

# **EDUCATION, CULTURE AND SPORT COMMITTEE**

Tuesday 13 November 2001  
(*Afternoon*)

Session 1

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## EDUCATION, CULTURE AND SPORT COMMITTEE

### 29<sup>th</sup> Meeting 2001, Session 1

#### CONVENER

Karen Gillon (Clydesdale) (Lab)

#### DEPUTY CONVENER

\*Cathy Peattie (Falkirk East) (Lab)

#### COMMITTEE MEMBERS

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

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

Irene McGugan (North-East Scotland) (SNP)

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

\*Michael Russell (South of Scotland) (SNP)

\*attended

#### WITNESSES

Jennifer Bairner (Scottish Youth Parliament)

Matthew Devlin (Children's Parliament)

Tsara Ford (Children's Parliament)

Joseph Holmes (Who Cares? Scotland)

Paul Kane (Scottish Youth Parliament)

Allan May (Scottish Youth Parliament)

Linda McCracken (Children's Rights Officer)

Cathy McCulloch (Children's Parliament)

Anne McGaughrin (Children's Rights Officer)

Colin Morrison (Children's Parliament)

Joshua Sabin (Children's Parliament)

Sarah Tellwright (Children's Parliament)

Deirdre Watson (Who Cares? Scotland)

#### CLERK TO THE COMMITTEE

Martin Verity

#### SENIOR ASSISTANT CLERK

Judith Evans

#### ASSISTANT CLERK

Ian Cowan

#### LOCATION

The Chamber



## Scottish Parliament

### Education, Culture and Sport Committee

*Tuesday 13 November 2001*

*(Afternoon)*

[THE DEPUTY CONVENER *opened the meeting at 14:49*]

**The Deputy Convener (Cathy Peattie):** Good afternoon everyone and welcome to this meeting of the Education, Culture and Sport Committee. Our convener, Karen Gillon, is in Denmark today, so I will be chairing the meeting. I extend a special welcome to all the people who have come to give us evidence, particularly the young folk who came in a taxi from Leith.

### Item In Private

**The Deputy Convener:** Does the committee agree to take item 4 in private?

**Members** *indicated agreement.*

## Children's Commissioner Inquiry

**The Deputy Convener:** The Education, Culture and Sport Committee is considering the introduction of a children's commissioner and is gathering evidence from a whole host of agencies. We are keen to have written submissions but are even keener to hear from young people and agencies that work with young people. We will ask lots of questions to give people an opportunity to tell us how they think the children's commissioner should work. I understand that you have been talking about a children's champion, so you are probably thinking, "What is this woman talking about?"

**Colin Morrison (Children's Parliament):** I will give a short introduction, then the four young people we came with will say something about what they have been doing.

In the paper that we provided for the committee we tried to lay out some key points about the way in which children, the Scottish Parliament and Scotland would benefit from a children's commissioner. We would be happy to talk about those specific points later. Each of those points leads us to conclude that the commissioner would provide the catalyst for the cultural shift that Scotland needs to make so that we view children as positive and active members of their communities, with intrinsic human rights and worth.

The need for a commissioner has been supported in several recent publications to which we would lend our voice. We have contributed to those documents either as an organisation or because Cathy McCulloch and I have been involved in their production. We draw specific attention to the non-governmental organisation alternative report about the implementation in Scotland of the UN Convention on the Rights of the Child, which was produced by the Scottish alliance for children's rights. The proposal for a children's commissioner that SACR has produced addresses the essential components of a commissioner.

The recent Executive action team report "For Scotland's Children" highlights poor levels of service integration and inadequate childproofing of policy, and recognises that in Scotland children still live with unacceptable levels of poverty and neglect and daily suffer the consequences of adults' failure in their responsibility to care for and protect children properly. The evidence gathered by the action team overwhelmingly accepted the view that a commissioner would make a positive contribution to addressing such issues.

**Cathy McCulloch (Children's Parliament):** The children's parliament is about giving children

opportunities to experience active citizenship. We recently ran a national consultation, with about 200 children from throughout Scotland. Forty of them came to the Scottish children's gathering, which was a three-day residential event. They spent their time talking about things that they feel are important in their lives. Sarah Tellwright, Matthew Devlin, Tsara Ford and Joshua Sabin, who are from St Mary's Primary School in Leith, were involved in the consultation. We met their class last week when we found out about this meeting. They will talk about some of the ideas that they came up with about a children's champion.

**Matthew Devlin (Children's Parliament):** Cathy McCulloch, Colin Morrison and Debbie Bayne came to our school last week to talk to us about a children's champion. We worked in small groups and came up with lots of ideas and some questions. First, how will the children's champion know what matters to children? Secondly, how will they find out about children's lives? Thirdly, how will children who have something to say to the children's champion do it? Fourthly, who needs to know more about children's rights? Fifthly, who would the children's champion need to work with? Sixthly, what difference would it make to children in Scotland if we had a children's champion?

**Joshua Sabin (Children's Parliament):** Tsara Ford will tell the committee what some of the most important things are.

**Tsara Ford (Children's Parliament):** The children's champion would know what matters to children because they would let children know how to get in touch with them. For example, they could advertise their number on the telly and they could visit schools regularly. The children's champion would find out about children's lives by having a website with a chatroom that was free to use and safe, and by having regular meetings that were casual and not boring.

**Joshua Sabin:** The children's champion will have to work with everyone, but particularly with MSPs, children and the media. If the work of the children's commissioner is broadcast, lots of people will find out about it. Sarah Tellwright will tell you how we think the children's champion will make a difference.

**Sarah Tellwright (Children's Parliament):** We think that having a children's champion would make a difference because it would help children all over Scotland to stand up for their rights, it would make children feel safer, and it would help children who are sad or depressed. It would also make children happier to know that their ideas had been listened to or maybe acted on.

**The Deputy Convener:** We will now ask you some questions. If you want to, you can share the

answers—you decide.

**Michael Russell (South of Scotland) (SNP):** Do you mind if we get a wee bit closer, because it is almost impossible to ask questions from where we are sitting?

**The Deputy Convener:** Yes, we are far away from one another.

**Michael Russell:** If I move beside the children, I will be able to see who wants to answer. I do not think that moving across is allowed in the Parliament, but I am going to do it anyway.

Can you tell me about the children's parliament? How do you talk to other children and find out what they think?

**Matthew Devlin:** We have gatherings and meetings. We have not really talked to other children yet, but Cathy McCulloch and Colin Morrison have.

