I will explain his role in a minute. The other was Mr Bowman, who is here. He was the financial adviser to the education committee and so was more heavily involved in giving advice to the committee. Mr Buckley is in charge of our corporate finance section, which used to be the accountancy and budget section. He and his staff had regular meetings with education staff.

The budgetary control procedure is laid down. In my opinion, the controller of audit's report, the external audit reports of previous years and—although it is only in draft form—the report that will be produced shortly accept the adequacy of the financial system. There is no particular problem with the system; the problem has been with its application. One of the main features of the system is the fact that corporate finance staff meet education staff regularly—more than once a month. In particular, there is a monthly meeting, which should highlight the projected outturn and overspends on various budgets from two perspectives—what the education staff think the outturns will be and the financial services perspective. The procedure allows for the two to come together and for any differences to be agreed, one way or another. As members may have picked up from the reports, there was a significant difference between financial services staff and education staff on the projected outturn.

As I said, certain assurances were given which, with hindsight, should not have been accepted. The much larger overspend predicted by financial services staff did not take account of all the facts available to the education department, which was committing the expenditure and dealing with grant claims in detail.

Mr McAveety: How long was the controller of audit in the council headquarters, considering those matters, and how many staff did he use?

John Campbell: The controller of audit used KPMG, who are the council's external auditors. Most of the time he used one member of staff. I estimate that he was there for approximately two to three weeks.

Mr McAveety: In total, how many staff are there in the education and corporate finance departments to address such matters all year round?

John Campbell: Are you asking about the budget control aspect of education and finance?

Mr McAveety: I am talking about the key personnel engaged in presenting monitoring reports to elected members.

John Campbell: In the financial services department there is an assistant director of corporate finance. There is also an assistant director—Mr Bowman—who advises the education committee. There is a business support accountant, part of the chief accountant's office and a senior accounting technician. They are the main people involved but they may be supplemented if there are particular problems.

Over the past few years, one person has been put up as the finance contact in the education department. That is Mr Taylor, who is assistant director of education.

Mr McAveety: So there are perhaps seven key senior staff and one from the controller of audit's office.

Do you accept the controller of audit's report and its key recommendations and conclusions?

John Campbell: There is always scope for a difference of opinion but our group's response is that we are minded to accept the report and will be recommending it to the council, which meets on Wednesday. Unfortunately, the council has not formally considered the report—we meet you two days in advance of the council meeting—but our recommendation is to accept the report.

Alan Bowman (Scottish Borders Council): I am referred to, if not by name, then by role, in the auditor's report. I am disappointed that information, explanations and background material that were given to the examining auditor were not reflected in the final report. People were looking for black-and-white answers to complex situations and I do not think that the report adequately reflects those situations.

Mr McAveety: The report concludes:

"The Council does not yet have a clear strategy to eliminate the overspending, either in the current year or over the longer term."

That is a key recommendation. Do you accept it?

Alan Bowman: We must learn from the mistakes that were made and move on. We accept the report because we want to move on from the situation we are in.

John Campbell: I will answer that question directly. When the controller drew up the report, that comment was fair. There are two issues to deal with. With the strategy for the current year, we have moved on significantly from the position when the controller of audit and KPMG were in

council headquarters. By coincidence, a report is going to the education executive of the council tomorrow. That report indicates that the projected outturn for the current year—excluding devolved school management provision, which is a separate issue—will be on budget.

To get there, a number of adjustments have been made and a number of actions have been taken. Among those, management made approximately £1 million of reductions to expenditure at the end of June. On 1 August, the council made £1.5 million of budget reductions. In October, we transferred £1 million to the pressured area of lifelong learning.

That is not a set of final accounts; it is a moving position, as I am sure Mr McAveety will understand from his previous experience. The situation must be carefully and properly managed for the rest of the financial year. In any budget of some £60 million, there will be ups and downs. We saw that during the summer and I am sure that we will continue to see that in the next five or six months.

On the strategy for the next financial year, we are drawing up the budget and we must take account of where we are in the education department. As you would imagine, there is quite a bit of corporate work going on in the council. In due course, the council will have to decide on its highest priorities, whether they lie in education or in other services.

One element of the strategy that will not be sorted out until mid-February, when next year's budget is set, is whether any or all of the £3.9 million should be paid back into the council's reserves. There are a number of options. If that option is not taken, my advice as director of finance is to reinstate the balances in some other way.

A series of actions is listed in our appendix dated 7 November. Perhaps we could explain them in more detail later, unless Mr McAveety wants me to do it now.

The Convener: You said that, without DSM, the council appears to be on track to balance this year's budgets. What will the budget be if DSM is added?

John Campbell: At the moment, the overspend on DSM is estimated at £300,000. That is the worst-case scenario—if all schools spend all their existing balances on DSM, which would be unique. Clearly we need to ensure that that does not happen. For the committee's information, most of the balances have built up over a few years so we would not expect all of them to be used this year.

We need to reassure the schools that we will not

take away any of their accrued balances—that might encourage them to use the money. The education staff may be able to give you more detail, but I hope that the consultation processes that are in place now are much better than they used to be. Those processes should mean that we are able to work together to ensure that the worst-case scenario does not happen.

Mr McAveety: Help me with the language. You mentioned a monitoring report. What does it mean if things were not being monitored, so that one person had to come in for three weeks to identify key weaknesses, when you have a team that should have been doing that monitoring?

John Campbell: With respect, the man from KPMG came to find out where and why the overspends had occurred. Most of that information came from council officials. KPMG recorded the information but the council team told him what overspends and variances arose in which areas and gave him explanations as to why they arose in those areas.

Mr McAveety: Having had experience of dealing with difficult budgets in my former role as an elected councillor and council leader, I understand that monitoring reports are important. They impact right across broader service provision.

What was not being done that is now being done? Why were you not able to find a mechanism for crosschecking information from senior staff? I find it hard to believe that an individual is responsible.

Alan Bowman: To a certain extent, we would have to go into technicalities to answer the question fully. You will appreciate that the issues are complex.

At the time the monitoring was being done, one of the major problems that the council faced was that education spending was not flowing as we expected it to flow during the year. When we did the monitoring between January and March, 25 per cent of the education budget remained unspent and unaccounted for. We had to predict what was going to happen to 25 per cent of the education budget in the last few weeks. In guessing, we relied upon management information systems in the education service. Those education information systems were not well developed so we had to rely on word of mouth and explanation rather than hard fact. The trend analysis that was available for November and December through to January pointed to a certain outturn in 1999-2000. Had we followed that trend analysis, an underspend would have arisen. The actual result for that year was an overspend.

After the council's budget was closed off in March 2000 and 2001, 25 per cent of the

transactions came through. All those transactions showed adverse variations. That is the technical explanation as to why the scale of the problem was not identified at the time.

The Convener: Technical explanations are important but, to a lay person, fast spend at the end of a financial year is not unusual. It is certainly not unusual in local councils. I would suggest that it is common practice to spend lots of money at the end of the financial year.

Frank McAveety took us through the number of senior managers who are paid significant salaries to monitor the situation in Scottish Borders Council and to ensure that the budgets run as they should. How come nobody picked up what was happening? That is the question we want to find the answer to. I simply do not accept that nobody knew what was happening. If you did, you should have done something about it; if you did not do anything about it, quite frankly, you should not still be there.

14:30

John Campbell: We did pick it up. A number of reports between August 2000 and March 2001 indicated an overspend. What we did not do properly was get the correct scale of the overspend. The January and March figures were in the region of £2 million, and the overspend was obviously much higher than that, but the council officers did pick up the fact that there was an overspend. A number of meetings were held at senior level—involving me, the chief executive and the director of education—to discuss the position. A number of meetings were also held during the year to discuss our concerns about Mr Taylor's role and what might occur because of that. On 8 March, the council set up a working group to examine the whole situation. That was before the scale of the overspend was fully known.

The Convener: The figures that we have show that around November 2000, the projected overspend was £300,000, which is what you are telling us the projected overspend for DSM in this financial year will be. By January 2001, that projected overspend had become £1.9 million and, by May, it had become £3.9 million. You may not have overestimated the overspend—in fact, you underestimated it—but when the overspend stood at £300,000 in November 2000 or at £1.9 million in January 2001, what intervention strategies did you employ? It seems that the overspend went up rather than down, even once you knew that it was there.

Alan Bowman: As Mr Campbell explained in his introductory comments, in October and November 2000, the council had not decided how to treat the carry-over from 1999-2000. It had not decided

whether to reduce the education budget for 2000-01 to the extent of the overspend. A lot of discussion was going on about the outcome of that decision. The £300,000 to which you refer was the overspend at the time against an unadjusted education budget for 2000-01. In other words, no decision had been taken to reduce the education budget for that year to the extent of the overspend in the previous year. It was only when we started to feed in the effects of 1999-2000 to the 2000-01 budget that we got the big swing from a £300,000 overspend to a much higher figure.

The Convener: Are you saying that, by November 2000, you did not know that you had a £3.6 million overspend for the year before?

Alan Bowman: No. I am saying that, at the time, the council had not decided to tell the education department that it had to make good the overspend.

The Convener: So you knew that there was a substantial overspend.

Alan Bowman: Yes. There had been a £1.6 million overspend in the previous year. The council had to decide whether or not to reduce the education budget for 2000-01 by that amount. It was only in November 2000 that it made the decision. The education budget was therefore reduced and the overspend for that year automatically rose by the equivalent amount. If you reduce the budget by £1 million and spend £300,000 over the original budget—

The Convener: That would be £1.3 million.

Alan Bowman: I use those figures simply for explanatory purposes. As soon as you reduce the budget by the sum of money from the previous year—£1.6 million—you automatically have a very much increased predicted overspend.

The Convener: Once that decision was made, what strategies were employed by the finance department to bring the overspend down?

Alan Bowman: We entered into detailed discussions with Mr Taylor and his colleagues in education and started working towards examining the DSM budget to find out what we could do with regard to that. Mr Taylor and his colleagues identified a string of management actions to reduce their spending between then and the end of the year. That was the basis of the prediction made to the education committee that about £700,000 worth of savings were being worked on by the education department to try to keep the situation within bounds.

The Convener: How did you monitor those actions from November to March?

Alan Bowman: The actions were taken through December into January. An end of year problem

was emerging in February and March, with a lot of the budget unspent, and we had to rely heavily on Mr Taylor at that time for information about the effectiveness of the action that he was taking. He said that we should not expect the same level of spending at the very end of the year because managers had taken steps to reduce their expenditure. It was on the basis of that information that we went with the prediction we went with.

The Convener: We can deal with that point with officials from the lifelong learning department.

Mr Brian Monteith (Mid Scotland and Fife) (Con): We have discussed the education spending pattern. Were other council departments also likely to have overspends?

John Campbell: There have been no major overspends in the other departments over a number of years. There has been a problem with social work, where there is also client-led demand, but it was on nothing like the scale of this problem. Although there are ups and downs in every budget, we have generally come in on target in most years.

Mr Monteith: I accept that there has been no comparable crisis. I take it that, in the course of your work, you would look at the reports during the year and enter into similar negotiations with the heads of departments such as social work to ameliorate the situation and to get back to a position in which there is no overspend.

John Campbell: Yes.

Mr Monteith: Was it the case that the specific problems that arose essentially came down to the difficulty of delivery from the education department? Is that effectively what we are being told? If other departments, such as social work, delivered what was required after negotiations, is it the case that the education department failed to deliver the promises that it made to your department?

John Campbell: As I told the convener, in November 2000 I was so concerned about the situation that I went to the chief executive and said that I felt that too much power had been given to one person in the education service and that other directorate members were not as involved as they should be. My staff were clearly telling me that. They also told me of their concern about a pattern in the education department, involving such things as not returning phone calls, failing to turn up at budgetary control meetings and failing to provide detailed projections. I had a personal concern that Mr Taylor was overworked; at the time, it was that rather than anything else that drew my concerns to his department.

A series of meetings took place involving the director of education, me, the chief executive and

the technical services director to discuss one or two areas in which the council's direct labour organisations were supplying services to education. The report highlights concerns about a lack of proper control on the catering and cleaning side as well as in transport. Those issues were being tackled by the director of education and his staff.

I need to repeat something that I said earlier. In previous years, there had been a track record of fairly low spending followed by a rush towards the end of the year. However, we were always given assurances that that would not happen. Indeed, most of the time it did not happen, until the past two years. We have certainly been caught out by that and we put our hands up to it. We should have had other ways of spotting what was going on and we should not have taken the word of one officer.

Mr Monteith: Given that experience, do you believe that your department has enough powers or authority to go beyond the one man who may be in charge? You took the word of that department, if I can put it that way, but are you able to explore whether that word is reliable? If your concerns were such that you ended up going to the chief executive, that suggests that you did not have enough power to act on those concerns.

John Campbell: I could have gone to the council if I had felt that the projected overspend would be £3.9 million, for example, but I did not receive any information that suggested that. The chief executive took up the matter, as did the director of education.

Cathy Peattie (Falkirk East) (Lab): Are you seriously saying that all this has happened because one man had too much power and did not manage his department as he should have done?

John Campbell: If I said that it was all down to one man, I did not mean to. One man played a major part, but many other people—including me—played parts. I am not saying that only Mr Taylor was involved, but he played a major role. The two reports also say that.

Cathy Peattie: I have read the reports. Other people must have advised Mr Taylor and he must have had communication links with you and other senior officers. It is odd that all this happened and that people were suddenly surprised or concerned about the power—I was interested that you used the word “power” rather than “responsibility”—that one person had. If people have too much responsibility, sometimes the organisation becomes top-heavy. It is odd that that was just recognised and that everything transpired from that fact. To a lay reader, it appears that one person was responsible. Is that not the case?

John Campbell: One person was not wholly responsible. “Power” is the right word to describe the situation as I perceive it. I stick to my opinion that that man dealt with almost everything going into and coming out of education finance. That was my concern, particularly in November 2000. My staff could not have the same meetings with assistant directors of education or the director of education as they had with other directors and assistant directors throughout the council.

Cathy Peattie: Do you agree that, if everything rested on that communication link and information was not coming through, the management structure must have been fairly weak?

John Campbell: I agree. That is why I was concerned and approached the council's chief executive.

Cathy Peattie: Is the council considering changing the structure?

John Campbell: Yes.

Cathy Peattie: That will prevent people from being put in the same position again.

John Campbell: Absolutely. I do not know whether the committee wants to discuss the matter now, but that is the No 1 point in the appendix to the report that the council will discuss on 7 November. The director of lifelong learning is not present today, but he and the rest of us who have been involved in the report have concluded that the structure is inadequate.

The council has employed a consultant and produced the final draft of that report. It is considering changing the structure. It is proposed that a revised structure will be put to the education executive on 18 December. That is a fundamental part of getting us back on track.

Cathy Peattie: Do you agree that the management structure has had difficulties?

John Campbell: Yes.

The Convener: Who was Mr Taylor's line manager?

John Campbell: Mr Christie.

The Convener: Did you approach Mr Christie?

John Campbell: Yes.

The Convener: What was his response?

John Campbell: Mr Christie acknowledged what he was told and recognised that the position had to change. He assured me that he would try to change the position.

The Convener: When did you approach Mr Christie?

John Campbell: I saw Mr Christie often, but I discussed that issue with him in late November or early December 2000.

Mr McAveety: Why were no concerns raised in the monitoring reports? A serious concern about monitoring finance is fairly important. Much of the information in such reports is statistical, but did not a narrative recommend action?

John Campbell: Do you mean action on the management structure or on Mr Taylor?

Mr McAveety: I think that the controller of audit's report says that monitoring reports were provided to the council committee on nurseries and its parent education committee. I am surprised that elected members did not ask questions or take action. Why did that happen? Given the concerns that you have told us about, why did you not do something about that?

John Campbell: I was not present at the education committee's meeting, so I do not know whether what you describe occurred, but I presume that it did. I was concerned about Mr Taylor. I asked Mr Christie and the chief executive to do something about my concern. I was under the impression that action was being taken in the background. However, that information was not put in the monitoring reports.

Mr McAveety: The issue is substantive. In the administration with which I used to be involved, I dealt with overspends that could have caused significant political problems. The monitoring report was the critical factor in addressing senior management or political weaknesses, such as the convener of a relevant committee not addressing an issue.

You told our convener that at the end of November, critical concerns were expressed about the gate-keeper of information, who you say was the former assistant director. If the education committee took no action, and you continued to have concerns, did you try to raise those concerns with other elected members?