**Colin Morrison:** The children's parliament has no funding at the moment. A volunteer team has been working through a consultation process. The children here are some of the children we have engaged with. However, as an agency in search of funding we are more of an idea and a consultation exercise than a reality at the moment.

**Michael Russell:** I am absolutely sure—

**The Deputy Convener:** Michael, could you find a microphone to speak into? It is important that this is recorded. You are causing all sorts of chaos. We cannot control the members—they are worse than children at school.

**Michael Russell:** It just seems silly for the young people to sit on one side of the chamber and for everyone else to sit on the other side.

We hear Colin Morrison's plea for funding; it is now on the record. What type of person would make a good children's champion? What would they be like?

**Joshua Sabin:** A children's champion would need to be kind, willing and ready to obtain anything that children wanted.

**Michael Russell:** Have you anybody in mind? Any of your teachers?

**Sarah Tellwright:** They would need to be good listeners and not always interrupt. They would need to be able to listen and be patient.

**Michael Russell:** Would a children's champion help children throughout Scotland to be listened to by MSPs in the Parliament?

**Sarah Tellwright:** I hope so, yes.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** I am interested in the idea of the children's champion going out to visit schools.

Can you see that it might be difficult for one person to go to all the schools in Scotland? Should a children's champion be involved with individual pupils, or would the job be to get to know what children think and how the law affects them? How could the Edinburgh champion get in touch with other people, apart from those in Leith? How could they get in touch with him—or her? The champion might well be a she.

**Sarah Tellwright:** If a website was set up, it could include an e-mail address for children who needed to speak to someone about something. That way, things could be kept quite private.

15:00

**Ian Jenkins:** Absolutely. It would therefore be important that every school or place where children meet had internet access to allow them to do that.

I do not want to make this question too difficult for you, but is there something that does not happen at the moment that a children's champion could help to make happen? Did that question come up in your discussions?

**The Deputy Convener:** I think that that question is too hard, Ian.

**Ian Jenkins:** I know. It is hard when you are trying to answer straight away.

**Colin Morrison:** After speaking to children about the idea of a children's commissioner, we feel that their expectations are high. They can think about and conceptualise the whole notion because they can think about what they need now or might need at some point in their lives. Although the commissioner cannot be expected to relate individually to each of the million children in Scotland, the office of the commissioner can help us all become better at listening to children and put in place things that are needed at a local authority level and within organisations. The commissioner could be a catalyst for change and help us at appropriate levels to introduce systems and develop responses for children where they are most needed.

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** I am not going to terrify you as much as Mike Russell did when he came right over to you. You are sitting where he usually sits, so he was probably feeling a bit jealous this afternoon.

You four youngsters became involved in the children's parliament through your primary school. Did you attend a wider children's parliament with other children from schools across Scotland?

**Cathy McCulloch:** They should have done, but the two bad days that we had this winter were the same two days of our residential, so we had to

postpone it. Then the new dates clashed with their camp. As a result, these four children did not attend the bigger event.

**Mr McAveety:** But other school pupils did attend the event.

**Cathy McCulloch:** Yes.

**Mr McAveety:** I want to ask the children what difference the process of getting involved in the parliament has made to them as young people.

Tsara looks keen to answer that question.

**Tsara Ford:** We finally have the chance to say things about issues that involve the parliament, and we have had fun putting our big poster together.

**Mr McAveety:** How is that different from the time set aside in the primary curriculum for speaking or giving your opinions on any other subjects you are doing? What additional aspects of the parliament have you found useful?

**Sarah Tellwright:** We have had a chance to give our opinions, but I think that we would feel a bit more confident about speaking out a bit more if we had a children's champion.

**Mr McAveety:** Through your involvement in the children's parliament, have you become more aware of your Scottish Parliament and of why it is important to make your voice heard?

**Tsara Ford:** Yes.

**Mr McAveety:** Matthew, I used to be a schoolteacher and I am going to do what schoolteachers sometimes do to bring people into a discussion. How do you feel you have benefited from your involvement in the parliament? What do your mates think about it? Do you ever talk about it with them? Do you ever think, "I've got an opinion about something; I wonder how I can put it in the discussions"?

**Matthew Devlin:** Well—

**Mr McAveety:** Sometimes?

**Matthew Devlin:** Yes.

**The Deputy Convener:** I want to ask the children if they think that the children's champion is for individual children or for children as a whole. Have you discussed that?

**Sarah Tellwright:** Not yet.

**The Deputy Convener:** If someone asked you, as I am now, "Do you think the champion should work for a whole group of children or just for Sarah or Joshua on an individual problem?" what would you say?

**Tsara Ford:** I think that the children's champion should work with a big group of people, not just

with one person.

**The Deputy Convener:** Do you think that it would be easier to highlight a problem that lots of children are having if the champion was working with a group of people, instead of with one child?

**Tsara Ford:** Yes, because if he or she went to Leith Academy to talk to people about something, things could get done more easily. Loads of people would have more ideas than just one person.

**The Deputy Convener:** What do you think the children's commissioner or children's champion would have to do to make sure that all the boys and girls knew about them?

**Matthew Devlin:** They could advertise on the telly, and children could then get in touch with the children's champion.

**The Deputy Convener:** Are there other ways that they could do that?

**Matthew Devlin:** Maybe by phone or pager.

**The Deputy Convener:** Do you have another idea, Sarah?

**Sarah Tellwright:** They could put up posters for people to see or they could hand out leaflets.

**The Deputy Convener:** Do you think that children could help choose a children's champion? That is what has happened with the children's champion or commissioner in Wales. Young people were involved in choosing them. Do you think that that is a good idea?

**Joshua Sabin:** Yes.

**The Deputy Convener:** Ian Jenkins has a question.

**Ian Jenkins:** That last question was such an interesting one that I have forgotten what I was going to ask. Give me a second.

**Michael Russell:** You are bottom of the class.

**Ian Jenkins:** I know—I am bottom of the class. I am the dunce.

I remember what my question was now. At the moment, are there any things that allow you to make your opinions known? If you have things that you want to say, in school or as a group, particularly if there is something wrong in the school—if the school dinners are rotten, or something—how can you let your opinion be known? If somebody was mistreating you, how could you let someone know?

**Tsara Ford:** At school, we have an activity called bubble time, when the teacher listens to our problems or anything that we need to say. We can tell our teacher then, if we think that something is really wrong.

**Ian Jenkins:** And that works.

**Tsara Ford:** Yes.

**Ian Jenkins:** So what you want from a children's champion is for that kind of thing to be possible for children on a Scottish scale—not just inside the school. That champion could then come and speak to us.