John Campbell: No. I did not raise the issue with elected members. I raised it with the chief executive. I understand that the director of education, with the head of personnel, took action. I am not sure whether we can talk about that.

Mr McAveety: In your line management structure, who was the officer responsible for the education committee's deliberations and monitoring reports?

John Campbell: In what respect?

Mr McAveety: Which senior officers dealt with monitoring reports? The benefit of a monitoring report is that it allows the relevant committee to make its view known. If it did not make its view

known, senior officers might still have wished to take further action. You said that you had concerns. Was anything done behind the scenes, or are you just telling me this afternoon that you had concerns?

14:45

John Campbell: I am not just telling you that. Action was taken behind the scenes.

Mr McAveety: If you did not raise the issue with elected members or include a comment in the monitoring report, how would we know of your concerns?

John Campbell: You could ask the former chief executive or the director of education about that. Unfortunately, the director of education could not be present today.

Mr McAveety: We may well speak to them. That would be useful.

Alan Bowman: I am the officer who used to go to the education committee. I was not briefed on any major concerns about the reported numbers. Had I been so briefed, I would undoubtedly have reported the information to the committee. Perhaps the outcome might have been different.

Mr McAveety: I am sorry; I am like a dog that has not been fed and has now got a bone. Officers were aware of an overspend the year before. During the financial year, it is hard to make predictions, because some factors are difficult to work out with extreme accuracy, but a trend did exist. Did not that alert you to do something?

Alan Bowman: As we explained to Cathy Peattie, much detailed work, discussion, investigation and research was conducted throughout November and December 2000 and January 2001 to identify and isolate the problems. You are right that that was done not at a political level but at an officer level.

Irene McGugan (North-East Scotland) (SNP): The discussion has rightly centred on figures and finances—cold, hard facts. I am also interested in the impact of the financial difficulties. We have a copy of the council's action plan, which outlines the steps that it is taking to reduce expenditure. On one page of the tabulated format, I read words such as "monitoring", "adjustments", "review", "rationalising" and "examine". I am concerned that that means that children and their education have become lost in the process, which is all about figures. To an extent, the impact on families is missing from the council documentation that I have read. Do you agree that the impact of the situation will be to diminish the educational experience for many local children?

John Campbell: The situation means that we must spend within our resources. We must take a wider view than just that of education. So far, the council has done that. It has examined other portfolios and services and considered whether any lower priority expenditure exists. The council has shown that by moving £850,000 about two weeks ago from other services into lifelong learning and education, to reduce the impact that you suggest may be felt. All of us are scrutinising the impact. Consultations are being conducted. Education department staff could probably answer your question in more detail.

We have looked for services on which less impact would be felt. Because of the size of the overspend, it is not always possible to achieve a painless solution or one that goes unnoticed. We reduced spending on cleaning, which looked innocuous, but with hindsight was unacceptable. The council wishes to reinstate that money from January; the council leader will probably cover that when he speaks. The other reductions are also being monitored.

As I said, we must set a budget for next year that is within our means. We must consider the effect not only on children, but on other people who receive council services. We must find out whether we can produce a relatively painless budget that does not decimate any service.

Irene McGugan: I am glad that the council will monitor the effects, because many parents who have written to MSPs are in no doubt that there will be a huge detrimental impact on the services that their children receive, such as a reduction in the number of hours for specialists, including speech and language therapists, an increase in travel time, less amenable arrangements for travel and less support in the classroom, because there will be fewer classroom assistants for children who require them. A general and significant reduction and dilution of the quality of education is expected. I ask you to keep at the forefront of your mind the fact that you are the acting chief executive of a council that is required to deliver more than adequate education services to all children in that area. That must never be forgotten in the midst of this financial debacle.

John Campbell: I am aware of that. You might wish to ask some of the education officials about the issues that you have raised, as they will have more details than I have.

Irene McGugan: I will do that.

John Campbell: Those officials will be able to illustrate the fact that there is significantly increased expenditure in some of the areas that you mentioned, as well as in the examples that members gave of adjustments that have been made.

There is a huge increase in demand in areas such as special educational needs; that is one of the dilemmas that we face. I am sure that members will recognise that problem, as they may have experienced it in their areas. The problem is not just something that has come to the Borders. Members will be given figures later—if the officials have the opportunity—that will highlight the significant problem we face in trying to finance those areas as well as other services with the resources that are available to us. However, I bear in mind the comments that you have made.

The Convener: The council properly made the decision in August on how it would deal with the results of the overspend. I am not sure what your role was in August; I do not know whether you were the acting chief executive or the director of finance.

John Campbell: I was the acting chief executive.

The Convener: Someone gave the council figures to work with. The decision to take away all that money at that point, either from the council's reserves or from education, has had a significant impact. Were alternative figures, which may have had less of an impact on education, given in relation to a range of council services, or did you just set the figures with education options?

John Campbell: Mr Bowman is probably better placed to answer that, convener.

Alan Bowman: We certainly did not start with a figure of £1.5 million and say, "Find that, education." We went through the entire service looking for areas that we agreed, around the table, were of less significance than others in terms of what could be achieved. The important thing was what could be achieved this year and not what might, with a good wind, be achieved this year.

John Campbell pointed out elements of service that, with hindsight, we can see we did not get exactly right—perhaps cleaning, perhaps other areas. That was all done with regard to the education service's needs and the needs of children in schools. Members will note that there is no reduction of funding for the teaching component of schools, which is far and away the biggest element of our service and our spending; there was no impact on that.

If we analyse the £1.5 million in detail, we can see that there are elements of service that, although we might argue about the detail, were regarded as being non-core to the education service and that could, in hard times and in the short-term, be considered as areas from which funds could be cut.

The Convener: I would argue that, when you are trying to teach children with special

educational needs or other children, the fact that a classroom is not clean impacts on their educational experience.

Alan Bowman: We are also raising our spending on educational needs this year by £1 million, convener. That is the context.

The Convener: If children can still play on a floor on which their food had been the day before, that is clearly not a safe and clean environment in which to learn.

Alan Bowman: No one here is defending that situation.

The Convener: You talked about £1.5 million. Will you explain to the committee how that money was found?

Alan Bowman: Do you mean in detail?

The Convener: You said that savings were made across departments. You examined other departments and you made savings where you could. What were those savings?

Alan Bowman: We are talking about the education service specifically.

The Convener: You made savings only within education.

Alan Bowman: The council's regulations required its education committee to live within its own resources. It is for the committee to make the first offer about what it can achieve within its budget.

The Convener: Education made all the savings within its own budget.

Alan Bowman: That is true of that £1.5 million. Mr Campbell has referred to another £850,000 being found from other services.

The Convener: Was there a decision to review the senior management structure within the education department and to look for savings there, given the overspend?

John Campbell: Yes, that review of the current structure is the first item in appendix A of the controller's report. That is not necessarily with a view to savings. Savings may come from the review, but the purpose of the review is to get effective, adequate management, which a number of us felt that the current structure did not provide. The review might give savings, but a final recommended structure has not been concluded. The No 1 issue in the review was to try to get an adequate structure, not to get savings.

The Convener: How many senior managers are in the education department?

John Campbell: Lifelong learning is now part of our department. There is a director and five

assistant directors. Mr Taylor's post as assistant director of education with responsibility for finance and administration is vacant at the moment. Mr Bowman was seconded to that post very soon after the dismissal of Mr Taylor.

Alan Bowman: My personal opinion is that the senior management is weak and that there should be no reduction. One of the main problems is management weakness.

The Convener: How does the level of senior managers in education compare with that in other departments within the council?

John Campbell: The departments are different. The level of senior managers depends on the area of services and the size of their function. The council has recently not only merged departments, but brought together services under portfolios. It is difficult to compare levels. Through the consultant that the council employed, we examined the structures, size and functions of education management in similar councils. The council will take on board at least part, if not all, of the report on that. It is early days. We are working towards 18 December to get all that approved.

Ian Jenkins: I want to talk about the period from November through to January when the department was getting worried. According to the controller of audit's report, by mid-December the chief accountant reported a minimum projection overspend of £2.7 million. In January, the education committee was told about £1.6 million.

You mentioned your meetings with the chief executive and the director of education in which you raised those issues. Are the elected members entitled to know about those differences of opinion? I wonder about the way in which the elected members are being dealt with. When you talked about the cuts that were introduced on 1 August, were the councillors given any options? Was there any room for them to discuss matters? It does not seem to me that there was; councillors were presented with a programme that they could either leave and go into terrible budget deficit or take and try to draw things together. There was not much room for debate or discussion of the options for spending on special educational needs. The elected members have perhaps been ill served.

John Campbell: There are two elements to that question. I will deal with the second one, which is about the options for elected members. A list of recommended budget reductions was made up and the education working group was involved in considering various options. That list was available on 5 July, but the members of the council decided to defer a decision and hold a special council meeting on 1 August. That gave people an opportunity to get further information; a number of

elected members took that opportunity.

It is important to paint the background. Our major problem, to which I referred, was to control spending in the current year to ensure that we did not end up in the same position that we had been in in 2000-01. Events were going along at a fast pace and we did not have the luxury of being able to examine the various options as closely as we would have liked, mainly because we had to take action before the new school term started and before the financial year disappeared—it goes very quickly.

Mr Bowman is probably better placed to answer your first point, which was about the £2.7 million. Clearly, if I had thought that a figure of £2.7 million was justifiable, I would have brought that to members' attention. Alan Bowman can probably explain why that was not the case.

Alan Bowman: As I said to Mr McAveety, one of the disappointing aspects of the auditor's report was that he did not take account of certain facts and information that were brought to his attention about the period to which the member refers. The reference to the chief accountant's report is correct, to a point. However, it ignores later documentation in which the chief accountant said that he was happy with the projections that were used in the committee report, on the basis that research that was still under way was uncovering new evidence that pointed to a different situation. It seems to be forgotten that we had no reason to understate the position to council members. If we had thought that it was as significant and serious as it turned out to be, we would have told members at the earliest opportunity. We would not try for some peculiar reason to hide a situation.

15:00

Ian Jenkins: Paragraph 5.3 of the report of the controller of audit refers to meetings between the chief executive and the directors of financial services and education. However, there are no minutes for those meetings. Is that not a pity? Is that normal procedure?

John Campbell: With hindsight, I agree that that is a pity. We are a relatively small authority. We are a tight-knit management team and many things were taken on trust. Clearly, there is no longer as much trust now as there was even a year ago. Business is now conducted much more formally.

Ian Jenkins: To what extent do you consider yourselves responsible for the situation that has arisen?

John Campbell: If we could start again, we would all do things differently. I am receiving legal advice that I should not go too far into the detail of

that. The actions detailed in the appendix, which calls for procedures to be reviewed, monitored and tightened up, should lead to a greatly improved service. There are a number of lessons for us all to learn from what has happened.

Cathy Peattie: Is it not unusual not to minute meetings at which discussions are taking place? Are you not obliged to record what is happening?

John Campbell: The meetings to which the member refers were not formal meetings or committee meetings such as this one; they were management meetings. At no time were all meetings of that nature fully minuted.

Cathy Peattie: Are you saying that such meetings were not recorded, even though you were discussing issues of great importance to the council and to the people of the Borders?

John Campbell: They were not. With hindsight, I admit that that was wrong.

Cathy Peattie: That is very worrying.

The Convener: Much of the information that we are receiving is derived from word of mouth. There does not seem to be any written record of what took place. I find it remarkable that when you identified a huge problem such as the one that we are discussing you did not begin to keep records—that you did not minute meetings that you had with the chief executive, that you did not memo people rather than talk to them on the phone and that you did not, for your own sakes, cover your backs by making a written record of what was happening. If I were in your situation and knew that there was a problem, I would keep such a record. It is incredible that no one working in Scottish Borders Council has a written record of what happened between November 2000 and May 2001 and of what actions were taken by whom.

John Campbell: There are records of the actions that were taken. The meetings for which there are no minutes were meetings between the chief executive, the director of education and me. As I have explained, we were a tight-knit management team and did not minute every meeting.

The Convener: So when you went to speak to the chief executive about your worries about the actions of Mr Taylor, you did not minute that meeting.

John Campbell: No.

The Convener: Could not such records have formed part of a disciplinary process?

John Campbell: I do not know.

The Convener: Surely anyone working in a council who was subject to a disciplinary process would have the right to access records of

meetings, to ensure that they had been treated fairly, that information had been correct and that they had been given the proper support by their employer. If there were no written records of such meetings, how could the person concerned be treated fairly?

John Campbell: That is an opinion, convener.

The Convener: As members have no further questions, I thank our witnesses for their evidence.

15:04

Meeting adjourned.

15:08

On resuming—

The Convener: Our second set of witnesses is from the lifelong learning department of Scottish Borders Council. Graeme Donald, David Mallen and Kenneth Paterson are assistant directors of the department. Maria Lucia Macconnachie is senior educational officer with responsibility for special educational needs. Welcome to this meeting of the Education, Culture and Sport Committee. If you would like to make some introductory remarks, you are welcome to do so. We will then move to questions.

Graeme Donald (Scottish Borders Council): We would like to move straight to questions.

Cathy Peattie: As Irene McGugan said earlier, we are interested in the educational impact of this situation. I would like to ask about the consultation that has been taking place, particularly with parents and teachers. We have spoken to parents who have told us that they learned only at the last minute what was happening and we have spoken to teachers who have told us that their budgets change overnight. I am interested in what consultation has taken place with parents. Are you happy with that or are there plans to deal with it in a different way?

Graeme Donald: Two matters that always cause great concern are insufficient resources and insufficient communication. It is no surprise to find that we need additional communication. This exercise has encouraged us to consult much more widely and closely than we have done. However, we do not feel that our consultation processes in the past were lacking, although everything can be improved. We are available regularly to attend school board meetings. We all attend school board meetings, in the main reactively, by request. Regular meetings are held between the director of education and representatives of the Borders head teachers association. We also meet secondary head teachers regularly. Meetings are held with post-school and pre-school staff, but we currently

seem to be considering mainly school education.

Recently, the level and depth of consultation has increased. We plan to meet the Borders head teachers executive, which has 16 members compared with the small number of office bearers whom John Christie met. I was recently at a school board meeting in Peebles High School as part of our reaction to the wishes of parents for information.

The next of our twice-yearly meetings with school board chairmen will be held a week today. At those meetings, the school board chairmen bring to our attention issues that concern them. Those matters will be a large part of the agenda.

The Convener: Before Cathy Peattie continues, can I ask what each of your specific responsibilities are in the directorate? Our papers state only that you are assistant directors. It will be useful to know to whom we should direct questions.

Graeme Donald: I am one of the four assistant directors. I have a strategic overview and officer responsibility for continuing education. That is all post-school education; it is anything that happens outwith schools. A budget of £2.4 million is associated with that responsibility.

I also have a specific responsibility for study support, which comes out of the excellence fund. It is associated with ideas such as breakfast clubs and out-of-school learning. I deal with a budget of £0.25 million in that capacity.

My other role is direct liaison with schools on how they spend their DSM allocation. I have operational responsibility for the west area, which includes schools in Peebles, Galashiels, Selkirk and their catchment areas. That means that I take a monitoring and liaison role with head teachers in the 31 schools in that area.

Kenneth Paterson (Scottish Borders Council): I have operational responsibility for the east area, which includes Eyemouth High School, Berwickshire High School, Earlston High and their associated primary schools. My strategic responsibilities are on pre-school education and special educational needs.

Ms Macconnachie is concerned with the operational side of special educational needs and we work together on that.

David Mallen (Scottish Borders Council): I have responsibility for the south of the region—all the schools in the Kelso, Jedburgh and Hawick area. I have strategic responsibility across the authority for educational development, including curriculum development, staff development and similar matters.

The Convener: You are a lucky man to have Jedburgh—I am a wee bit biased.

Cathy Peattie: Given the acute problems that the council faced, would it not have made sense to consult a wider group of stakeholders in education?

Graeme Donald: It would have made sense to talk to more people, but as the committee has heard from previous witnesses, a great deal of our time was spent gathering the facts. It would have been inappropriate to meet people and give them information that was going to change the next day or the next week. As has been referred to by the committee, some of the information that changed weekly was misleading the public. It is crucial to find the right time to develop that link directly with parents and stakeholders.

Cathy Peattie: But stakeholder consultation is a two-way process.

Graeme Donald: Indeed.

Cathy Peattie: If you had consulted earlier, you might have found out that changing some of the travel arrangements meant that kids with special needs had an extra two hours added to their day. You might have found out that teachers working with children with special educational needs had to plan their week to ensure that kids did not have to play on the floor and that their activities allowed for the mess that teachers had to work in. Parents and teachers had health and safety concerns. If that consultation had taken place, you would have learned why people were concerned about various things that were happening and would have found out that they were not just being difficult.

15:15

Graeme Donald: I would have to accept that statement. I think that it was a statement, or was it a question?

Cathy Peattie: I am asking whether you are considering consultation, which clearly has not happened so far. Are you considering putting in place a system to speak to people to find out why things are happening and why specific things are difficult?

Graeme Donald: The heart of that question centres on special educational needs. So that I am not speaking all the time, perhaps I could ask those who deal directly with special needs to pick up the question of transport.

Cathy Peattie: We will come to that in a minute. The issues were transport and special needs, but my question was about how you consult people. I was talking about the stakeholders, who include children, parents, teachers and other people involved in education. Sorry, Mr Donald, but you

talked about how you will tell them about how the difficult decisions will be made. Perhaps you should be asking them rather than telling them. Has consideration been given to asking people what they think are the problems and how they can help to deal with them?

Graeme Donald: Not at this stage.

Cathy Peattie: Does that include teachers and head teachers? You said that a limited amount of work was taking place with head teachers.

Graeme Donald: A great deal of consultation has taken place with fellow professionals. If you are asking whether we have gone beyond that and spoken specifically to parents and pupils, we have not consulted in a planned way with that level of stakeholder, but there have been some ad hoc arrangements. There has been consultation with fellow professionals, but the communication passes through a series of people and is not direct between us and pupils or teachers. I know that some schools have been discussing those issues and feeding the information back to us.

Cathy Peattie: They have been discussing the issues following a crisis.

Graeme Donald: Indeed.

The Convener: We have received substantial correspondence from head teachers and teachers. When you knew about the situation and knew that you had to make savings, which affect all the people here, how many meetings were there with the people who would be responsible for implementing your savings? How many head teachers were asked about the impact of cutting, for example, the cleaning budget? It does not take a genius to work out that if a room in which children have had their packed lunches is not hoovered until the next evening, it will not be useful the next day. I have a wee child and it did not take me long to work out that he makes a mess when he eats—my living-room carpet bears testimony to that. Who was asked about that? It seems plainly stupid to me, as a parent, but maybe there was a rationale for it. If so, who brought forward that rationale?

Kenneth Paterson: Many of the decisions had to be taken fairly early on at the council meeting that was intended to be held in July, but which took place on 1 August. The director of education prepared a report during that period, when it was more difficult to consult schools because of the holiday.

The Convener: Was it not just an easy cut to make? You thought that cleaners were a soft touch.

Kenneth Paterson: No.

The Convener: They do not get paid very much and do not have much clout, so you thought that they were a soft touch. That is how people outside are reading the situation. Tell me that it is different.

Kenneth Paterson: There has been experience in the past of cutting the cleaning budget and it produced similar difficulties to those that have been experienced this time. The cleaning budget was cut in the past in an attempt to protect teachers and front-line staff who are working with children in schools. That was the rationale the previous time and I suspect that it was this time too.

The Convener: So you acknowledge that on the previous occasion it did not work.

Kenneth Paterson: It caused problems.

The Convener: Because of your statutory responsibility on teaching time and the number of pupils per teacher, you could not have cut the teaching time to any real effect, so you proposed a cut to the cleaning budget, despite knowing that it would cause problems and impact on children's educational experience, the teachers' curriculum, and cleaning staff.

Kenneth Paterson: The director proposed that cut in preference to reducing teaching staff.

The Convener: But how could you have reduced teaching staff within your statutory responsibilities? You cannot do that.

Cathy Peattie: I believe that nursery education is important and I am interested in what assessment took place of nursery education needs in the area. There seem to have been planning difficulties to do with placements.

Kenneth Paterson: A great deal of consultation took place. I have strategic responsibility for nursery education and, operationally, my two colleagues work on nursery education in their own areas. Each of us discussed with parents of pre-school children their expectations and, where playgroup or private provision existed, whether they wished to continue with that provision. In some cases, the feedback was that they wanted to continue. When nursery expansion took place in the past few years, we had consultative meetings with parents and school boards and with the private and voluntary sectors. A great deal of consultation took place.

Cathy Peattie: Yet you have more places than children. Is that a difficulty?

Kenneth Paterson: We have more places than children for primary education as well. Obviously, numbers vary. When a nursery in my area opened, it had 23 children, but in the following August it had seven. It could be argued that there were many surplus places in the second year and

that there was pressure on space in the first year so, yes, there are surplus places.

Cathy Peattie: What plans are in place to deal with the surplus places? Will you consider cutting the number of places or do you have other plans?

Kenneth Paterson: One of the working group's recommendations is that we should consider the towns in particular, where that issue is perhaps more pronounced. We are actively doing that at present.

Ian Jenkins: Will consultation take place before closures?

Kenneth Paterson: Yes. We are committed to consultation on that.

Ian Jenkins: With staff and parents?

Kenneth Paterson: Yes. The leader has asked about that and the amount of time that it would take. We are taking that into account in our planning for consultation.

Ian Jenkins: When people hear that you are rationalising the provision, they worry that that will be done so quickly they will not get a chance to have an input.

Kenneth Paterson: Yes, but no decisions have been taken yet. The council has not considered the working group report yet—that happens on Wednesday. After that, options will be put before the education executive. We are committed to consulting on the future shape of provision.

The Convener: Mr Paterson, are you the assistant director of education services to young people?

Kenneth Paterson: Yes.

Mr McAveety: A concern that has been raised this morning, which struck me quite forcibly, is the difference between the public position that you have adopted on your budget options and the reality, as perceived by many folk on the ground. What have you been doing in the past few months to address that concern?

Kenneth Paterson: I am not sure what—

Mr McAveety: People do not believe you. How do you address that?

Kenneth Paterson: I can only be honest and straightforward with them, and if they do not believe me there is not much I can do about it.

Mr McAveety: But there could be something that you could do, and we are here to try to assist in that process. Having been in a position—my former role—where few people believed me, I can partially sympathise.

The Convener: In a former role?

Mr McAveety: I am much more believable in my new role as a parliamentarian. [*Laughter.*] That response is quite unbelievable.

The big issue here is where you go. If you are at one side of the base of the triangle and the public is at the other, the point—if we are clever about it—is how you and the public get to the top of the triangle together. Are you involving other folk in trying to bring the sides together? It strikes me that that is what you would do in any other educational situation, for example where a pupil does not agree with your assessment of their achievements.

Graeme Donald: We are making a strong effort to do that. It is about lifting morale and giving factual information. We are already meeting groups. The starting point is to say that, however we describe what we are doing—bouncing off the bottom or turning the corner—it is about raising morale, giving the right information and taking people with us. Nancy Marshall, the chair of the Borders head teachers association, has recognised that publicly. A recent press announcement from the Association of Head Teachers in Scotland said something similar, when it said that we had turned things around. It was looking at the collegiate response that it has had recently from the lifelong learning portfolio and people who are delivering front-line services. We are working hard to change the word “cut” to “build”. I think that we are succeeding in doing that.

Mr McAveety: A paper that was given to members today concerns a serious issue that deserves thorough assessment. It says:

“In the short term teachers are demoralised by dirty classrooms, and in the long term the suspension of our rolling refurbishment programme means they have little to look forward to.”

The most critical element is this:

“Communication from SBC has been sparse, erratic and self-contradictory, particularly in relation to budget statements.”

It is about building trust. We are still taking on the information that we have had so far, but it strikes me that there is a big journey ahead.

Graeme Donald: Yes. I recognise that information as being from Langlee Primary School and, as that school is in my patch, I would like to respond to it. Like you, I read that this morning and was deeply disappointed. I was with the head teacher of that school no more than four weeks ago. There has been an avalanche of advisers working with the school. Mrs Kelly would have pointed out that she has had tremendous support while she has been acting head. The school has a number of things that need attention, which are itemised in our paper. If the matter is real for her,

then it is real and we have to attend to it, but I was disappointed to find that she felt that she was not getting accurate information regularly.

The Convener: I have to say, Mr Donald, that it appeared to be real not only for Mrs Kelly, but for every teacher we spoke to. Across the board, people feel very demoralised. They feel that the service that they are providing is not being valued and that they are not getting honest information.

I have a couple of issues to do with DSM and how the information goes out to schools. There is concern, not only in that school but in other schools that have been in touch with us, that the information that they receive is not accurate—it can change from day to day and from week to week. They do not really know how to respond to that.

Also, from the evidence that we heard 20 minutes ago, it appears that the DSM budget looks like going over budget again. What monitoring is being done with individual schools? What advice is being given to schools about what they can and cannot spend and when they should and should not spend so that, without there being an overspend, schools can still function and fulfil their role?

David Mallen: I will come back to DSM in a second. On communication and consultation, over the past few months we have had far more meetings with head teachers and staff centrally than we had previously. Although we have regular meetings with head teachers anyway, there have been considerably more such meetings over the past few months as we have been trying to keep people up to date with where we are and what has been happening. It is unfortunate if you are getting the message that that is not enough or that the messages are conflicting, as we have gone out of our way to ensure that that does not happen.

We work closely with our schools on DSM. There are two parts to that work: one is the establishment and general operation of the DSM scheme, for which various calculations on the formula were done by part of our organisation; and the other is the way in which it works out in schools, where individuals talk to us—the schools in my area certainly talk to me—about their budgets, through the administration support staff, so that they get clarity about what they have and what is available to them. We have had some difficulties in ensuring that the information is accurate. However, we keep in close contact with the schools about their day-to-day budgets and what they intend to do.

15:30

The Convener: Have the meetings that you have had been minuted?

David Mallen: The meetings with head teachers?

The Convener: Yes.

David Mallen: Some of them have been minuted.

The Convener: Could we please have copies of those minutes, if they are not confidential? That material would help our deliberations.

Irene McGugan: In the council's action plan for addressing the situation, under the section on budgetary control, the first item reads:

"Ensure as far as possible that reports presented to Elected Members are complete and accurate."

Would you say that officials in the council's lifelong learning department have been guilty of providing incomplete and inaccurate reports to elected members?

Graeme Donald: I wonder who would like to answer that question. I can speak only for myself—my colleagues will speak for themselves—but I would certainly not have been party to supplying any inaccurate information or misinformation to any elected member at any time. We provide the best information that we have across the services, with the best analysis of that information that is available at the time. We would not be prepared to supply anything other than what was factual and truthful at that time.

Kenneth Paterson: I would say the same. I would not think of presenting information to the committee and elected members that was not true, fair and accurate. However, there is no doubt that that has happened in respect of nursery education. The committee was informed as late as January, before the end of the financial year, that the nursery budget was in surplus although it was clearly not. That financial information was not accurate. However, I echo what Mr Donald says. I would not wish to be party to presenting inaccurate information in any way to any committee.

David Mallen: I would say exactly the same.

Irene McGugan: I was not making an allegation: I am quoting from the council's report. The implication of that statement is that the council feels that it has not received accurate and complete information. How will you ensure that, in future, the elected members receive reports that are as accurate and complete as they expect?

Kenneth Paterson: I think that the report refers to financial information.

Irene McGugan: Yes.

Graeme Donald: The restructuring that is envisaged in the lifelong learning department will address that. As has been witnessed earlier, the

assistant director of finance and administration and the director of education brought a lot of that monitoring information together, which was then presented to the committee. We have a responsibility for keeping an interest in our own areas within the monitoring process, which was carried out as I have described—you referred earlier to the monitoring and support role that we play in devolved school management—but DSM budgeting was the responsibility of the assistant director of finance and administration.

The Convener: There seems to have been a specific problem with the nursery budget. Mr Paterson, as the assistant director of education services to young people, did you believe in January that the nursery budget was in surplus?

Kenneth Paterson: That is correct.

The Convener: I want to get the figures right. In March, there was a net overspend of £96,000 in spite of the fact that there has been arguably the biggest-ever investment in nursery education. How did an overspend occur in nursery education when, only two months before, you were projecting an underspend?

Kenneth Paterson: Part of the answer has to be that the projection was wrong. The first that I heard about that was on 21 March, when the figure to which you refer was made available. The information was clearly wrong.

The Convener: How is your nursery budget calculated? Is it calculated on the basis of the number of pupils, with the Scottish Executive paying a certain amount per pupil and the council perhaps deciding to supplement a certain amount per pupil?

Kenneth Paterson: Yes.

The Convener: That seems a fairly straightforward calculation, if you do not mind my saying so.

Kenneth Paterson: Yes. There are three elements to the nursery budget. I do not know whether you want me to go into detail.

The Convener: That would be useful.

Kenneth Paterson: The first element is a per capita sum from the Scottish Executive of around £1,250 for each child. The second is a development fund to help councils to provide expensive buildings, which was significant at the beginning. The third is a rural development fund, which in this financial year stands at around £493,000—which is quite significant—and recognises the increased cost of providing nursery education in a dispersed, rural area such as the Borders.

Those three components make up the income in the nursery budget; the main expenditure is on

staffing and buildings. In the previous financial year, there was an over-commitment to buildings, and part of the rural development fund was spent on buildings rather than on subsidising more expensive provision. Our projection of figures for the Scottish Executive must take place fairly early on, and the projected number of children in their pre-school year was inaccurate by about 120. Conversely, the predicted number of three-year-olds was inaccurate the other way—we got more than we projected. However, the income is not the same for the pre-school year as it is for the ante-pre-school year, because three-year-olds generally attend for only three half-days. Those were the two main factors that contributed to the overspend.

The Convener: Who made the decision to build so many new nurseries, although you did not have the finance for them?

Kenneth Paterson: The problem was that we were led to believe that we had the finance for them.

The Convener: By whom?

Kenneth Paterson: By Mr Taylor.

The Convener: So, this mysterious man—whom I would love to meet—is responsible for everything that has gone wrong in Scottish Borders Council.

Kenneth Paterson: No, I do not think that you can say that.

The Convener: The impression that I get, from reading the documents, listening to evidence and reading news reports, is that everything hinges around that man. You have responsibility within the education department. What audit was undertaken of the kind of provision that was needed?

Kenneth Paterson: We tried to respond to consultations and representations. For example, many small schools felt that, if they did not have some kind of nursery provision, pre-school children would drift to nearby schools in the town and would continue to attend the primary schools there, which might threaten the viability of those small schools. The head teachers, school boards and parents were therefore anxious to have nurseries in what might be described as relatively small primary schools.

The Convener: We have been informed today that education department officials were told that the new nursery unit that is attached to Langlee Primary School was not needed and would not be used for the nursery provision that they were forecasting. Numerous people were told that on numerous occasions. Nevertheless, you proceeded to build a lovely facility there, which, if you tried to take it away, people would no doubt

fight tooth and nail to keep. However, because the council was going to build nurseries in each of the villages—in Melrose, Clovenfords or wherever—the education department was told that the children whom it had been forecast would come to the Langlee nursery would not now be coming. Another classroom was therefore not needed. So why did you build it?

Kenneth Paterson: I have read that view but I do not think that it is accurate. Discussions took place with the former head teacher, who is currently on sick leave. We certainly would not build a nursery without the support of the head teacher. Indeed, the head teacher was pressing for the provision. There is special educational provision at the school and the school was asked to include provision for a small number of children who have severe and complex needs—so severe and complex that they come to school with their oxygen supply. The need for another building was related to the needs of that small group of children. Ms Macconnachie was involved in that. She may want to comment.

The Convener: Just before she does, I want to ask another question. In your introduction, you said that people were arguing for more provision in their smaller schools so that children could continue their learning at the school where they began their learning in nursery school. That is obviously true for children with special educational needs as well. However, we have seen today that those children are struggling to continue with their learning because they cannot access parts of the building—the parts that do not have fire escapes and the parts that are not accessible to wheelchairs. The children are therefore not getting the full placement that they should be getting; they are getting only a part-time placement. After your decision to put them in the school, they cannot move up in the school because the provision will not follow them.

Kenneth Paterson: We are aware of the access problems at Langlee Primary School and we have asked architects to look into them and cost the work that would be involved. They have done so. However, the finance to allow the work to take place is not yet available.