**Tsara Ford:** Yes, that is right, but we could not really have a bubble time with them. That would not be very appropriate.

**Ian Jenkins:** That is quite right.

Have you heard about ChildLine?

**Tsara Ford:** Yes.

**Ian Jenkins:** There are ways like that of getting your views listened to—but it is important that people actually listen; there is no point in having an organisation in place but not doing anything about it. We want to make sure that your children's champion, if we put one in place, does what you want them to do.

**The Deputy Convener:** Matthew, you had your hand up: did you have a view on that?

**Matthew Devlin:** I was going to say that children can also talk to someone they trust, perhaps a friend. They could sort out the problem with them and then tell their teacher or their mum.

**Michael Russell:** Can you think of any problem that you might have—something that you would be worried or concerned about—that you might ring up or e-mail the children's champion about?

**Sarah Tellwright:** This has not necessarily happened to me, but if someone had a problem with their family at home and could not speak to anyone there about it, they could phone ChildLine, which would be willing to listen to them or to give them advice. If nothing is going right for someone at home and there are arguments in the family, there should be someone available to listen to their concerns.

**Michael Russell:** Can you think of any other problems that you would take to a children's champion?

**Matthew Devlin:** If the existence of a children's champion were advertised, a lot of children from all over Scotland would be trying to get in touch with one person by phoning or e-mailing them. That would be quite a problem.

**Michael Russell:** What problems would the children be phoning about?

**Matthew Devlin:** They might call if they were at home or with their friends and were not being given a chance to speak.

**Michael Russell:** What do you think, Tsara?



**Tsara Ford:** My cousin's mum and dad have split up. Once when she was at her mum's house she saw her mum and dad fighting and started to get scared. She does not have any sisters or brothers and she could not speak to me because she lives somewhere else. She phoned ChildLine, but even after the people there had spoken to her she was not very sure about the situation. A children's champion might have been able to sort that out and to give her more confidence about her parents.

**Michael Russell:** Joshua, can you think of any problems that you or your friends would take to a children's champion?

**Joshua Sabin:** No.

**Mr McAveety:** Understandably, given some of the evidence that we have received, we have focused on some of the problems that young people face rather than the opportunities that are available to children and young people and the fact that they should be listened to. I am worried that personal problems will become the sole issue for us. It should be possible for children to be put in contact with experts in particular areas who can give them help. I am also interested in issues such as whether bus companies have a standard policy on the attitude that they take to young people who are travelling on buses, or how young people are treated when they go to shopping centres. If they are with a group of pals, they can go into some shops but not others. Giving young people rights in those areas would give them a sense that someone in authority is listening to them and that the children's champion had raised issues with bodies such as retail companies. Is it worth focusing on such matters? Have there been times when you have felt that someone should have said something about a problem but did not bother because children have no voice?

**Matthew Devlin:** Once, when I was in a Chinese shop, a man was served before me, even though I was in front of him.

**Mr McAveety:** So at that moment you were almost invisible. Does anyone else have a view on their status as a young person?

**Tsara Ford:** I have had many experiences similar to the one that Matthew Devlin described. I have also seen other children being ignored and adults pushing in front of them.

I was at Farmfoods and I saw a little girl. She was wondering where her mum was because she had got lost, but people started skipping her and she was really panicking. She did not know where her mum was.

I am not trying to be picky, but loads of adults just think that children are invisible and that they are not worth bothering about.

**Mr McAveety:** I have received a couple of letters from children slightly older than you are, but under 15. They are interested in music but they cannot get into certain venues because they are licensed. Those concerts are not accessible to them unless they are accompanied by adults. There is nothing more horrific for a 14-year-old than their mum or dad, or whoever looks after them, accompanying them to a concert at which they are supposed to look cool.

Could people who raise such issues with decision-making authorities, such as the licensing boards of councils, perhaps try at least to have a discussion about the issues? It strikes me that that problem has existed for over 20 years. Am I wrong about that? Am I just trying to kid on that I am 16?

15:15

**The Deputy Convener:** They are not going to say that you are cool, Frank.

**Mr McAveety:** I cannot expect that.

You are nodding in broad agreement. Do you think that we should do something about that?

**Matthew Devlin:** Yes.

**The Deputy Convener:** We have lots of plans and I hear lots of things that you say a children's champion should do. Do you think that the children's champion should have some helpers to help them do those things, or should there just be one person?

**Sarah Tellwright:** There should be one main person, but there would be no problem with having other people to help them out. We would not want the person to be rushed around and only able to speak to a few people for five minutes and then have to rush on to someone else. We want everyone to get the amount of time they need.

It would not hurt to have other people. If I got through by e-mail, for example, to one of the helpers, I could always ask them just to pass the message on to the children's champion. The children's champion should not always have to deal with the messages.

**Tsara Ford:** I agree with Sarah. We do not want a children's champion to rush into one school and rush out to another one. They should take their time and discuss things. If the children's champion has helpers, loads of the helpers can go to other schools for the children's champion to discuss things and then get back to the children's champion and tell them what happened.

**Matthew Devlin:** It would be a bit like Santa and his helpers.

**The Deputy Convener:** Absolutely. That is what I was thinking.

**Matthew Devlin:** The children's champion might get tired because lots of people are e-mailing and phoning. Helpers could take over for a little while if the children's champion started to get a wee bit tired.

**The Deputy Convener:** He could reach more organisations and children that way.

**Ian Jenkins:** If the children who got in touch with the children's champion through the helpers came with the same kind of messages, maybe the children's champion could get something done about those issues. It is not just one person talking about their problems. If we were to get the same kind of message from all over Scotland that children were not being treated properly in a particular way, the children's champion might be a strong enough champion to get something done about it. Would that be good?

**Matthew Devlin:** Yes.

**The Deputy Convener:** I thank you very much for coming along this afternoon. I hope that you get a taxi back to Leith okay. I thank you very much for your evidence and all your hard work. I will encourage everyone to look at the wonderful poster that is behind us.

We will now adjourn for a few minutes to allow the next group of witnesses to come in.

15:18

*Meeting adjourned.*

15:24

*On resuming—*

**The Deputy Convener:** I welcome Jennifer Bairner, Paul Kane and Allan May, members of the youth parliament, who are going to tell us about their organisation and what it does.

**Jennifer Bairner (Scottish Youth Parliament):** I will explain who we are and why we are here to give our opinions. The youth parliament has been established for one day longer than this Parliament. We got there first, after about 10 years of campaigning and hard work. Our members are aged between 14 and 25 and come from all over Scotland. We aim to be the collective voice of young people in Scotland. Anyone can join, come along to our meetings and participate in our working groups. We try to be as inclusive as possible. We are examining ways of becoming more inclusive and more open to people coming along to our meetings.