Maria Lucia Macconnachie (Scottish Borders Council): Committee members saw the specialist nursery today. I think that you will agree that they are doing wonderful work there. Children with special needs have had a deal of integration with other nursery pupils. That has worked out very well. The difficulties have arisen in planning ahead for those children. We have rightly been concerned about that. Some of the children have big electric wheelchairs—the smart wheelchairs—which we could not have planned for when they moved to Langlee. We have been aware of the

problems and I think that the nursery had to be built. The rooms will be used. Committee members heard that the nursery had previously been accommodated almost in a corridor. It was therefore imperative that extra nursery provision was built. It will be used, although perhaps not in the way that was originally expected.

We have been trying to improve access at Langlee for a long time, but it has not yet reached the capital programme. I do not know much about that side of things, but I think that I am right in saying that it is our next priority. The plans for improving access already exist.

Kenneth Paterson: That is right.

Ian Jenkins: This question is for Kenneth Paterson. When the cuts were imposed in the summer, some of us recognised that it was a blanket first attempt at cutting the budget. However, round the edges of the budget, some individuals are coming out very badly. What discretion do you have to address individual special educational needs to do with placements, transport and so on? If a rule impacts severely on an individual, and they tell you that the rule is not working in their particular case, do you have discretion to say that the educationally correct decision should be made, even if it has financial implications? It is important that individual kids are not unduly damaged by wider decisions.

Kenneth Paterson: Clearly, because of our difficulties, we have been under strict instructions to work within our budget. Previously, we overspent on certain aspects.

Ian Jenkins: If, in your professional judgment, an exception should be made, would you be able to go to your line manager in the council and ask to breach the budget restriction?

Kenneth Paterson: We recently went to the council executive about four children with special needs. We did not have the budget but, to follow legislation, we had to meet their needs. The council, of course, agreed that we should do so. However, it asked us to try to find the money as best we could from within our budgets in the first instance. If that was not possible, the policy and resources committee—or the executive as it is now—would see what it could do to help.

15:45

Ian Jenkins: When we talk about support such as speech therapy or auxiliary help for youngsters in a mainstream school, how is such support allocated to the school and how is it then allocated, within the school, to individuals? People have spoken to me of particular individuals who have not been supported as well this term as last term. How are such decisions made?

Maria Lucia Macconnachie: The issue is complex. The speech and language therapy budget has always lagged behind provision. Last year, we paid more than was in our budget. Because of our difficulties this session, we have had to say, "No, we have to stick within our budget." Unfortunately, that has coincided with an increase in therapists' salaries, which was agreed at the European Court of Justice. Therapists have received rises of up to 26 per cent. That has been a complicating issue; it has meant that we have struggled to maintain the levels of speech and language therapy that we must maintain.

We have been negotiating with the health sector and we hope to build in to the budget a proper amount for next session. In the past, we have overspent when we should not have done so, but we had to do that to maintain the service. We were not allowed to do that this session because we had to stay within our budget. We are negotiating on how we can interact with the therapists. For example, we have been asking how mainstream children can get access to therapists, which is a slightly different issue to the funding of therapy for children with records of needs.

We are looking at how the service is delivered and how we can start afresh to give proper provision. We are considering a staged system of assessment for speech and language therapy that will link with our staged system of assessment, so that we can see where the priorities are. We also want to build speech and language therapy into the target-setting process. That will give us a measure of success—I hope it will be success—and some diagnostic tools if there is not success.

Ian Jenkins: Is it the head teacher who allocates auxiliary help to individual pupils?

Maria Lucia Macconnachie: We do an audit every year, because needs change. This year was no different. After doing our audit, we try to allocate the number of auxiliary hours that we have as fairly as possible, by considering the number of pupils at stages 3 and 4 and the number of pupils who need more than a few hours a week. Some of the schools got the same as before, some got increases and some got decreases. That can change daily. At the moment, we spend more than ever on auxiliaries and there are more auxiliary hours than ever. When I came to post two years ago, about 3,000 hours a week were allocated; now it is well over 4,000. However, that still does not meet the needs, which grow by the day, as we are aware. The head teachers have responsibility for allocating within their schools. The difficulty comes when somebody moves from one school to another. If they use their auxiliaries in an economic and rational way, they will be supporting as many children as they can, so it is difficult to tease out.

Ian Jenkins: You recognise that individual youngsters may have less support this year than they had last year, even though their needs may not have changed. I am not trying to get at you in any way, but at one stage in the summer the director of education indicated that there were no cuts in special education provision. That was technically true in terms of the budget, but it was not true of individuals. Do you agree that it was probably a tactical error to indicate that there were no cuts when, in fact, in practice, on the ground—

Maria Lucia Macconnachie: It felt like cuts, yes. Technically, in budget terms, there were no cuts. However, in terms of meeting the continually growing needs, it would feel like cuts because we were not able to allocate as much help as we would have wanted.

Ian Jenkins: If we get into philosophy, if it feels like it, it is real.

Maria Lucia Macconnachie: Exactly.

Cathy Peattie: Like my colleagues, I have had a number of letters and e-mails from parents who are greatly concerned about the possibility of looking at residential placements outwith the area or about bringing children back into mainstream schools in the area. What is the thinking behind that? I would be interested to hear what the situation is.

Maria Lucia Macconnachie: At the moment, we have 53 children who attend establishments outwith the Borders. That represents about a third of 1 per cent of our school population. It is amazing that we can manage to sustain most of our children within the Borders area, although we do not have special schools. Scottish Borders Council is well ahead on mainstreaming and has been for a number of years. Of course, that creates its own problems because it is such a large geographical area that some children still have to travel to access specialist provision.

There will always be a need for residential placements outwith a small authority like Scottish Borders Council, and some children will always need residential care. We would not be looking to bring back children who need that care. However, some parents are being encouraged more and more to look for mainstream placements. You will know from what you have seen this morning that ensuring that those children's needs are met is quite a complex business.

I think that we can expand what we are doing—in the nursery and P1 class at Langlee Primary School, for example. We can sustain pupils there and I do not think that we need to send them off to Edinburgh or anywhere else, but that needs to be planned carefully and a budget must be made available. In the end, it would represent a saving, as daily travel to Edinburgh would cost thousands

of pounds.

Scottish Borders Council has done that before, with the Wilton Centre, where a joint-funded exercise between social work—or lifelong care as it is now called—and education provided a joint budget that ran alongside the moneys for residential placements for two years. The centre was double-funded for two years, which has enabled us to have only seven children in establishments for social and emotional behavioural difficulties outwith the Borders area. Before the establishment of the Wilton Centre, there were 26 such children.

We have between 320 and 350 children with marked social and emotional behavioural difficulties, who need extra resources and support to sustain them in local schools. That we have managed to do that is a testament to the fact that we could extend special provision to encompass more children. However, that would be done only in a careful and planned way, and we would be extending the sort of provision that we have now. We would not be providing a residential school as such.

Cathy Peattie: Do you agree that in addressing the needs of a child—particularly a child with special educational needs—one must cater for the needs of the child rather than expecting the child to fit into the provision that is available? What you are saying makes me feel as if you say, "Let's just put them there anyway."

Maria Lucia Macconnachie: No, no. There is very detailed, careful consultation with parents and other professionals. Multi-agency discussions are obviously essential for a child who is receiving therapy. Educational psychologists are involved, and we do not make any decisions that we do not feel are professionally justified. It is not done for the benefit of the Scottish Borders Council education department, but for the benefit of the child.

Cathy Peattie: Do you take parents along with that, ensuring that you do not make any decisions that the parents are not happy about?

Maria Lucia Macconnachie: Parents do not always agree with professionals.

Cathy Peattie: Parents generally know their children better than anyone else.

Maria Lucia Macconnachie: Yes, we agree with that, but there are sometimes differences of opinion. It does not happen very often, but we still try to listen and taken parents' views into account.

Cathy Peattie: Are there any plans to end any of the existing residential placements? For instance, do you intend to bring a child who goes to Donaldson's College back to a school in the Borders?

Maria Lucia Macconnachie: Absolutely not.

Mr McAveety: I presume that your department will produce a response to the paper that we got this morning at the primary school. That would be helpful.

Graeme Donald: Do you mean a response to the committee or a response to the head teacher?

Mr McAveety: Both. Committee members have received an information paper and you have contested some of what it says, so it would be helpful to have your response.

The Convener: That information was given to us in good faith.

Graeme Donald: Absolutely.

The Convener: We would not want any detrimental action to be taken against either the head teacher or any staff from the school who provided us with full and frank information.

Graeme Donald: It was in a spirit of co-operation that we received a copy of the paper very early from the school's head teacher. We have been careful to avoid even a hint of reducing any comment that that head teacher would want to make to you, as we are trying to develop a spirit of co-operation. There are one or two issues that I would like to discuss with the acting head teacher of the school as a result of the paper, but it is competent to do so after—rather than having done so in preparation for—today's meeting.

Mr McAveety: My next question is unrelated to that point. What is the current absenteeism level for head teachers and senior staff? What is the percentage?

Graeme Donald: I would have needed notice to answer that question. I have had the information, because we asked for it previously, but I do not have it in front of me. We shall relay that information to you, if that is acceptable.

The Convener: That would be fine.

Mr McAveety: You mentioned the budget process a couple of times. How difficult is that process? Irrespective of how the overspend was arrived at—one of the critical issues of the committee's inquiry—is it fair that the education service should bear the initial burden of redressing that overspend?

Graeme Donald: Are you asking whether it is fair that the lifelong learning department should be the first port of call in trying to make up the difference?

Mr McAveety: Yes. Is that fair or unfair?

Graeme Donald: It reflects the practice of the council over a number of years. Whether it is fair or unfair is for politicians to decide.

Over many years, we have always been asked to look first at our own budget. As witnesses have said, the education budget has not been overspent in most years, particularly since 1975. There might have been a number of overspends within education budgets, but at the end of the year they were accommodated by underspends elsewhere.

Most of the budgeting procedures relate to the previous year, so the budget is based on most of the information from the previous year. It is therefore quite difficult to put forward sound arguments to increase a budget, whether that increase is in order to continue a service or whether it is unavoidable or financial growth. It is quite a complicated exercise to develop the budget and work within the parameters of our current policies.

Mr McAveety: What is the punitive level? Is it 7 per cent of your budget? I might be wrong, but I think that I read that you need to find 7 per cent of your budget in savings. I cannot find the reference at the moment, but I think that it is mentioned in the controller of audit's report.

Graeme Donald: I am not sure what your question refers to. As part of every annual procedure through the budget-building exercise, every department or portfolio is asked to identify possible savings. The council then decides whether those so-called savings within each portfolio could be used for a greater corporate purpose. That might be what you meant.

The Convener: The question was: what percentage of your budget do the new savings that you identified represent? Do they amount to 1 per cent or 2 per cent of the budget, for example? Because of the overspend, the council had to make savings in August. What percentage of the education budget do those savings amount to?

Graeme Donald: I understand that they amount to less than 3 per cent of the education budget.

Mr McAveety: We heard from witnesses from higher up the pyramid that there was a corporate responsibility to make savings. I imagine that one or few folk felt as if they were navigating the Titanic when all this happened. How can the budget choices that need to be made by the education department be considered alongside savings options that exist under other budget headings?

16:00

Graeme Donald: It is only fair and understandable that officials from other departments, officials from corporate resources and councillors should want us to ensure that we first give consideration to the savings that can be made from the education budget. We need to

ensure that resources are concentrated in core services, however those are defined. We were all encouraged by the rapid response of colleagues in other portfolios, who noticed that we had perhaps gone beyond the pale with the savings that we had made and were prepared to help us on a corporate basis. The corporate decision to help us to deal with the difficulty in our portfolio was very welcome and probably came at the right stage. It is right that we should look at ourselves first. However, the fact that others came to our aid was extremely welcome.

The Convener: You will be aware of recent press reports to the effect that qualified nursery teachers are to be removed from nursery classes and replaced by nursery nurses. I want to give you an opportunity to put it on the record that that will not happen.

Kenneth Paterson: No decision has been made to do that. As has been said once or twice this afternoon, the full council has not yet considered the working group report.

The Convener: Is the replacement of nursery teachers by nursery nurses an option that is being considered?

Kenneth Paterson: The education working group's report makes reference to considering that option. That is all that has happened. No decision has been taken to replace nursery teachers with nursery nurses.

The Convener: In your professional opinion, as assistant director of the lifelong learning department with responsibility for nursery education, how would the replacement of nursery teachers by nursery nurses affect the quality of early-years learning?

Kenneth Paterson: I believe that the quality of early-years learning is enhanced by the involvement of qualified teachers. No consideration is being given to removing teachers altogether from nursery education; however, we are considering not employing them on the scale on which they are employed at present.

The Convener: How would that affect the early intervention strategy?

Kenneth Paterson: The findings of research into early intervention are an argument for sustaining the involvement of nursery teachers in nursery education.

The Convener: You will be aware that on 26 October the Scottish Executive allocated additional resources for books and equipment. Will that money go directly to schools in the Borders or will it be used to make savings? Will it be used as extra investment, as was intended?

Graeme Donald: We have not received details

of those additional resources; we have heard about them only through the press. You have privileged information, but we are happy to accept that. We will recommend that, as happened with the previous two payments of that sort, the funds should be paid to schools. However, the council will make the final decision.

The Convener: Is a curriculum development fund being operated in Scottish Borders Council?

David Mallen: There is a curriculum development budget, which pays for support staff in the advisory service and curriculum support. That includes some funds that are available for development work, both centrally and in schools.

The Convener: Is that budget being maintained?

David Mallen: At the moment, yes.

The Convener: As members have no further questions, I thank our witnesses. I adjourn the meeting for a couple of minutes.

16:03

Meeting adjourned.

16:07

On resuming—

The Convener: Our next witnesses are senior councillors from Scottish Borders Council. They are Councillor Andrew Tulley, who is the council leader, Councillor Anne Younger and Councillor Thomas Dumble. Welcome to the committee. If you would like to make some introductory comments, you are welcome to do so. We will then proceed with questions.

Councillor Andrew Tulley (Scottish Borders Council): I welcome the committee to the Borders at this very difficult time for the Scottish Borders Council.

I begin by reminding the committee of the many years of constraints that were imposed on local authority budgets by a previous Government. When the Labour Government was elected, one of its priorities was education. Since then, a great deal of money and investment has come into local government, which has been very welcome to the education service. However, that has presented its own problems, because much of the extra money that local government has received has been hypothecated. As a result, the core education service has to some extent been neglected and underfunded. I hope that members will be reminded of that. I will pursue the matter at a higher level than this at meetings with Angus MacKay and others as part of the Convention of Scottish Local Authorities delegation in the coming weeks.

Scottish Borders Council has traditionally offered high-quality education. The results this year are no different from those in previous years—they are among the top six in Scotland. We take great pride in that and I will do my best to strive to keep the high standards of education that we have in Scottish Borders Council.

What has happened has been, to say the least, unfortunate. I do not think that anybody in Scotland is more disappointed about it than I am. However, it has happened and we must manage to find a pragmatic way out of it, using everybody's best endeavours and co-operation—including those of the committee.

I heard a lot of the previous questions about why we should make cuts in the budget. There is no doubt that following 1999-2000, during which a small overspend was identified, the situation was not acted upon quickly or accurately enough. The situation reached a crescendo at the end of the financial year 2000-01 and its true extent was only finally ratified some months after the end of that financial year. A working party, which I chaired, was set up in March and we quickly identified that something had to happen extremely quickly to stop the haemorrhaging from the education budget. With that in mind, that small committee of five came up with a series of recommendations to cut the education budget by £1.6 million. That had to happen quickly, but the council rejected the proposal when it met on 5 July. The council reconvened on 1 August and eventually the cuts went through, apart from one small tweak that concerned two small nurseries at Westruther and Fountainhall. Further investigation led to virement of about £1 million, which is currently going through, by viring £850,000 from other budgets throughout the council.

On the report from the external auditors, on Wednesday this week at the full council meeting, I will recommend to the council that we accept in full the working party report and that we put in train, in conjunction with our external auditors, measures to ensure that in future we comply with and stay within the budgetary controls of Scottish Borders Council. In addition, I will recommend that we set up a disciplinary committee to investigate the reports that have been put before the council, with a view to taking any necessary disciplinary action against one or several people who are in the council's employ at this time.

I remind the committee that we worked in the past few months under certain difficulties. We have had no chief executive since early March and he subsequently retired on the ground of ill health. Mr Taylor—after his frailties had been recognised and as soon as it came to light that he was not a qualified accountant—was suspended on a Friday and, a week on the following Monday, was sacked

for gross misconduct. We could not have acted more quickly, but our actions left us with the difficulty that we were no longer able to interview Mr Taylor. That led to certain difficulties in carrying out our investigations. In addition to that, following verbal abuse at a public meeting, the senior education officer who is responsible for nursery education went off sick and has not been back to work since. More recently, the director of education has gone on sick leave and one of the senior personnel in the finance department is off sick. We have not had our troubles to seek. The situation makes it difficult to carry out the questioning that we would like to do.

In addition to the measures that we have taken, we have identified certain things that are outwith our control and that we wish the Scottish Parliament to investigate seriously. The first concerns special educational needs. In 1996-97, when Scottish Borders Council was formed as an all-purpose authority, our outturn budget on special educational needs was £3,173,000. At that time we spent about £509,000 on auxiliaries. In the past year, we outturned £4,861,000 and spent £1,298,000 on auxiliaries. This year, despite a barrage of criticism to the effect that we are cutting dramatically, our outturn is projected to be £5,635,000 after income is deducted. We will be deploying £1,484,000 on auxiliaries. The council's grant-aided expenditure figure for special educational needs is £3.7 million. We have nearly doubled expenditure on that area.

16:15

There is no doubt that we do well in special educational needs and that we provide a high quality of service. The fact that only 0.3 per cent of children who have special educational needs are sent outwith Scottish Borders Council and the rest are kept in mainstream schools in Scottish Borders Council is to our credit. We are seriously considering the provision for the small number of children who have special educational needs who go outside the area because of the vast distances that they have to travel. We have set up a working group that consists of officials from our education department—including the special educational advisor—our social work department, the health board and our property department. They will consult teaching staff and members of the public.

There is a major concern about special needs education and that concern must be addressed. I know of it from talking to colleagues from throughout Scotland and from a recent announcement by the City of Edinburgh Council that it had overspent on special educational needs by £1.4 million. As a result of a trawl throughout Scotland, we will come en masse to the Scottish Parliament to highlight the deficiencies in provision

that exist in special educational needs not just in Scottish Borders council, but throughout Scotland.

Transport costs Scottish Borders Council £2.6 million. It is only natural that, in a vast rural area, transport is a high expense. We suffer from the fact that only if a school bus is also used as a service bus does it qualify for a rural fuel transport rebate. Despite making repeated comments to senior officials—including comments made directly to the Chancellor of the Exchequer—I have been singularly unsuccessful in convincing you people that rural fuel transport rebates should be extended to include buses that are full of schoolchildren and on which there is no room for any member of the public. I hope that you understand from today's meeting that there is major concern about that.

I also remind members that ring fencing creates problems. The money is welcome, but in many cases we spend it on things that are not top priorities, while other things are neglected because the core educational service is underfunded.

There is no doubt that the nursery school system that has prevailed is wrong. We have over-committed ourselves to building. The council's education committee was not informed on a business basis of why so many nurseries had to be built, although funding for them was made available by special grant from the Parliament. No account was prepared by officials in respect of the private sector. In many cases we are providing more nurseries than we need. There are more than 100 empty places in Hawick, there are 50 empty places in Galashiels, there are 50-odd in Jedburgh and there are quite a number of places in Kelso and other towns in Scottish Borders Council. We plan to rationalise nursery provision.

We also say to the committee that giving us a grant of £1,254 per pupil presents a difficulty, which is that if, in the ante-pre-school year, the child is not presented for five mornings per week, we are paid the grant only pro rata. We understand that the individual pupil formula will be discontinued next year. We await with interest how the Scottish Parliament will finance nursery education in the coming financial year.

Scottish Borders Council has traditionally had a low council tax although, for the past 10 years, the council and its predecessor at regional level—Borders Regional Council—have always spent up to the maximum of Government guidelines. The council recognises that and welcomes the recent innovation of three-year budgeting.

We have already set our budget for the current financial year, including an increase of 8.3 per cent. Next year, the increase will be 8.9 per cent, and the following year it will be 8.2 per cent. We

recognise that it is not necessarily a good thing to have the lowest council tax in Scotland, although we must ensure that in taking the Borders forward, we increase the level in a reasonable manner that will not disadvantage a large number of people in the Borders. People in the Borders are not highly paid; they are all right if they receive maximum rebates or have plenty of money, but there is a big group of people in the middle who have only moderate incomes. We cannot therefore afford to go too far in the direction of increasing council tax.

I have drawn attention to some of the matters that we are dealing with. I am happy to go into more detail about them, as are my colleagues, and we will welcome any questions that members would like to ask us.

The Convener: Thank you very much. You say that you will recommend that the report of the working group should be agreed to in full.

Councillor Tulley: The external auditor's report.

The Convener: That was going to be my first question. That report is obviously very important.

When did the council become aware of the problem?

Councillor Tulley: We were made aware that, at the end of the 1999-2000 budget, an overspend had been caused by devolved school management in that year. That was drawn to the council's attention and, about November 2000, a course of action was recommended. That recommendation went to the education committee, which noted the report. That was followed up two weeks later by a meeting of the policy and resources committee—which I chair. My recommendation to the committee and, ultimately, to the council was that every portfolio holder should ensure that their budget was brought into line with the budget that was laid down.

The Convener: When was that?

Councillor Tulley: I made those recommendations in November 2000. That was followed by a number of reports that came through the education committee. I was made aware that official meetings were going on—as was mentioned earlier—that were not minuted and that things were beginning to happen. I was also made aware of the fact that the education committee felt that it was going to receive a report that would indicate that it was making inroads into the previous year's overspend. Then, about the end of February, the director of finance—who, at that time, was Mr Campbell—intimated to me that he was concerned that not enough was being done. I immediately said that we should set up a working group. That was done on 5 March. I felt that the situation was so serious that I should chair the working group, which I did.

Even after that, the education committee was not made aware of the full extent of the problem. At a subsequent meeting, I overruled the chairman of the education committee by moving that we should not go ahead with his recommendations on DSM. The matter was ultimately remitted to the depute leader, me and the then chairman of the education committee and we further pruned the DSM budget in May.

The Convener: What kind of monthly financial information is given to councillors by the departments?

Councillor Tulley: You will be aware that, until August, we operated a committee system. We now operate a cabinet or executive model. Until August, at every meeting of the education committee, a financial report of revenue and capital was given to committee members. A monitoring report, outlining the spending so far, was given to them at appropriate times. The information was given to us, but its accuracy can be judged only by the quality of the reports that were given to us by officials.

The Convener: As early as November, some of the monitoring reports projected an overspend. The information that we have suggests that the committee decided merely to note that overspend and that no action was taken. Why was the overspend only noted and nothing done about it?

Councillor Tulley: You would have to ask Mr Suckling that question. Two weeks later, it was recommended by the policy and resources committee—on which both the chairman and vice-chairman of the education committee sat—that we should ensure that we ended the year in the black.

The Convener: Were any of you members of the education committee at that time?

Councillor Anne Younger (Scottish Borders Council): I was.

The Convener: Why did the education committee decide not to try to bring the budgets into order?

Councillor Younger: The recommendation that was given to us in November was to note the situation; it was not considered to be that serious.

The Convener: A projected £300,000 overspend was not considered to be that serious?

Councillor Younger: Not in November. The suggestion was that we note the situation. As the council leader just said, the matter was picked up quickly thereafter.

The Convener: Surely members of the education committee would understand that £300,000 was a substantial amount of money to have to pick up the next year, especially as you knew that you were already carrying an overspend

from the previous year—that information was on the public record. Despite what the officers were telling you, did you feel that as elected members—you must be re-elected, whereas they need not be—it was in your political interests, if nothing else, to try to probe a bit further than an officer's report would have required you to do?

Councillor Younger: We did ask more questions. Each time, we were told that it was all right—that it would all be sorted out and was not going to be a long-term problem. That is all that I can tell you. Perhaps foolishly, we accepted that advice.

The Convener: How many officers would have attended the education committee?

Councillor Younger: Probably four or five.

The Convener: Who all told you the same thing. It was not just one man telling you that everything was okay?

Councillor Younger: No, I think not. That was the recommendation of the report. I cannot remember who wrote the report, but that was its recommendation. We asked questions and the answer was that there was nothing to be too concerned about. Perhaps foolishly, we accepted that advice.

The Convener: Did none of the four officers alert you to a potential problem?

Councillor Younger: No—not at that stage.

Councillor Thomas Dumble (Scottish Borders Council): I support what Councillor Younger says. I served on the education committee and I stand guilty of not asking the questions that you have suggested. However, a fairly detailed financial report was submitted to us and a set of officials attended the meetings. Questions were asked. The report says that the recommendation was noted, which is right—it was noted. However, after the report containing the recommendation was submitted to us and before the final decision was made, questions were asked. Perhaps wrongly, we took it that the advice that we were being given—that problems arising from the overspend would be dealt with—was satisfactory.

The Convener: Councillor Tulley, as chairman of the policy and resources committee, you then held a meeting and said, "I want all budget holders to ensure that their budgets are brought into line." What actions were taken following that? It is clearly a problem for everybody outside the council that there seems to be no written record of what went on.

Councillor Tulley: Meetings took place at official level involving the then chief executive, the director of finance and the director of education.

We were assured that things were proceeding in the right direction. However, there is no doubt that inaccurate information continued to be presented to committee members at subsequent meetings and that, instead of inroads being made into what had been a difficult situation, the situation was made much worse. The problem came to light only towards the end of the financial year in February, when I started to set up the working group. To an extent, the council's eye was off the ball because there was a severe outbreak of foot-and-mouth disease in the area and much of senior officials' time was devoted to that. Nonetheless, that is not an excuse for inaccurate information being issued to members.

The Convener: How many officials attended the meeting of the policy and resources committee in November?

Councillor Tulley: Normally, all the directors attend those meetings, as well as the director of finance.

The monitoring report that was given to the education committee at that time was a joint report from the director of finance and the director of education. The report would normally be written by Mr Taylor, who would pass it to the education committee for comment. The reports refer to the fact that, in many cases, information was being issued late. It would sometimes be queried by the finance department and would go back for correction, which meant that there was inadequate time left before it went to the committee. One of the failings has been that, if the committee was not satisfied that it agreed with what was in the joint report by the two senior officials, there should have been a minority group report.

The Convener: Certainly, if your name is on a report, you should be satisfied that the information in it is correct. In effect, you are presenting it to the people who employ you.

16:30

Mr McAveety: I have a problem.

The Convener: We know.

Mr McAveety: You can help me out with it, Councillor Tulley. Mr Campbell said to the committee earlier that he began getting worried round about November. According to the controller of audit, at the November committee

"No questions were raised and no instructions were given to explore or to address the overspend."

It was said that projected overspends were reported to subsequent education committees in January 2001 and March 2001. I am focusing on March 2001, when

"the members again 'noted' the reports. No questions were

raised and no instructions were given to address the overspend."

Councillor Tulley: At that time—

Mr McAveety: Can I finish? I was only pausing for effect.

Your acting chief executive was getting worried in late November and, a couple of minutes ago, you mentioned the end of February. In March, however, nobody asked a question at the committee. That is inexplicable to me. The management team is small and the council is tight-knit—were people scared to ask questions?

Councillor Tulley: The indication from the January meeting was that things were being put into effect. It became known to me subsequently that, in fact, they were not moving forward in the way that they should have been. In March, I attended a pre-meeting of the education committee and recommended that the committee should take strong action, particularly in respect of a report that was asking for more money. I left the pre-meeting to prepare for a meeting with senior Government officials on the recovery from foot-and-mouth. However, the chairman of the education committee did not pursue the matter and no action was taken at the time, although we tried to salvage the matter later. I had been particularly concerned to take the time to alert the committee before it went into its meeting.

Mr McAveety: Did the senior management team send any memos to one other? According to Mr Campbell, they did not. That is a concern that we may want to address. Were any memos ever sent to you as leader?

Councillor Tulley: No, it was done on a verbal basis. I kept asking and was assured that meetings were taking place. I was aware of difficulties. In addition to Mr Campbell, Mr Christie and Mr Croal, there were also meetings involving the late Ian Brown—who was director of technical services—particularly on disputes arising from catering, cleaning and transport budgets, which were proving to be difficult. A series of meetings was set up, at which information was passed back and forth.

Mr McAveety: Did you ever request a briefing paper?

Councillor Tulley: No, but I was aware of what was going to be reported at the next meeting. It was at that time that I said that we needed to set up a working group as quickly as possible. I had anticipated that, had the budget been brought into line, one of the first duties of the scrutiny committee, when we set up the new executive model, would be to investigate education. All the subsequent information that came out was too late—we had to act quickly.

The Convener: Mr McAveety has one final question.

Mr McAveety: Just an intellectual point. Why would hypothecation—legitimate as the debate on that subject may be—have anything to do with the Borders education budget? Why would it be the reason for the overspend?

Councillor Tulley: Bearing in mind the rapidly expanding education service in the Borders, one of the difficulties of maintaining that service has been that, while money was being directed in certain ways, the core budget was not being allowed to expand in the way that we wanted it to. That led to some of the ensuing difficulties and created a position where we overspent at the time. I have to say that that affected both revenue and capital.

Mr McAveety: But this document does not even mention it.

Councillor Tulley: That is up to the people who wrote it. Our working group had its own deliberations. We came to a conclusion at almost the same time. The reports vary, but in the main they agree with one another.

Mr McAveety: So it is an opinion.

Councillor Tulley: It most certainly is.

Irene McGugan: Councillor Tulley, I heard what you said about Scottish Borders Council wanting the Scottish Parliament to investigate certain issues, including the funding of special educational needs. However, the Scottish Parliament is here today to investigate Scottish Borders Council and your funding of special educational needs. I want you, if you can, to justify particular actions that you have taken.

In June, provision for special needs children was cut, allegedly without any prior warning or announcement, and provision for learning support was reduced by about £200,000. Then, £358,000 was transferred from the inclusion programme—from excellence funding, in fact—to go towards computers for the national grid for learning. That is confirmed in your report. I accept that those are special initiatives and that the money, about which you feel strongly, is ring-fenced. Nonetheless, it was £358,000, of which £198,000 was earmarked for classroom assistants, £10,000 for supporting parents and £50,000 for support to teachers. The sum of £100,000 was earmarked for early intervention, which most educationalists and other local authorities now recognise as crucial to the development of successful special needs education.

How do you feel about that now, in the light of all that has happened? That was not part of your overspend; it was allegedly cash going spare. According to you, the money was uncommitted. In

seeking to transfer the money, you would have had to assure the Scottish Executive that there would be no detrimental effect on existing provision for children with special educational needs. How can you justify all that to families in the Borders?

Councillor Tulley: First of all, Scottish Borders Council provides a classroom assistant ratio of 1:15—that is the national target. We asked for a transfer from the excellence fund of some £525,000. That was approved by Mr McConnell, with the exception of the part of it dealing with special needs education, which meant that we ended up with £358,000.

As you are aware, the national grid for learning had to be completed by 31 March this year. In our budget was the sum of £500,000 of excellence fund money—I think—for the national grid for learning. An additional sum brought that up to just over £600,000 from within our own funds. The actual spend this year, to put in the national grid for learning component, is something like £1.3 million, so we had a major difficulty. Some money had already been committed for which there was no money in the budget. Given the pressure we were under from the headmasters of the schools that did not have national grid for learning provision, we sought to find money in the short term to get us out of that difficulty. That has now been resolved, but a great deal of extra money has gone in. We will overspend approximately £800,000 on special needs education this year. What came off for the national grid for learning has been reinstated by other measures.

Irene McGugan: It comes back to the point that I made at the beginning about decisions being made with the best interests of children at their heart. Sometimes that does not happen.

I am not here as an apologist for the Scottish Executive, which can make its own case. However, early intervention funding, for example, is an attempt to provide additional moneys to councils so that they can develop their policy and make it even better than it may be already. You did not choose to take advantage of that opportunity.

Councillor Tulley: If one is overspent at the level at which we were overspent, one must make an immediate decision. We were aware from early on in this financial year that the education budget for this year had not been adequately constructed. If you have read the external auditor's report, you will see that it criticises us for not moving quickly enough last year to correct the problems that were being identified. There was no way that I was going to fall into that trap this year. Without undertaking the necessary consultation that I would have liked to undertake, we had to take short-term measures to stop the haemorrhaging

and ensure that we ended up in the black. I am now confident that the council will end up with the education account in the black this year, following the £1.6 million of cuts and the virement of £850,000 from other council budgets.