**The Deputy Convener:** Do Paul Kane or Allan May want to add any comments?

**Paul Kane (Scottish Youth Parliament):** I need to ask a question first. We have not been

told much about the children's commissioner. What age bracket does the committee think that the children's commissioner should work with? If you could answer that question, that would start me off and I would be able to say more.

**The Deputy Convener:** That is a reasonable question, but we want to ask you about that. There has been much discussion about the ages that should be covered and whether we should be considering both a children's commissioner and a youth commissioner. There is no clarity. Different organisations and agencies have different views. It would be good to hear what you think.

**Paul Kane:** The youth parliament deals with young people up to the age of 25, so from our point of view it would be a great idea if the children's commissioner dealt with people up to the age of 25. The United Nations thinks that people stop being children at 18, and we would also support that point of view. We would support a children's commissioner whose role encompassed any of our age group.

We take in the views of a lot of young people from throughout Scotland and we would be able to pass on those views. We have different methods of communicating with young people. Mainly, we have meetings about separate issues. Those meetings often take the form of working groups, which take into account different ideas that are raised at general meetings, through our website or through letters. We address issues and problems that arise throughout Scotland and try hard to give a collective response.

If we had more direct communication with the Scottish Parliament, and there was a person through whom we could relate directly to the Parliament, that would be fantastic. Perhaps that is where the children's commissioner would come in. It would be fantastic to have a direct relationship with that person, because that would give us a platform in the Scottish Parliament to voice young people's opinions.

**The Deputy Convener:** So you would see a children's commissioner as a link between the youth parliament and the Scottish Parliament.

**Paul Kane:** Yes. We currently lack such a link. We do our best, with the funding that we have, to pull together as many people as possible throughout Scotland who want to share opinions and ideas. We need a way to communicate our thoughts and views directly to the Parliament and to ensure that they are directly answered.

**Allan May (Scottish Youth Parliament):** We also have a draft consultation document, "Pointing the Way Forward", which has been brought together by all our working groups, including those on justice, rural affairs, youth rights and drugs.

We have sent out the document to all members of the youth parliament so that they can go out into their local areas and consult young people. At our general meeting on 8 December, we will collect all that evidence, and work on the youth charter. As Paul Kane said, young people can also put their comments on our website, which means that we constantly have information feeding back to the youth parliament.

**Mr McAveety:** Which parts of Scotland are you from?

**Jennifer Bairner:** I am from Dundee.

**Paul Kane:** I am from Lanark.

**Allan May:** I am from Edinburgh.

15:30

**Mr McAveety:** There was no hidden agenda in the question—I just wanted to know the geographic spread.

I spoke earlier about trying to find a way to focus on positives for young people. You are from an age group that clearly articulates its versions and visions of society, as your written submission indicates. Do you think that politicians listen to young people at all? What emerged from your discussions with young people regarding their perceptions of politics in general and the capacity of Parliament to listen?

**Jennifer Bairner:** It depends on where you live and who your representative is. Some of our members have close contact with their MSPs and have their ear, but in other places such contact is more difficult.

We are trying to open up the opportunities. Young people can come to us and say that they have a problem, or they can say, "We've done this great thing." We are not just for solving problems, but for promoting a good image of young people. When you open any newspaper and read something about children or young people, it will be about their being vandals, or that they are missing school, or that they have mugged an old granny, or whatever. It is all negative.

We try to promote all the good things that young people do in their communities and in Scotland as a whole, whether that be helping out at their local youth club or trying to give young people a voice. We would hope to work with the children's commissioner to promote the positives about young people.

**Mr McAveety:** Are there any other views?

**Paul Kane:** I agree with Jennifer. There are different relationships with different MSPs, depending on where you come from. Karen Gillon is not here, but young people in her constituency

can speak to her. She listens to young people. She is interested in, and supports, a youth project in her area, in which I work alongside her.

Different people have different perceptions of young people but, as you said, the issue is also how young people perceive adults and politicians. Our surveys do not show that politicians in general listen to young people. We are strongly putting forward the view that we need to be listened to more. The way forward might be the children's commissioner or a youth commissioner.

**Mr McAveety:** How would a champion help in a way that could not be achieved through existing young people's community and youth work and through the schools' network? Are you banging out any ideas?

**Paul Kane:** You are right to ask about that. Many pools of young people get missed out when people concentrate on schools, universities and community education. Many young people do not go to school after they have turned 16. What do people do between the ages of 16 and 25 if they are unemployed? The percentage of people between those ages who go to youth clubs is pretty low. We should be looking at how we can tackle that issue.

We open up our meetings to anyone, but they could be better publicised. We do not have the money to publicise them through media such as TV and radio. In an ideal world, we would love to publicise all our meetings and ensure that we had the regular attendance of interested people.

**Jennifer Bairner:** If those at the top are seen to be listening to children and young people, that will filter its way down. As a society, we do not value the opinions of children and young people. We do not listen to them.

It is said that in the home children should be seen and not heard. From that, the idea is inbred that a child's opinions do not matter because their mum and dad can speak up for them. What happens to children who have no mum or dad? What happens if children cannot express their views in other ways?

Change will not happen overnight, and everyone will not all of a sudden say, "We're away to build houses on that park. What will young people have to say about that?" However, if at the top level the Parliament and the Scottish Executive start listening to children and young people and that starts trickling down, other people will start listening to young people soon enough.

**Michael Russell:** If a children's commissioner were appointed—I support the idea—would the role be one of general advocacy of the issues that you have talked about? Would the commissioner speak up on general issues or on problems that

individual children and young people have, or would they do a mixture of both?

From previous evidence, we have formed the impression that a commissioner advises and speaks up for individual young people. Elsewhere, commissioners have a wider role than that. A children's commissioner—or children's champion or young people's commissioner—can take up general issues that are presented to him or her by a range of young people and organisations such as the youth parliament.

**Jennifer Bairner:** The commissioner's role would have to involve both elements that you described. Their role could not be limited to one aspect. If the commissioner were limited to individual problems and 300 children approached him or her with the same problem, it would be obvious that the issue was bigger.

A mechanism should exist for someone with a particular problem to seek help, advice and some form of advocacy from the children's commissioner. If a wide-ranging problem existed, the commissioner should also be able to flag that up. The youth parliament hopes to do that too, through the fact that anyone can submit a petition to us.

The biggest problem that we have dealt with is the Scottish Qualifications Authority fiasco, on which the youth charter made a point. One of our members stood up and said that he had received a qualification—I think that it was a higher national certificate in nursing—through the post. He said, "The authority won't take back the qualification. What should I do?" It turned out that the problem affected not only him, but five or six other people, and then more and more people. Our members spoke to other young people and it became clear that many of our members and their friends were involved. One problem was raised, but it became an issue and we formulated a policy on it.

**Michael Russell:** Is your name Paul?

**Paul Kane:** Yes.

**Michael Russell:** I ask because I cannot read the name-plates from this part of the chamber, which is why I went over to speak to the previous witnesses.

You are involved in a youth project and in the youth parliament. Could the youth parliament take on the role of a children's or young person's commissioner? If the youth parliament were adequately resourced, would it be an alternative structure to a commissioner?

**Paul Kane:** That would be the ideal. Our main ideas have been laid out many times. We would love to take on everyone's issues—I will not say everyone's problems, because we look on the bright side and look for achievements. In response

to your question, I say why not? Why not have a body that already exists do the job and promote it? That would be fantastic.

The youth parliament will hold a general meeting on 8 December. Before that meeting, number one on the priority list for discussion will be whether a commissioner is needed. By then, the rest of the youth parliament's members may have turned round and said, "Maybe the youth parliament could do that. Maybe it could be moulded round the proposals."

**Michael Russell:** The options that we should consider as we develop the proposals should include strengthening the youth parliament to perform the function.

Other options that have occurred to some of us have been involving the youth parliament in the appointment process and giving it a formal role in the reporting structure. I hope that it is likely that the youth parliament will receive funding from the Scottish Executive; I have argued for that. In those circumstances, would you be happy to have the deepest involvement possible in all the processes?

**Jennifer Bairner:** Yes. From discussions that we had about the children's commissioner for Wales, I know that young people were involved in his selection. When I spoke to the commissioner, he said that he is responsible not to Parliament or the Assembly, but to the children and young people of Wales. Whatever is decided in Scotland, the commissioner must realise that he or she is responsible to each child and young person in Scotland. We would love to be involved in the commissioner's appointment and in ensuring that they do a good job.

**Michael Russell:** We must formalise that. It is easy for politicians and appointees to say that they are responsible not to one thing, but to the world. We must have a structured formula. Would you be happy if we did not go so far as to give the role of children's commissioner to the youth parliament—although I am not ruling that out—but built into the legislation a structure that would give the youth parliament a role in choosing the commissioner?

**Paul Kane:** Yes. We would take that role, which would be fantastic, but we would have to discuss the matter further. We have had talks with a lot of people on that issue.

**Ian Jenkins:** I do not want to get at the youth parliament in any way—I support it—but I wonder about its mandate and how we can spread out into consulting people who do not volunteer to be part of youth parliaments. The lack of consultation of young people is a big problem. The Parliament, particularly this committee, wants to tackle that and it has a policy that it should consult youngsters, but that is difficult to do. The usual

suspects, who are articulate and keen, come forward, but we need to tap into the hinterland of young people to get their views. How could the system—perhaps including a children's commissioner—be expanded to reach the parts that other Parliaments do not reach?

**Allan May:** Members of the Scottish youth parliament are elected at its annual general meeting. However, the word is spread among friends at schools, youth clubs and other organisations. We explain the youth parliament, say that it is a good thing and ask whether people are interested. For example, I speak to members of my organisation, the Edinburgh youth task force, who then go to their communities and local groups to ask whether anyone is interested. As a support worker for the youth task force, I am lucky enough to have colleagues who can spread the word in other organisations. I am pretty sure that we will spread the word.

**Jennifer Bairner:** I have a point on our mandate. Members come from three sources—from the public, from constituencies, which are the local youth forums, or from national voluntary organisations. We have general guidelines about membership, but we leave it to the local organisations to decide how to elect their members. A point to note is that more people voted in the recent election for the MSYP for Shetland than voted in the election for the Member of Parliament for Westminster.

We are trying to bring the process closer to young people, but that will take time because many young people are not interested. I am not talking about having a big building, but about making people feel that they are a part of the process. In the next few years, we hope to employ more members of staff because at the moment we have only two. We hope that the new staff will work throughout Scotland to reach people who do not normally volunteer by going into universities, workplaces and other places where young people congregate. We understand that not everyone wants to be a member of a youth forum, but everyone has a right to have their opinion heard. With more funding, we can have more publicity and develop our website and communication systems. We hope that young people in Scotland will feel that they can contact us if they have an issue that they want to raise. Any young person can be a member and raise issues in our working groups.

Our structure is open to anyone. I hope that, over the next few years, we will develop strategies that will allow young people to feel that they can become more involved, rather than feeling that we are a bunch of articulate young people who are representing them, when we are not really.

**Ian Jenkins:** Because of the context of today's discussions, we have talked about the youth parliament and genuine youth representation. Right at the beginning of the meeting, Paul Kane asked about the age range. If we go along the route that we have been talking about in the past 10 minutes or so, do you see a danger that the younger kids that we spoke to earlier might be just as out of the loop as they are now? When we talk about a children's commissioner—whether the cut-off point is age 16 or 18—we must not forget the youngsters who do not have a voice in the present system to the extent that we would like. They are very important.

15:45

**Paul Kane:** We do not have much contact with the children's parliament, but we have to build up contacts with a lot of organisations. If you want to catch those young people outwith primary school and high school, up to the age of 18, you will find it hard however you look at it. As Jennifer explained, the youth parliament is not a set, formal organisation. It is an organisation where people represent other groups and those other groups represent young people. It is like an umbrella. We are an organisation representing other organisations, which in turn represent people.

**Jennifer Bairner:** It is a lot easier to contact children below the age of 12 than to contact young people between the ages of 14 and 25. The vast majority of children below the age of 12 or 14 are in school, so there is a direct link. It will be the job of the children's champion or the children's commissioner, or whatever they are going to be called, to ensure that children know that that post exists. It would be a lot easier to do that through schools and through the curriculum, to make it part of children's everyday lives, as the internet and Harry Potter are. That would enable us to ensure that children know that that person is there for them. If we could start to do that when kids go to school at five, it would continue from there. It would be easy for the children's commissioner to include what we would class as children.

**Mr McAveety:** The Scottish Parliament, the UK Parliament and many other Parliaments in the world have the same problem of how to involve diverse communities in the decision-making process. What efforts have you made to involve ethnic minority communities and individuals from particularly disadvantaged backgrounds and to encourage them to participate? Criticisms have been levelled at the social profile of the Scottish and Westminster Parliaments. It is easy to say that that should change, but how do we find the mechanisms to change it? I am sure that you are aware of that issue. What are you doing to tackle it?