Irene McGugan: The possibility of replacing classroom nursery teachers with nursery assistants from the new year was mentioned. Officials gave us their opinion that having nursery teachers in nursery classes would be best for children. As councillors, can you give us a guarantee that when the decision is made, it will be driven by what is in the best interests of children and not by another cost-cutting exercise, and that the primary consideration will be the education of children in the Borders?

Councillor Tulley: I cannot give you that guarantee, as the decision will be up to the council at the end of the day.

Irene McGugan: But you are—

Councillor Tulley: Please allow me to finish. We have indicated that there is a gross overspend in nursery education provision. We have far too many nurseries and a lot of places have not been filled. Those places do not attract grant and consequently we are in a loss situation. About 200 kids in the Borders—instead of only a few—are in the private sector. People have voted with their feet and are going to private nurseries, which are staffed by nursery nurses. The policy in Scotland is that private nurseries do not have qualified nursery teachers. You may correct me if I am wrong, but I understand that the requirement to have a nursery teacher in a nursery school is likely to be withdrawn by the Parliament and that that may happen next year. You may wish to consider that point.

When we talk about rationalisation in the council's education committee, we will consider all the options before we take decisions, including whether we need both nursery teachers and nursery nurses in every nursery or whether we could go down to the level of having two nursery nurses or whatever. That decision has yet to be taken.

As we also believe that we have over-provision, we will consider whether nurseries should open for half a day, rather than having full-day opening in some areas, as well as any other measures that could bring the budget into line. It is a gross misuse of education money to overspend on empty nursery places when that money could be vired to other parts of the education service that are under strain, such as special needs. We want the co-operation of the schools and the teachers to ensure that we do not diminish the quality of the education service and that we try to make savings wherever we can. I cannot justify to the public in

the Borders a teacher standing in front of classes that are not nearly full and where grant is given on a per-pupil basis. We must make inroads into the overspend, and the savings that we are able to make will be kept within the education budget, in order to keep up the quality of education in the Borders.

Irene McGugan: The decision may not have been made yet, but everyone who is listening to your evidence today will have a fair idea of your current inclinations.

Councillor Tulley: I do not think that that statement is correct. I will wait until the full information is placed before me and, if necessary, I will make recommendations using my conscience in the best interests of the people of the Borders. I have not made up my mind. Consultation is consultation and undertaking fact finding before we take decisions is the correct method. Many of the things that happened and that brought about this situation did so because inadequate information was brought before the council's education committee. Several reports were not adequate to allow correct decision making to take place. If one does one's homework correctly, one will not end up in this situation. The fact is that reports were brought before the committee that did not give us the full information before we took decisions—that is one reason why we are here.

The Convener: You said that you were confident that the education budget would end up in the black. However, the acting chief executive said to us that he thought that the budget would be overspent again this year by £300,000.

Councillor Tulley: No. He said that £300,000 would be the worst-case scenario. However, we are continuing to work on that. One of the recommendations will be dealt with tomorrow by the education executive and we will be imploring the head teachers to keep within—

The Convener: Has not that money been allocated to schools already for projected expenditure?

Councillor Tulley: Yes.

16:45

The Convener: Why should individual schools suffer as a result of the inadequacies of senior management in the education department?

Councillor Tulley: It has been made clear to everyone that we must try to work within whatever budget we have. If we cannot do that, there is still time between now and the end of March to explain why we cannot do so. Even if we were able to make that justification, we would still have to take other measures. At your level, particularly if you have been involved in local government, I am sure

that you will know that you cannot always predict what is likely to happen. Some budgets are underspent and some are overspent, and they must be matched up at the end of the day. We should try to balance the education budget.

My clear aims have been for this year's education budget to end up in the black, to construct adequately a base budget for next year that fits the demands of people in the Borders and to keep matters that way.

The Convener: Do you find it surprising that the close management structure that we have been told exists within the council is so close that no written records were kept of meetings, proposals or concerns about the actions of the person who seems to be responsible for much of this situation and to whom no one has spoken? As the leader of the council, are not you concerned that there is such a high level of sickness in that close management team?

Councillor Tulley: The Scottish Borders Council, in national terms, has a low level of sickness. A number of senior people are off sick, but some of them have been under extreme pressure recently, which may have brought about their illness. As a council, we have a good sickness record. If you want to draw out the figures, you can come back and correct me if I am wrong.

The Convener: Key figures in this situation—the chief executive, the director of education and an assistant director in the finance department—are off sick and are not available for us to speak to. Do you accept that that is a matter of some concern? From what I can pick up, the man at whom everyone seems to have been pointing was sacked not for any actions that he took in the course of his job, or because he ran up a deficit for which everyone is blaming him, but because he did not have the appropriate qualification.

Councillor Tulley: I will make several points in response to that. The chief executive is not off sick—he was retired on ill-health grounds two months ago.

The Convener: That is a technical difference.

Councillor Tulley: The chief executive was off sick before the main events unfolded. Mr Christie has been under undue pressure in recent months and he has gone off sick. The lady who dealt with nursery education got a tremendous battering at a public meeting—not everyone can deal with public meetings and she found it particularly difficult.

The Convener: Another gentleman from the finance department is off sick.

Councillor Tulley: He went off sick in the past couple of weeks and has been off for 10 days.

All those employees are under extreme pressure. You would be depressed to see the kind of battering that we are all receiving at this time. Some people are better able to cope with that than others are. It is understandable that we are under that pressure, because education is a key component of people's lives. People want the best and they are unhappy about what has happened. Our people are therefore under pressure and we accept that.

Ian Jenkins: In an earlier question, I highlighted the need for flexibility in applying some of the cuts. Can you assure us that you will still consider individual cases concerning transport and support in the classroom?

You spoke about the budget going into the black. Is there elbow-room in the budget to improve the cleaning services, which are clearly at the heart of the difficulties with morale and health? Today we saw a situation in a special educational unit where it is clearly unhealthy if that unit is not cleaned every day—with disinfectant in some instances.

Can you also assure us that there will be consultation about the nursery schools? If we can change the atmosphere and get people working together, that would indicate that you are moving in a direction that people wish to go in.

Councillor Tulley: On consultation, we met all the heads of secondary schools twice and we met three groups of heads of primary schools. Subsequently, we met the education executive for primary schools. One of the things that the working party drew from those meetings was that consultation is an issue. I am prepared to give way and take up that issue and to ensure that there is as much consultation as possible.

On the present scenario in nursery education, our officials have consulted all the head teachers and we have had a meeting with our education executive. We are consulting and will take concerns on board. To return to Irene McGugan's earlier question, we will hear what those people have to say. They might well come up with ideas that could help to rationalise nursery education and free up more money. I would rather see rationalisation than a hit on the per capita allowance for any individual school.

I am glad that you asked about cleaning. The whole council did not take that decision. The decision was taken under emergency powers following consultation by the education working group. The decision was taken to make an early hit on saving money. The working group's view was that it was better to make savings on cleaning than to hit the per capita allowance in the schools. With the benefit of hindsight, I put my hands up and say that we took the wrong decision. We have

listened to what the head teachers have to say and we are seeking to reinstate the cleaning at the beginning of January, subject to the money being available. We are conscious that we have made a mistake there and we are going to rectify it. However, the decision was taken with the best of intentions.

We did not just target the poor cleaner on a low wage; we also targeted management in the catering and cleaning departments. Two people with salaries in excess of £25,000 took either early retirement or redundancy and they will not be replaced. That is not low pay in my book—it is certainly more than the leader of Scottish Borders Council gets. We have therefore targeted more than just those at the bottom level.

Our reasons were quite clear. We wanted to protect the money that was being spent in the schools on cleaning. We will reinstate that cleaning at a later stage. The working party report made it clear that the measure was temporary until the end of the financial year, as was the reduction of £150,000 in the school maintenance budget. That will also be reinstated from 1 April 2002.

Ian Jenkins: Will you still be flexible about the transport?

Councillor Tulley: Irrespective of the background, if we can make savings in any of the budgets without unduly affecting the people concerned, those savings should be made. The fact that education is important and that we have to provide transport means that we have to deal with those matters as efficiently as possible. Savings should be made where possible.

If the savings have a detrimental effect, there is an appeals procedure for transport and special needs. Mrs Younger sat on the committee that overruled our officials in respect of a child with special needs in Peebles. There is an appeals mechanism by which such specific issues can be picked up.

Obviously, we do not want to make any cuts if we can avoid them. However, in this instance, needs must. Until we get the accounts back into the black and see a reasonable balance, difficult choices will have to be made.

Ian Jenkins: I am not suggesting for one minute that you do not rationalise the transport. Individual cases should be considered through the appeals procedure. I am, however, led to believe that there are still some decisions that—

Councillor Tulley: We overspent again while trying to make a saving because, this year, there has been a big increase in free transport. The demands of a rural area are such that we have to provide free transport. The kids are entitled to free education and the distance for free transport is

over three miles for younger kids and two miles for older kids. We have to meet that demand; we have no option.

Ian Jenkins: I am saying that we need to change the atmosphere and change the way in which we talk about those issues. There are blanket decisions that might have to be taken, but they have to be tweaked when individual cases are taken into consideration.

Councillor Tulley: That is the benefit of appeal mechanisms.

Councillor Dumble: Ian Jenkins is aware that, from the beginning of August, Councillor Younger and I have taken over lifelong learning. One of the issues that was raised previously was communication and consultation. One of our priorities is that communication and consultation should take place at a higher level than in the past. We hope that we have made some kind of start with that and that it will be progressed.

You have also spoken about people with special needs or other special cases. I would hope that we consider those cases in the manner that was suggested by Councillor Tulley and I go along with his suggestion.

Ian Jenkins: I have a question about the £3.9 million. Do you recognise that it would be difficult politically for anyone to accept that that money should be clawed back from education?

Councillor Tulley: No decision has been made about the £3.9 million. Our first aim is to get the budget back into the black. Our second aim is to get next year's budget adequately constructed. Within Scottish Borders Council's overall budget, we have to consider our reserves. The council has been prudent and, when this unfortunate incident occurred, we were fortunate to have a good level of reserve. Many councils in Scotland would like to have that level of reserve. We have tried to manage those reserves prudently so that there is always something to draw on. We used some of the reserve money for the employment situation; we used it for the year 2000 problem; we certainly used it for building factories in Kelso.

We had £6 million of reserve. The fact that the £3.9 million is funded out of that reserve at this time is testament to the fact that we were a prudent council. I will not predict that no money will be clawed back—that will be a decision for the council to take when it is armed with the information to which many of you have drawn attention today. Decisions cannot be taken without good financial information. When that information is available, that will be the time to make those decisions.

The council cannot end up in the red. It must have an adequate reserve balance across all its

budget heads. The average percentage in Scotland from the general fund is 2.7 per cent. Scottish Borders Council has been well in excess of that figure for many years. We have to wait for the final outcome for this year before we start to say whether any of the £3.9 million is going to be taken back and, if it is, over how long. We will consider that rationally when the time comes.

Ian Jenkins: Is it correct that your budget is scheduled to be set by 14 February?

Councillor Tulley: The overall council budget will be set by 14 February next year.

Mr McAveety: It would be useful to have a comparison of general absenteeism levels, so that we could see whether there are any anomalies at senior management level. I know that it would be impossible to give the specific details today, but I would find that information useful.

I have a second question that you might not be able to answer today. What percentage of decisions are made through the emergency power mechanism? I think that was the phrase that was used.

Councillor Tulley: Until recently, a number of such decisions were made, because we operated a committee system that had five full cycles a year. Sometimes there could be three months between one meeting and the next. The procedure at that time was that the convener, in consultation with the vice-convener and the chairman of the committee, following advice from the chief executive and the appropriate director, could ask for certain measures to be taken. In certain instances, a committee would be notified that a measure was going through the committee that could not wait until the full council meeting, so emergency powers would be requested—I vetted all those requests before they were approved. That still happens on the odd occasion, but the fact that the executive meets twice a month should eliminate the need for much of that type of decision making.

The Convener: In theory, when the overspend was found in November, you, as the leader of the council, with your deputy and the chair of education, could have taken action using the emergency powers.

17:00

Councillor Tulley: The action that we took was to instruct every department to work within their budget. That decision was taken at the policy and resources committee that month.

The Convener: But the departments did not do so.

Councillor Tulley: With the benefit of hindsight,

we can see that they did not but, when one instructs departments to work within their budgets, one expects them to do so. Indications were given that departments were taking that instruction on board but it proved later that they were not doing so. At that stage, we set up the education working group.

The Convener: Were you getting reports, from November through to February, about what action was being taken on your instruction?

Councillor Tulley: The report to the education committee was sent to every member of the council, so I was able to see that report. An overall report on the council finances went to each meeting of the policy and resources committee. The tendency then was to note the report of the appropriate director. Nowadays, we would not be allowed to note a report; we would have to take a concrete decision on it.

The Convener: In November you made a decision and issued an instruction, both as leader of the council and as convener of the policy and resources committee, that each budget holder was to operate within their budgets. Did they then give you a weekly or monthly report about what they were doing to implement the instruction?

Councillor Tulley: No. At subsequent committee meetings, every committee would have a financial report, which would be in the name of the director of finance but which was drawn up by the appropriate assistant director dealing with that committee. In the case of the education committee, the report was drawn up jointly by Mr Taylor, the director of finance, and the director of education. Mr Taylor and Mr Bowman or Mr Buckley would have drawn up that report.

The Convener: From November, when would the next cycle of reports have been produced?

Councillor Tulley: An education committee meeting was held in January, with a subsequent one in March. In January, the figures were again different and we ensured that steps were being taken. I received information verbally in March from the director of finance and following that took the decision immediately to set up a working group to investigate the issue further. It was only after the end of the financial year that the enormity of the figure came fully to light.

Mr McAveety: On what other aspects of policy or funding did you use emergency powers?

Councillor Tulley: In respect of education?

Mr McAveety: Generally.

Councillor Tulley: The only occasions on which emergency powers were used in education were in respect of cleaning and catering to get the measures introduced at that time. Generally, the

powers can be used in relation to a report on staffing matters or as a result of a matter that has to be dealt with immediately. For example, the powers will have to be used tomorrow in relation to a landslide on the coast, which must be rectified and cannot wait until the next full council meeting. That decision will be taken after the meeting of the executive tomorrow.

Emergencies come up that must be dealt with. Tofts Barn bridge, at Lilliesleaf, had to be closed last year and measures had to be taken to rectify the problem. If asbestos appears in a building such as Kelso High School, action must be taken. Asbestos was found during a contract in an old folks home in Innerleithen. Decisions must be taken quickly to deal with such situations.

Mr McAveety: Given the information that we have had so far, this question might seem daft. In many other authorities, those decisions are delegated to professional judgment. The professionals are accountable to politicians at subsequent committee meetings. Would that not be a better way of dealing with such decisions?

Councillor Tulley: I am not sure that delegation would be the right thing, given that much of what we are discussing today was a result of misinformation that was given to the committee and dealt with by the professionals.

Mr McAveety: That is why I asked the question. It has nothing to do with hypothecation. Thank you for that helpful contribution.

You said that, at the second stage in the budget process, you considered reserves in examining how to deal with the education overspend. Did you consider that the first time round?

Councillor Tulley: No. To date, the overspends have not been wiped off the education budget. The money that has been spent has been funded from reserves, but it is still allocated as an overspend in the education budget. Once we know the true position of the overall council budget, we will have to decide whether we want to deal with the education overspend through the reserves and budget in future years to build the reserves back up, or whether we want the education budget to bear the brunt and pay money from its budget towards the overspend over one, two, three, five or 10 years. We do not know the position at this time and I would not like to predict what is likely to happen.

Mr McAveety: A lot of people do not have experience or knowledge of the madnesses of local government finance, about which you and I have often crossed swords at COSLA meetings. I am getting a wee bit of nemesis in today, thanks very much, Drew.

Were comparisons made on options across

different budgets so that there could be a genuinely open debate, at least among elected members, about where best to apply cuts?

Councillor Tulley: The SNP group proposed an alternative at the 1 August meeting. Three Liberal Democrats supported that proposal.

We tried hard, on the education working group, to make the least possible impact on the core education services. We wanted the cuts to cause the least possible harm.

One of the options on cleaning and catering was to have a sandwich-only service. On health grounds, I could not support that, so it will take three years to get the budget on the catering side for technical services to education into the black. Several measures are in hand to achieve that. The investment will come not only from us but from a private company with which we are in partnership—Castle View Catering. That company will also put in money, which will help to bring the budget into the black.