**Jennifer Bairner:** One of the member organisations of the youth parliament is Phab Scotland. One of its representatives, Craig Kerr, is on our executive and he is in a wheelchair. We are perfectly open to people with disabilities. We have members from ethnic minority communities.

We do not specifically target people from disadvantaged backgrounds, but we are open to everyone. Through our networks with Connect Youth, which works in many disadvantaged areas, we make opportunities and training available for all young people. It would be great just to invite everybody to come along, but most young people do not have the confidence to come along to this or any other Parliament and stand up and speak. We are trying to establish mechanisms whereby we can give young people that confidence. We are targeting disadvantaged areas, because a lot of our members' work is in social inclusion partnership areas.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** You provided us with an interesting consultation paper for young people, which clearly shows that you have done a great deal of work on the many areas for which you have developed policies. How do you come to debate those policies? Who initiates the topics of debate?

**Jennifer Bairner:** The document is a consultation tool, which came from our working groups, details of which are contained in the document. The groups are made up primarily of members of the youth parliament, but anyone can come along and contribute. We put together the statements and views over two weekends, then our members went away to consult. They came to a special meeting in June and we finalised the draft. The document is being sent out through nearly every network that we know of to try to get the views and opinions of young people. We recently launched our website, which we hope will provide another opportunity for consultation.

The proposals in the document are not our policies; they are intended to stimulate ideas. One of the ways in which we have sent out the document to young people is through the Modern Studies Association, so that teachers can use it as a classroom tool. We are trying to get the document out to all young people. We are saying, "This is what other young people think. These are not necessarily the views of all of the members of the youth parliament, but they are views that some young people have. Would you like to comment on them? Do you have other views? Do you agree with them?"

We are trying to stimulate discussion with young people on all the issues that were picked by young people. Various consultation exercises were done prior to the youth summit last year to determine the top 20 youth issues. We borrowed them and

let the young people decide what their top issues were, and those issues came out in our document. That is how we chose the subjects that would be included in the charter.

**The Deputy Convener:** Your document is interesting. There are bits with which I agree and other bits that I would like to discuss.

Work is being done in schools on citizenship. Does that work help with participation in the youth parliament, or could more be done in schools to encourage participation in the youth parliament?

**Jennifer Bairner:** More could be done—it would not be possible for too much to be done. There has been a great shift in attitudes from on high, which acknowledges that children and young people have views and are part of society, and should be valued as such. Young people cannot be taught enough that they are members of society and have responsibilities and rights.

**Paul Kane:** I back up that point. I have been out of school for just three years. I did not do modern studies. I did another stupid subject—economics. Not much about politics was taught in school. Unless you did modern studies, little was taught about the parties and what they were about. That information is lacking throughout the education system. Schools should teach what politics is about, and perhaps what the youth parliament is about.

There is a problem for us. We target people in secondary schools, but it would be great to work alongside the children's parliament and to target our work at younger people in schools. Perhaps our document should be given to the children's parliament for it to discuss.

**The Deputy Convener:** That could encourage the children's parliament to produce its own document.

**Paul Kane:** Certainly.

**The Deputy Convener:** I thank you all for your evidence.

We will stop for a few minutes before the next witnesses appear.

15:53

*Meeting adjourned.*

15:59

*On resuming—*

**The Deputy Convener:** I welcome Deirdre Watson and Joseph Holmes from Who Cares? Scotland.

**Deirdre Watson (Who Cares? Scotland):** I am sure that most members will be aware of what Who Cares? Scotland does, but for the benefit of

any who do not I will state that we have established ourselves as the national voice for young people in care. We give support, information and advocacy to young people, campaign for change, help policy makers to consider the views of young people and bring young people together to discuss issues of national and local importance to them and their life in care.

Unfortunately, we do not have many young people here today. Joseph Holmes is a young person from our board of directors. We did not have a lot of notice and, given the poor educational outcomes for young people in care, we did not want to drag three or four of them away from school. However, many young people will be taking part in the event on 15 December. We have brought with us a document detailing the discussions that have taken place between the young people and our staff.

**Joseph Holmes (Who Cares? Scotland):** Around 11,000 young people in Scotland are looked after by the local authorities. Approximately half of them are looked after away from home, either in foster placements or in residential establishments. That is a lot of young people to listen to and, sometimes, our society is not good at that.

Young people are looked after away from their homes for a number of reasons. Whatever those reasons may be, the young people still need to be listened to. It is important that they are not let down by adults any more than they already have been. Who Cares? Scotland regularly puts the views of young people to local authorities, the Government and other agencies. That is useful and we are happy to be able to influence decisions that will impact on aspects of young people's lives. At times, however, it has proven to be impossible to do that.

**Deirdre Watson:** Often, the people to whom we take issues fail to attach as much importance to the rights of young people as they do to the rights of adults.

**Joseph Holmes:** Young people in care face a number of problems. It is often difficult for them to keep in touch with their families and friends. It is said that a lack of staff means that certain commitments cannot be kept. Some young people do not have a social worker to help them through the system; that is often put down to a national problem with recruitment. There are problems with poor planning of young people's futures. When they are ready to move on, often at an early age, they must do so with little or no family to help them. Young people in care tend to have poor educational outcomes due to all the difficulties in their lives, especially when they are supposed to be concentrating on their exams.

The Government and local authorities have come up with some good ideas to help, such as better training for the workers and more money for Who Cares? Scotland, which helps us to put young people's views across. Although such measures will help, what we need is a champion of the rights of children and young people who can take action against those who are failing them.

**Deirdre Watson:** In our on-going discussions about the commissioner, we have found that young people welcome a champion for children. Young people in care face the same issues as other young people who are not looked after do, as well as other issues. There are unresolved residential care issues about which social workers who have been around for 20 or 30 years will say, "Not that old chestnut again." The commissioner is a big issue for Who Cares? Scotland as the commissioner's remit is to make life better for those young people. Why are we limited in trying to make things better? Why do the same themes recur?

It would be easy for me to outline to the committee everything that is wrong in the world for looked-after and accommodated young people. That might be informative, but it would not progress the discussion about how a commissioner might help to overcome barriers.

Probably the most effective way of giving Who Cares? Scotland's collective view is through considering the concluding questions in the memorandum that the Scottish Executive issued to the committee earlier this year and addressing those questions to the young people.

The notion of a children's commissioner for Scotland proved to be difficult to discuss with young people in the organisation. It was an abstract concept for them—it is probably an abstract concept for young people in the wider community.

Joseph Holmes spoke about the difficulties that looked-after and accommodated young people face in the community and the brick walls that they hit in trying to plan their future. Those young people say to us that they want answers and action, not just more words, policies and promises. In our discussions, it came over that they would welcome someone who could change things for them more quickly and that the changes should be permanent rather than temporary. Young people often move on before issues that concern them are resolved. Those issues are not resolved subsequently, because other young people come along with other problems and the issues go to the back of the queue, so to speak.

**The Deputy Convener:** May I stop you there? Members want to ask questions, particularly of Joseph Holmes. Perhaps you can mention other

issues in your answers. Joseph, you are on the management committee. How does Who Cares? Scotland involve children and young people in its management and policy development? What are the benefits to the organisation?

**Joseph Holmes:** The Who Cares? Scotland charter states that young people should be involved in everything that the organisation does, from the board of directors down to interviewing staff who go out to work with young people. That has many benefits. Young people can see how the organisation is run and have an active input into it. They get to know people. Who Cares? Scotland has a young persons team that advocates for young people and gives them advice. If those young people help to choose young persons workers, it will be easier to relate to those workers, who will be child friendly, so to speak. Young people look for such qualities in interviews.

I am a young persons representative on the board of directors, which discusses more formal matters relating to the organisation—financial reports, for example. If young people want to, they can be involved with those reports. Matters to be raised at annual general meetings are primarily decided by the young people. Deirdre Watson constantly involves young people. She will try to grab someone from the board or from her young persons forum to accompany her. All the young persons workers try to involve young people as much as possible.

**The Deputy Convener:** Do you feel that young people have a voice?

**Joseph Holmes:** Yes.

**The Deputy Convener:** What are the barriers to children and young people in care when they try to tell adults about their views or problems?

**Joseph Holmes:** As I said, many young people are hurt by adults when they are young. That means that they are not confident about approaching adults, which is a major barrier. I was not confident about speaking to people whom I did not know, but through my involvement with Who Cares? Scotland I have got over that. The young person has to trust the adult, who must be young-person oriented. Trying to find a person to trust is a major barrier for a young person, including young people in care.

**Mr McAveety:** One of the issues that the committee grapples with, in looking at the idea of a young persons' champion, is the balance that that person would need to strike between taking up individual cases and looking at the general issues, including young people's rights. The United Kingdom Parliament and the Scottish Parliament are looking at adoption policy. There must be common issues in young people's experiences of dealing with social workers, foster parents and

care officers. Taking up an individual case might be difficult, complex and fraught with legal problems. Where does your organisation, or where do you, as young people, feel that that balance should lie? We are troubled by that question and it would be helpful to have your views.

**Deirdre Watson:** There are many organisations, including Children 1st, the Scottish Child Law Centre, ChildLine Scotland and Who Cares? Scotland, that gather information and do good bits of individual advocacy work for young people, but they are hitting the brick walls that I spoke about earlier. There is commonality on issues such as adoption. The commissioner could work effectively by examining issues such as class actions. That is how I see the commissioner fitting in with the organisations that are already producing useful information. Scotland has a network, unlike Wales, where the Welsh commissioner has gathered that information.

**Mr McAveety:** Let me follow through on that point. It is impossible for one individual or even a small team to deal with all the issues that may be thrown up. An important protocol is the one that puts people in touch with existing agencies. However, broader policy issues on young people, particularly young people who are vulnerable or looked after, are dealt with at the parliamentary level, where legislation is made, and at the local authority service level. Is there a way that we could get to the heart of the issue?

**Deirdre Watson:** Loads of things spring to mind. The commissioner would need to be able to take on an individual case if it was of sufficient magnitude.

**Mr McAveety:** I will ask you a controversial question. Let us take the most difficult case in the past 20 years in Scotland—the Orkney case. Where would a children's commissioner fit into the debate about that case?

**Deirdre Watson:** That is a good example, as the Edinburgh case would be. I thought about those cases earlier in the discussion. Would it have been appropriate for the commissioner to undertake those inquiries? Would it have been appropriate for him to follow through the recommendations and see them implemented? Is that what you mean, or are you talking about the step before that?

**Michael Russell:** That issue is important. If the commissioner is established, it is inevitable that the structure of law that surrounds such cases will change. One might argue that there is a parallel with the establishment of children's panels 20 or 30 years ago. There are some big legal issues relating to prejudice, for example. I want to explore that a little further.

Do you think that the commissioner is a type of



ombudsman to be contacted when all other things have failed? Alternatively, is the commissioner a first port of call for children perhaps to trigger a judicial inquiry and legal action? It is important to know on which side of that line the commissioner sits.

16:15

**Deirdre Watson:** Are you asking where he or she fits in with the other ombudsmen?

**Michael Russell:** Yes. I am also asking how much we have to change other things to establish a commissioner. That is not a hostile question; I am sympathetic. From what we have been talking about, it seems that the simplest part of the task is establishing the role of a children's commissioner. The much harder task will be changing all sorts of other assumptions and sometimes laws to provide effective advocacy for individual children, if we go down the line of the commissioner being an advocate for individuals. If we do not go down that line, the vagueness and the generality become a problem.

**Deirdre Watson:** I think that what you are saying is right. I am not ducking the issue, because it is fundamental and the organisations that have been talking about it for a long time are still grappling with it. You gave the example of the children's hearing system being a fundamental alteration in the law. The Children (Scotland) Act 1995 was fairly radical in parts. That is not to say that we could or should not decide, after full and frank discussion, that we wanted to change things.

**Michael Russell:** The issue is, essentially, for young people to know whether going to the children's commissioner is tantamount to starting a legal process or tantamount to going to an ombudsman who can inquire and seek information. Ombudsmen are not often involved in criminal cases; they are usually involved at the far end of such inquiries.

What would young people prefer? That is a general question, but would they be looking for someone to whom they could go to talk about an individual case and who would help them? Would they prefer someone who addresses general issues that they are worried about?

**Joseph Holmes:** A bit of both. Primarily, they want someone with whom they can discuss problems. On the residential side, those might be problems with local authorities or the residential unit. Young people want to know that they can speak to someone in confidence, knowing that that person can give advice, access advice or take the matter, if it is severe enough, to the Parliament.

**Michael Russell:** I will use the example that you gave. We would be giving the commissioner quite

a power if they could decide, after talking to a young person who had a problem with their residential accommodation, that the best thing for that person was to put them in another residential setting.