The working group considered many alternatives before recommendations were arrived at. We felt that we put forward a sound package to the council. Despite the fact that we were knocked back on 5 July, on 1 August the package was accepted in its entirety, with the exception of one small tweak of £8,000.

The Convener: That is exactly where some of the public disquiet has come from. Education is an important service to people in the Borders. You are right to say that you can be proud of the service that you have delivered over the years. However, there was some concern that cuts could have been considered in other departments, where they might not have been as obvious or felt as hard.

Councillor Tulley: I am happy to answer that point. At the time, about 80 people were waiting for social work services, many of them sitting beside hospital beds. Should we have taken money from the social work budget to prop up the education budget, knowing the difficulties that social work was encountering? Subsequently, a great deal of money has come into that budget. That is to your credit, but the fact that people were waiting was one reason why I did not feel inclined to go into the social work department budget.

On the roads budget, we had come through the worst winter that I can remember—and I go back to 1947. We had to overspend on the winter maintenance fund. That has not been touched by the recent virement from one department to the other, because the winter maintenance budget must be propped up. We have had to find money to do that.

Other departments have also been under

pressure. Leisure and recreation has been underfunded for many years, because we have concentrated on social work, education, police and fire. Departments do not have massive budgets. We are shaving money off them.

Some savings have come about because of efficiencies. The council has taken out senior staff and reduced the number of departments to five. One saving of £67,000 arose from the fact that the former director of central services left and has not been replaced. That saving was put into education. Additional money has come in through increased demand in this part of the Borders for building control and planning applications, which are currently quite buoyant. There has not been a cut in the budget. Money has been moved across where it is surplus to requirements.

The Convener: Was there an option to take the whole amount out of the surplus?

Councillor Tulley: No, we could not have gone for £2.5 million from the other budgets.

The Convener: Could money have been taken from the council's reserves?

Councillor Tulley: The council's reserves were down to about £2 million and we were not convinced that we had an accurate picture of education. To go into the council's reserves would have been utterly foolish. We could not bankrupt the authority.

The private advice that I received in my meetings with Grant McRae from the external auditors was that we must act quickly. I sought the advice of the external auditors. I asked whether we were going in the right direction and taking the right decisions. He said that we were, but that we must act quickly. We followed his advice.

The fact that many senior finance and education council staff could have been implicated meant that I was advised to get external help. That is why we brought in a former chief inspector of schools in Scotland—Harvey Stalker—who has done work on the new management structure for the authority. Recently, we attracted the former director of education at Grampian Regional Council to assist us on a short-term basis. We also brought in a specialist—Paula Gilder from Paula Gilder Consulting—who is doing a lot of work on DSM. Because of the implications, there was no independent person to whom I could go in respect of education. As a result, I sought to bring in and attract additional help.

Cathy Peattie: I understand that you need to put many things in place. If I were in your shoes, I would be concerned about some of the things that officers said. In fact, I watched your face as you were listening to them.

I am interested that you are looking at

consultants to consider structures. HMI is due to carry out an inspection of the education department. Would not it have made sense to wait until HMI had carried out its work before making changes? A consultant might suggest changes, but HMI might then suggest a different approach.

Councillor Tulley: I understand that you asked HMI to do an audit.

The Convener: We are not the Executive; no committee member is a member of the Executive.

Councillor Tulley: I understand that the Scottish Executive invited HMI to do an audit. I do not think that that will happen until we have taken decisions on the controller of audit's report, which goes to the Accounts Commission on 14 November. We cannot wait until HMI does its inspection. However, if the committee feels that the inspector should give us advice in the meantime, I would be amenable to that. If the committee wants to get in touch with him and he wants to get in touch with me to make suggestions, we would be amenable to that.

Cathy Peattie: We are considering overspends. It might have made sense to wait for HMI to come in before committing more money to consultants.

Councillor Tulley: If we waited, we would not be able to move forward quickly. We must make a move and get a firm management structure in place. The structure needs to be altered. I am dissatisfied with the current arrangements and changes should be made. If the inspectorate wants to get in touch with me in the meantime, I am happy to receive its advice. We have sought a former chief inspector from the schools system to advise us—I cannot be any fairer than that.

One issue that has not been covered—

The Convener: Before you continue, Ian Jenkins has a final question.

Ian Jenkins: Are you going to let Mr Tulley say some final words?

The Convener: I am allowing you a final question, Mr Jenkins. You should know me better than that.

Ian Jenkins: I asked Mr Campbell about the personal responsibility that he felt. I want to ask you the same question, Councillor Tulley.

Councillor Tulley: About Mr Campbell's personal responsibility?

Ian Jenkins: No.

The Convener: No—about the personal responsibility that you feel.

Ian Jenkins: What personal responsibility do you feel for the situation?

Councillor Tulley: I feel aggrieved at what has happened. I took all the right decisions at the right times and went out of my way to impress on the education committee the fact that decisions had to be taken. I acted quickly in setting up the working group and taking it forward. We will be in the black at the end of the financial year despite the outstanding £300,000, which we will sort out between now and the end of March, and we will construct a correct budget for next year.

It is for others to judge whether I have been remiss in anything that I have done. I have carefully considered the external auditor's report and could not find any criticism of me or my actions. I kept in close contact with the external auditor. I have personal meetings with him every year and the committee questions him. I take a great interest in these matters. I chaired Ettrick and Lauderdale District Council for 15 years and was head of its finance department. The fact that I was one of the few council conveners in Scotland who sat down with the external auditor was recognised.

I shared some of my fears with the external auditor and asked him where he had doubts about the authority's performance. I put to him some of my fears that I felt he should consider. I have done as much as is humanly possible. I regret what has happened and will play my part in putting it right.

17:15

The Convener: Thank you for attending the meeting.

Councillor Tulley: Thank you very much.

The Convener: There are two further sets of witnesses and there is a public meeting at 7.30 pm. We must press ahead. Representatives of trade unions that are involved in the council have joined us. Sue Roberts is from the Educational Institute of Scotland and Brian Bishop is from the Scottish Secondary Teachers Association. I invite members to make declarations of interest at this point.

Mr McAveety: I put on record that I am a member of the EIS.

Ian Jenkins: I, too, am a member of the EIS.

The Convener: For the record, I am a member of Unison.

Cathy Peattie: I, too, am a member of Unison.

The Convener: Do the witnesses want to make introductory comments, or shall we proceed to questions?

Sue Roberts (Educational Institute of Scotland): We both agree that we would rather go straight to questions.

The Convener: Okay. That is helpful.

Ian Jenkins: I think that Cathy Peattie raised the matter of consultation on the cuts. How do you feel the consultation was handled?

Sue Roberts: The EIS has approximately 900 members in the Borders. They are stakeholders in what is happening in the Borders in that they are employees, most of them live in the Borders and many of them have children at Borders schools. The vast majority of our members feel that the consultation has been inadequate. They feel that most of the information has come via the media or through the grapevine.

I will give a quick example. After a meeting on nursery provision, the EIS switchboard was jammed by members who thought that they would be made redundant or put on short-time working. We were not sure about the accuracy of the information, so I wrote to the acting chief executive of Scottish Borders Council, Mr Campbell, to request a meeting. In the letter I mentioned that rumours about redundancies were going round the Borders. Trade unionists are not happy to accept rumours about people's jobs, so we wanted and required full consultation and negotiation. Subsequently, we had a meeting with officials from the council.

Brian Bishop (Scottish Secondary Teachers Association): I can only echo what Sue Roberts said. The lack of information is a major cause of stress among teachers in the Borders—parents are stressed, too. We do not know what is happening half the time. Newspapers often state that head teachers are waiting for communication regarding the computers that are supposedly coming, but we have not heard officially that they are coming. There is a continual lack of information.

Ian Jenkins: Do you accept that it is difficult to communicate with individual teachers and that a mechanism that will allow the unions to act as a go-between is needed? I accept that consultation should be part of the set-up and that people should have proper information, but it is not easy to transfer information quickly unless a mechanism to do so exists. Is it correct that the mechanisms did not exist in the first place?

Brian Bishop: It does not take much to pick up a phone and speak to the district secretary of the EIS or to me. Although I requested communication, I have yet to receive it or to be asked for my opinion.

Ian Jenkins: How well have the teachers' representatives on the education committee communicated with you?

Brian Bishop: A member of that committee works in the same school as me, so it has been

easy for me to get information, but it is difficult to know what is meant to be communicated and what is privileged information. I represent members, but I get information by the side door, so I do not know how accurate it is. Information does not come through an official avenue, which is not satisfactory.

Ian Jenkins: I accept that the rumour mill is dangerous.

Sue Roberts: I have a point on official information, consultation and negotiation. In a recent discussion with council officials it was made clear that, should there be redundancies in nursery provision, the council intended to have full and meaningful consultation. To do otherwise would be unlawful and would mean that the council, which is struggling for cash, would be liable for payment of protective awards to various members of staff. We will seek to protect our members.

Ian Jenkins: In general, how have the cuts affected your members in schools?

Brian Bishop: I received one plea from a head teacher, asking me to point out that he is under increasing stress because he is asked continually to cut budgets, that he must say no to principal teachers who ask for money and to point out that geography trips are under threat of cancellation because there is less money for supply staff. It is hard for head teachers to spend time considering how to cut budgets. They cannot do the job that they should be doing because they must think about how to save money.

One of my principal teachers has £74 to run a science department between now and the beginning of the next financial year.

Ian Jenkins: He should soon get more money from the Scottish Executive.

Brian Bishop: Yes, but such pressure is continual, because we must think about ways of saving money, rather than ways of educating our pupils.

Mr McAveety: Will you clarify the role of trade union representatives on the education committee? Which unions are represented on it?

Brian Bishop: There are teachers' representatives on the education committee.

Mr McAveety: Are they representatives of the two main teaching unions?

Brian Bishop: Because there are 200 members of the Scottish Secondary Teachers Association and 900 EIS members, the representatives on the education committee tend to be from the EIS.

Mr McAveety: I have in the past encountered local associations that were fairly voluble in

discussion processes. Does Sue Roberts know whether the union representatives were present during the pertinent meetings of the education committee of the council? Why were no questions asked?

Sue Roberts: To the best of my knowledge, our local association representative was at the majority of the meetings and he raised questions on a number of occasions with elected officials and council staff.

Mr McAveety: I am trying to be fair, because I gave council officers a grilling. The controller of audit's report says that members of the education committee asked no questions. By what mechanism do you find out whether your staff representatives represent you in the process?

Sue Roberts: If a problem comes to light, it is invariably communicated to head office either by e-mail or fax and it is then taken on board. On the issues in the Borders, I cannot tell you exactly what our local representative did at every meeting that he went to and he is not here to answer questions. If the area officer has a problem, as I do with what is happening in the Borders, we make frequent visits. I have been to the Borders at least once a fortnight to visit schools and meet officials.

Mr McAveety: Many of the submissions that we received suggested that the information flow was problematic. Have you requested that a mechanism be put in place between the education authority officers and staff to reassure them that the situation does not affect core teaching staff? All the evidence that I have seen suggests that the difficulties are around the edges—with support services. I saw no indication to justify the kind of concern that your members raised with you.

Sue Roberts: The concern over core staffing has come from the issues that were raised about the meeting that is scheduled for 20 November to consider whether reconstruction of nurseries in the Borders will go ahead. We requested information on that from officials and asked for a consultation and negotiation process to be set up, should the proposed reconstruction be ratified. We have identified up to 47 individuals who could be affected by that process. They are worried about their livelihoods and about the quality of education in the Borders, particularly nursery provision.

The Deputy Convener (Cathy Peattie): I want to go back to consultation. We have asked witnesses this afternoon for their views on the consultation. Wide consultation is needed. What role can trade unions play in consultation to ensure that their members get information and can feed it back?

17:30

Brian Bishop: A quick means of communication between union members and union officials does not exist. It would be nice to think that we could come up with a better method of communicating during times of crisis such as this. We have joint consultative group meetings twice a year, but they are not frequent or responsive enough to be a vehicle for communicating on issues such as the one we are dealing with. I can suggest only that in addition to having regular meetings with people such as head teachers, there should be other avenues for meetings.

Sue Roberts: The EIS has organised meetings around the Borders that have successfully kept teachers up to date with what is happening and have helped to campaign against the cuts. A communication success story is the fact that 2000 union members and other stakeholders turned out on a wet day in Galashiels. We all got soaked, but everyone was there to make their point, which was to say no to the cuts.

The Deputy Convener: Have you picked up on whether there is stress among teaching staff? We spoke to teachers this morning who felt that they were carrying much of the burden of the cuts. I am interested in any feedback on issues that relate to stress in schools.

Sue Roberts: Many staff feel demotivated by what has happened, because they work in dirty classrooms and feel that they are not being fully communicated with. They are communicated with via newspapers, to an extent. Their jobs and their professionalism are threatened and they feel generally under threat. For example, the head teacher of Hawick High School must cope with a 40 per cent cut in per capita allowance. He has had to impose extra charges for craft, design and technology and home economics. That means that the costs have been defrayed, but by the parents.

All those matters are seriously worrying to professionals, in particular the nursery education cuts and possible future cuts. That is not only because of the non-intervention strategies, but because some nursery pupils might have to face a change in their education pattern in January. Further cuts could happen in the new financial year in April. Then, those nursery pupils could move into primary school in August, which could mean that there would have been three major changes during those children's formative years of education. I am sure that you all know that that is contrary to the requirements of the Scottish Executive education department and the Standards in Scotland's Schools etc Act 2000.

The Deputy Convener: What is your view of a nursery school not having a nursery teacher?

Sue Roberts: Many parents regard having a

nursery professional in the nursery school classroom as a quality indicator. I know that private provision can be excellent, but such provision has generally been supported by nursery teachers who are trained in the nursery curriculum. Without a nursery teacher, there is no quality provision.

Ian Jenkins: Is the unions' position that there should be no cuts and that the budget should be allowed to go headlong into real difficulty?

Brian Bishop: No. We should be getting more money.

Ian Jenkins: I agree. I am only asking the question.

Brian Bishop: I have communicated with my members on the matter and we find it hard to accept cuts when we are working almost at anorexic level to keep services going. Mr Tulley mentioned that the exam performance of Scottish Borders Council's schools puts the council in the top six councils for schools' exam performance. However, we are in the bottom six for spending. It is difficult to cut when one is already at the bone. The staff to whom I have spoken do not accept that we should bear the burden of mistakes that were made elsewhere. The pupils whom we teach do not deserve to be disadvantaged by cuts that are necessitated by inadequacies elsewhere. That is unfair to the pupils and I have been asked to ask the committee to do what it can to help the pupils, not the councillors.

The Convener: In your experience of dealing with disciplinary investigations by Scottish Borders Council, is it common practice not to have minutes of meetings or notes of discussions about concerns over the actions of a staff member? You heard earlier evidence that there is no written information available to back up what happened in discussions that took place between November 2000 and March 2001. Is that a common occurrence when you represent members in disciplinary meetings, or is it unique to this situation?

Sue Roberts: When representing any member for grievance or disciplinary matters, we always—as a trade union—keep our primary notes because one never knows where the case will go. In the meeting that I had with members and officials last week, notes were kept. The person from human resources management—whose name escapes me—took notes. Notes have been taken at the majority of meetings. Occasionally, I have regarded a meeting as merely a general chit-chat about a way forward. However, if the meeting is about a disciplinary matter that could possibly go the full journey—which can happen with any case, although one never knows which one—primary notes are taken.

Mr McAveety: It strikes me that most of the oral evidence and written submissions that we have received confuse two issues. One is the structural issue of how to fund education services and the constant pressures on schools, pupils and staff that are caused by that. The other issue is the situation that faces Scottish Borders Council. I want to focus on the latter issue, because although the first issue is a legitimate debate, it is not relevant to our inquiry. What budget matters should Scottish Borders Council revisit immediately? How can the council meet its obligation to get a budget in on time, if cuts are not made in the education service?

Sue Roberts: I suggest that two matters must be looked at urgently. One is devolved school management—DSM. I am sure that you have heard the statistics that a Borders head teacher has quoted. The DSM per capita cost per day has gone down from about 29p a day per student in 1999-2000 to approximately 10p a day at the moment. That amount is for consumable items, but 10p a day for such items as pens and paper is not realistic. What does the teacher do if Johnny breaks his pencil? Does the teacher tell him that he cannot have a pencil for the rest of the year? That is a rather flippant example, but the bottom line is that DSM must fund consumables, which are a major feature of education.

Supply cover has also been cut back drastically. It is difficult to plan future supply cover, because one cannot guarantee who will or will not be sick; that is in the lap of the gods. However, the supply-cover budget has been used for things such as school trips, which are part of the education experience. They are quality experiences for students. Trips need to be built into budgets so that they can go ahead. In some circumstances parents have paid for those trips. Stopping financing of such trips would cost parents and students money and the quality of education would suffer. Money must urgently be put into DSM and school trips.

Brian Bishop: I can only agree with what Sue Roberts said. I do not think that schools have scope for saving money; they are at the opposite extreme from that. I do not know where we can go from here, or what Scottish Borders Council can do to get itself out of the mess.

Sue Roberts: Was the second half of your question about suggesting a way forward?

Mr McAveety: Yes.

Sue Roberts: Councillor Tulley's submission referred several times to getting the budget into the black and driving through the proposed £1.6 million cut. He referred to the fact that consultation might not always have been what it should have been during the drive to keep the budget in the

black. There is a philosophical point in that about what makes for a good education service, concerning people's perspectives on and feelings about the subject. I am talking about the stakeholders in education: pupils, parents and teachers—everyone who is involved in the process.

I believe genuinely that the £3.9 million that has been taken out of reserves ought not to be paid back. We cannot ask the children of the Borders to pay for what has happened. They deserve exactly the same quality and standard of education that is available in all the other 31 local authorities. They should not be penalised because of where they live. We need to consider the impact that repayment of that £3.9 million would have on the future of education in the Borders. Someone somewhere needs seriously to evaluate what the proposed £1.6 million cut in the education budget would do to the quality of education in the Borders. We need to consider what it would do to nursery provision and to children in the Borders. I realise that there is a price that must be paid, but we need to strike a balance between getting into the black and quality of education. I would like quality of education to top the agenda.

The Convener: I thank the trade union witnesses for their evidence.

We will now hear from Eileen Prior and Donna Allen, who represent Borders Equality in Education. Once they have made an opening statement, members will have an opportunity to question them.

Eileen Prior (Borders Equality in Education): I thank the committee for giving us the opportunity to give evidence to it today. Borders Equality in Education is made up of individuals and families—mostly, but not exclusively, people who have children with special needs and are concerned about the education cuts. As has been recognised today, those cuts are having a particularly severe impact on children with special needs.

We believe that kids are not disabled by virtue of their label, whether that label be Down's syndrome, autism or whatever. We believe that they are disabled by the barriers that are put in their way, by a lack of services or by a failure to provide support. We believe that our council should be in the enabling business, because that would benefit children and society as a whole and would allow our children to go on to lead fully independent lives. That is not the current situation in the Borders.

Parents like us read material produced by the Scottish Executive and Scottish Parliament that talks about equality in education, mainstreaming and inclusion. That is a million miles from what is happening in the Scottish Borders. We have

prepared and will submit as evidence a dossier of cases of individual children in the Borders who are suffering real pain as a result of the cuts that have been made. They are suffering pain in all sorts of ways. Their auxiliary and learning support is being cut or reduced. Contrary to the evidence that was given earlier, we know of one family who have been told that funding for their child to attend residential school is under threat. There are attempts effectively to exclude children from mainstream education. Resources are being spent on that—the council is prepared to spend money to keep children out of mainstream education, rather than to put them into it. There is also an absolute breakdown of the speech and language therapy service in the Borders. Necessary equipment is not being bought and the bad situation in transport has got worse. In some cases, the situation is not only difficult but downright dangerous. Families are very concerned for the safety of their children.

Kids who are in mainstream education in the Borders have been subject to a real double whammy. Along with their mates, they are suffering because services such as cleaning and school dinners have been cut. They are also suffering because the other services to which I referred are being withdrawn or cut.

The council is effectively excluding families from this process. Members will see from our submission that families are writing to and phoning the council, but letters are not being responded to and phone calls are not being returned. When consultation was mentioned earlier, I could only snigger—which I should not do. However, what is happening is an absolute nonsense. Records of needs, which are supposed to accompany children through their schooling and to guarantee their provision, are being totally disregarded.

17:45

This situation is fundamentally damaging children's access to education. If learning support is removed from a blind or a deaf child, they are excluded from education. The council's approach is damaging our children's development in the long term and is reducing their independence. We know of a child who has multiple disabilities, travels to school every day and was previously capable of making her own way into the transport. However, now that that has been changed she has to be lifted bodily into the transport. I am talking about a 14-year-old girl whom we should be encouraging to be independent. Instead, we are taking away the little bit of independence that she had. We are insulting children's dignity. That is unquantifiable, but in many cases it is happening. There seems to be a complete disregard for the needs of children, which borders

on contempt in some cases.

The record of needs should give legal protection to our children, but early intervention seems to be evaporating. Families are told that they do not need a record of needs and, for those families who start the process of getting a record of needs, it can take a year or more to have one in place. That is an appalling situation.

In the summer, £350,000 was moved from the excellence fund—money that was uncommitted. Like members earlier, I want to ask why that money was uncommitted. It should have been being invested in schools and funding support for children with special needs, but it was not even being spent. If that money was needed to pay for the council's commitment to the national grid for learning, I would suggest that the council was trading while insolvent, because it entered into contracts that it had no money to pay for. If the council were a private company, it would be before the courts for that.

We have already heard that the Borders has very low per capita spending on education. I am not a financial whiz, but as a parent I must ask what the money is being spent on. Audit Scotland's report was absolutely damning. As far as we can see, this council is spiralling out of control. We are lurching from one announcement of cuts to another. The people who are left to deliver the service—the educational psychologists, the speech therapists and so on—are under huge pressure. We believe that the council's position is untenable and that the council should be replaced.

At the moment there are families in the Borders who are at breaking point, because they have been excluded from the education process. Our children cannot wait for all the procedures to be gone through or for results in six months' time, as they are suffering daily. We believe that that is absolutely unacceptable and that action must be taken. Everything that is happening in the Borders flies in the face of national strategies for special educational needs.

The Convener: Thank you. Before we move to questions, I caution members against asking questions that may identify individual pupils. That would be ill advised. It is also not within the gift of this committee, the Scottish Parliament or the Scottish Executive to remove councillors from their position. They have been elected to that position and they will be accountable to the people of the Borders at the local government elections in either 2002 or 2003, depending on the decision of the Scottish Parliament. It would, therefore, be inappropriate for us to comment on the status of councillors.

Irene McGugan: You will be aware that our remit is to assess the cuts to the education service

in the Borders. Certainly, we have had no shortage of evidence about the things that happened. Your evidence reiterated some of it, including the reduction in speech therapy, psychological services, learning support, transport and equipment. You will be aware that further recommendations are being made to recoup more funding. I am concerned by some of those recommendations, particularly the one about creating a unit in the Borders for special needs children. The reason given for that was that it would save on transport costs. How do you feel about some of the things that are likely to happen, given that the situation will not be resolved easily or overnight?

Eileen Prior: I believe that the reliance on special units is one of the main issues that the Borders faces. We call it mainstreaming, but it is not—it is special units within mainstream schools. Children from all over the Borders are taken to a small number of special units. Clearly, some children require that specialist input. However, many children would be happier if the resource were put into mainstreaming their education; the families would be happier and we would not have such an enormous transport bill. That is a major issue in the Borders.

Many families that I have spoken to feel the same way—they want their children to be with their pals in school and they do not want them to have to go all the way to the special unit. I live in Peebles, which is 40 or 50 minutes away from the centre at Langlee Primary School in Galashiels. That is a ridiculous amount of travelling time for a four or five-year-old to have to do every day. It is unacceptable. In general, families want their children to be educated locally—that is what inclusion is supposed to be about. It is part of the national strategy to ensure that children are included. Inclusion starts in school.

Irene McGugan: There is a presumption for mainstreaming.

Eileen Prior: There is supposed to be.

Irene McGugan: That is enshrined in legislation. Are you saying that Scottish Borders Council is failing to meet that presumption?

Eileen Prior: Yes.

Irene McGugan: What needs to happen in the Borders to improve the situation for the children that you know?

Donna Allen (Borders Equality in Education): It was very upsetting that the cuts that went through before the end of term last year—specific cuts that affected cleaning, special educational needs, transport and catering—were carried out under special management powers. A week later, that could have been raised at the full council

meeting and could have been discussed along with the other £1.5 million in cuts.

As we see it, the working party took it upon itself to make the cuts that specifically affect children. We are left in the position that the cuts have been carried out with no consultation and there is no way of moving that issue forward. It can only continue until the £4 million is repaid.

Eileen Prior: As parents, we are very concerned about how that will be done.

Irene McGugan: Absolutely.

Eileen Prior: In short, we do not have an answer. However, it is not the children's problem and it cannot be the children's problem. Scottish Borders Council has one of the lowest rates of council tax. What is the point of having low council tax if the council cannot deliver an adequate service?

Cathy Peattie: What would you say to a rise in council tax to help pay for special needs education or education across the board?

Donna Allen: I would say okay to a small rise. However, we should bear in mind that most of the money that the education department gets comes from the Scottish Executive—only a small amount of the money comes from locally raised council tax. It is the Executive's money that the council has mispent, not local money.

Cathy Peattie: We heard earlier on that if parents are not happy with transport arrangements, they could go through an appeals procedure. What is your view on that? Parents and families that have children with special educational needs are vulnerable anyway and often find life to be a constant battle with the authorities. That is what we found during the course of our special educational needs inquiry. Do you think that parents would welcome the opportunity to go to appeal, or are there other ways round it?

Eileen Prior: The reality is that only a certain set of parents will pursue the council. Some of the evidence given by Mr Paterson said that the council would meet its legal requirements. The subtext to that was that the council would do so, if pressed. In practice, many parents do not know exactly what their child is entitled to and they do not have the confidence to challenge the council to get the services and support that their child is entitled to. Only parents who have gone down the road that members of Borders Equality in Education have gone down will take up such issues. In other cases, the council is let off the hook.

All children are a lot of work, and a child with special needs is twice or three times that amount of work. To go down the road of pursuing an appeal is horrendous. We know of several families

who have been through or are going through that process and we can see it on their faces. They are absolutely worn down by it.

Cathy Peattie: What needs to be done to ensure—perhaps an optimistic word—that the council listens to what parents of children with special educational needs are saying?

Eileen Prior: Parents who have children with special needs are experts. Any parent is an expert on their own child, but the parent of a child with special needs becomes an expert not only on their child, but on whatever condition that child has. We need to be listened to. There needs to be a dialogue that allows parents more input into the process.

Donna Allen: The council must listen not just to parents, but to the professionals that it employs. Each child comes with a speech and language therapist, an educational psychologist and paediatricians, but by cutting transport or special educational needs, the council is not taking a whole approach to that child. To make the parents have to appeal and go through all that work seems very unfair.

The Convener: Do you accept that there will be situations when the views of the professionals are different from those of the parents? Someone has to make that difficult decision—sometimes it is in favour of the parents, sometimes it is in favour of the professionals. Those decisions are not always made because of budgetary constraints. Such decisions are sometimes made in the best interests of the child, when the professionals take the view that a different placement from that which the parents requested is needed.

Eileen Prior: That is absolutely true. However, the evidence from the Borders over the past six months or so is that where families are in such a conflict, the decision is related to budgetary constraints. That is where the problem arises, because families know that that is what is behind the decision. There has been no true consultation in the process. If the families have been excluded, how can they sign up to the decision?

The Convener: Are families provided with any rationale or reasons as to why they are not given the placement that they requested?

Eileen Prior: It is not just about placements. We have had two cases in Peebles. One has gone to appeal; the other has been kicked into touch. If families were included in the journey, we would probably not even get to an appeal. After all, that is the way that it should happen. However, families are not being included in the journey. There is no sense that they have reached a negotiated settlement. It is simply a case of the decision having been made and that being that.

Mr McAveety: In discussion with other parents and people in your organisation, where do you conclude that things have gone critically wrong?

Eileen Prior: How long have you got?

Mr McAveety: How do we re-establish trust between parents and the council? It is apparent that it has been a very difficult experience—that is the best euphemism that I can find. Where do the responsibilities lie and how do we map a more trusting environment?

Donna Allen: The council does not seem to register that there is a crisis or that the children with special educational needs are being disadvantaged. It would help if the council took that on board.

Mr McAveety: Are you partially reassured by the comments that have been made so far that the council will revisit its budget and continue the debate on future reserves? Is that a negotiating agenda?

Eileen Prior: I will start to feel optimistic when I see some of the distraught families that I know getting some positive feedback. Those families are worried about their children making the journeys in such a way every day and need to talk to the council about it, yet their letters are not answered and their phone calls are not returned. They are making no progress at all. If that situation begins to change, we might be more optimistic.

Mr McAveety: Do you subscribe to the view that an individual was responsible for the problems or do you think that there was a corporate weakness?

18:00

Eileen Prior: Scottish Borders Council needs to latch on to the notion of collective responsibility. I do not believe that one person could wreak the havoc that it is claimed that this person whom no one can speak to or question has done. I cannot swallow that. There has been a real abdication of responsibility by the council

Mr McAveety: Hindsight is a wonderful thing, but what do you think that the education committee should have done in November, January or March?

Donna Allen: It is difficult to say what it could have done then as it did not have the full information. There was a problem with the reporting system.

Mr McAveety: If you were on an education committee that was dealing with a deficit of £300,000 and—

Eileen Prior: I would ask questions and ask for reports that would break down the budget

overspends.

Given the misery that it is causing to families of kids with special needs—and we are talking about only 300 or 400 kids—I would like to ask the council how much it is saving. I will bet that it is not much.

Ian Jenkins: I was glad to hear that you think that there is a possibility of fixing the situation. The people in the council are not wicked people. The situation has to do with the atmosphere that has been created by developments such as the presumption in favour of mainstreaming in the Standards in Scotland's Schools etc Act 2000. The way in which we treat children with special educational needs is in a period of transition. It is not altogether realistic to expect councils across Scotland suddenly to arrive at the situation as it should be. I believe that we were moving forward and that this current crisis has made a terrible mess of things. If we can get a change of atmosphere to ensure that there is more consultation and dialogue, although we will not be able to get the money back in a hurry, we will be able to work through the situation. Do you think that that could be achieved?

Donna Allen: It might mean taking external advice. We do not want a nice new special unit being built in the Borders in two years' time just as all the children enter the main stream.

Ian Jenkins: You will be aware that there was a plan to establish an autism unit. I appreciate that you still want the money spent on autism, but do you want that idea to be revisited and such a unit to be set up?

Donna Allen: There are some children who would not be able to fit in in a mainstream school and provision would therefore have to be made locally. However, while there is a high number of children with autism in the area, it would be impractical to make provision locally for children with disabilities, of which there is a lower incidence in the area. The needs of some children might be best met outwith the region. There would be an economy of scale from having one unit for the autistic kids of primary school age rather than two.

Ian Jenkins: Do you believe that there should be a discussion about how the idea can be taken forward?

Donna Allen: Yes.

Cathy Peattie: I hope that the officials and elected members have listened to what you are saying about consultation and working with parents because, as you say, parents know their children best. I am concerned about the problem that you mention in relation to opening a record of needs. I hope that the problem that you mention is a new one rather than one that has been around

for a while. I would like to keep an eye on this situation as parents feel vulnerable and believe that they do not have a voice.

Donna Allen: The Scottish Executive recommends that it should take 26 weeks to open a record of needs. The council's documents show that, in Scotland, it takes an average of 30 weeks and, in the Borders, it takes an average of 49 weeks.

Cathy Peattie: Are those figures new?

Ian Jenkins: That situation is supposed to be improving but I do not know whether it is. I drew that to the attention of the director of education when the report came out. Of all the statistics, that is the one for which the Borders stood out. I was assured by Mr Christie not terribly long ago that the situation was getting better.

Eileen Prior: We have to bear in mind that many families are being put off from going down that road. Many families have told us that they were told not to bother opening a record of needs because adequate support was being provided. Telling families who genuinely believe that they should open a record of needs that they should not bother is one way of improving that statistic, but it adds to the stress of the family.

The Convener: I thank you for coming to the committee this afternoon. I also thank the members of the public who have sat through this meeting. I hope that you found it interesting and informative. The committee will move to Hawick for the next stage of its deliberations tonight at 7.30. We will publish our report on the matter in due course and it will be available on the Scottish Parliament website.

Meeting closed at 18:06.

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