**Joseph Holmes:** That would be quite a power, but I see what you suggest happening only in the worst-case scenario. I am not suggesting that the commissioner can come in and say, "This is what so-and-so is saying. This is what we are going to do and that is it." The commissioner should be there to help the young person and to work with the party in question. The commissioner should help the young person to look at aspects of how they can deal with the problem. If necessary, the commissioner should have the power to say, "This is not working out; we are going to have to take this further."

**Deirdre Watson:** I will tease that point out a little. In effect, a lot of our workers deal with issues such as Joseph Holmes described by taking them up the line and challenging decisions in every possible way before going to the length of seeing an ombudsman.

**Michael Russell:** When would you go to a children's commissioner? Would you go at the start of that process or at the end of it?

**Deirdre Watson:** People suggest that the children's commissioner would be involved at the end of the process. As you highlighted, children have a different status in front of an ombudsman from that of adults, so we would need to consider that carefully. There needs to be a balance between the welfare duty and children's rights. There is a big argument to be had about how all that might fit together.

**Ian Jenkins:** How would the youngsters gain access to a commissioner? When we asked the children about that, they mentioned e-mail and so on. What kind of mechanisms should be put in place? Should young people be able to get access directly or should they go through other organisations?

**Joseph Holmes:** Those who are in residential care could go through their Who Cares? Scotland young persons worker, who could put them in touch with the commissioner, or they could get access by e-mail. The young people from the youth parliament suggested that they might get access to the commissioner through the school, but you are lucky if half of the young people in residential care go to school. If access was only by e-mail, each residential unit would need to be connected by e-mail. That might be either through a staff computer or through a computer to which all the young people have access. Both those would be good ways of getting in contact with the commissioner. There is also the usual stuff: letter,

telephone, carrier pigeon.

**Ian Jenkins:** Yes. At one stage during our discussions about the establishment of a children's commissioner, organisations such as Who Cares? Scotland may have thought that their functions would be taken over by the commissioner. Is it more likely that the commissioner would complement what you do? Would the one feed into the other?

**Deirdre Watson:** I do not at all think that our functions would be taken over. As I said, I believe that the information would be gathered by the many organisations that are in the same position as we are and work directly with young people. The organisations would be able to use the commissioner's extra clout, as it were, because the commissioner would have the ear of Government—to which we do not have ready access—and so would be able to influence things.

**Ian Jenkins:** In a sense, would the commissioner empower you to do better what you are trying to do in the first place?

**Deirdre Watson:** Absolutely.

**Mr McAveety:** Do we need more clarification of the difference between the role of children's rights officers and the role that the children's commissioner or champion would play? A lot of the detailed work would probably be done by children's rights officers rather than by the commissioner. Do you have strong views on that?

**Deirdre Watson:** Having thought about the issue for many years, I have a clear vision of the role of the children's commissioner. Children's rights officers would be in the same sort of position as the Who Cares? Scotland workers are in. I see the commissioner having three main functions. The first is that the commissioner would monitor and report on adherence to the UN Convention on the Rights of the Child. The convention would become standard fare for everyone whose role involves dealing with young people. The second function concerns the debate about whether there should be individual cases or class actions. The third is the influence factor: the commissioner would link in with the Government and keep it accountable by keeping young people on the agenda. I hope that that makes sense.

**The Deputy Convener:** I thank Joseph Holmes and Deirdre Watson for giving evidence.

We shall move on quickly to our next set of witnesses. I welcome Anne McGaughrin and Linda McCracken, who are children's rights officers. You may make a short statement, if you wish. If not, we will move straight to questions.

**Linda McCracken (Children's Rights Officer):** Let us crack on. It is very cold in here.

**The Deputy Convener:** I apologise for that.

**Michael Russell:** We sometimes break up the furniture and burn it.

**Linda McCracken:** I am not surprised.

**The Deputy Convener:** That is why people sit here wearing coats and thick socks.

**Anne McGaughrin (Children's Rights Officer):** You should have received a statement from us.

**The Deputy Convener:** We have it.

Michael Watson has a question.

**Mr Monteith:** Michael Watson?

**Michael Russell:** I am not a member of the House of Lords.

**The Deputy Convener:** I am sorry. I meant Mike Russell.

**Michael Russell:** You have been present for most of the evidence that has been given this afternoon and you have heard the general arguments that have been made. As the last set of witnesses, you are in a position to act as sweepers. Let us take as read your written submission. How would you react to a proposal to establish a children's commissioner? What powers should a commissioner have and how would they operate? You work closely with the issue of children's rights. What added value would a commissioner bring to the work that you already do?

**Linda McCracken:** We perceive the children's commissioner as having a totally different job from ours. We work with a small minority of the population, whereas the children's commissioner would have a much larger area of responsibility. He or she would work with all of Scotland's children.

**Michael Russell:** Would the commissioner work with individual children in Scotland or would they work on general issues relating to children? That is a crucial issue.

**Anne McGaughrin:** The evidence that the committee received from representatives of the children's parliament, the youth parliament and Who Cares? Scotland made it clear that the commissioner must do both things. We agree. It is not a matter of the commissioner doing either one thing or the other, although how the two tasks can be combined is a big question. In the same way as individual constituents raise issues with their MSPs and MPs, individual young people could raise issues with the children's commissioner. If particularly complex cases, raising key issues, are not being resolved elsewhere, we would want those cases to be brought to the commissioner.

**Michael Russell:** From your experience, can you give us an example of those key issues?

**Anne McGaughrin:** There is the issue of criminal injuries compensation.

**Linda McCracken:** If the commissioner does not have the facility to receive concerns raised by individuals, how can they know how widespread those concerns are?

**Michael Russell:** I do not dispute that. However, I would like you to provide us with an example of a type of case that is not being resolved or dealt with elsewhere and that might be referred to a children's commissioner.

**Linda McCracken:** Some young people have expressed concerns to children's rights officers about not receiving criminal injuries compensation because the Criminal Injuries Compensation Board has felt that the young person did not suffer because of abuse. When those concerns are raised with us within our authorities, there is little that we can do to address them. It would be more than welcome if we were able to inform a children's commissioner of issues that come to our attention. The commissioner would then be in a position to take a view on how prevalent such problems are.

**Michael Russell:** I understand that, as local authority officers, you have trouble accessing national structures and institutions. However, what would the role of a children's commissioner be with respect to the decisions of local authorities and the actions of children's rights officers? Some of the evidence that we have heard relates directly to local authority functions and complaints about them. Should a children's commissioner have a role in dealing with those? How would that role operate?

**Anne McGaughrin:** The commissioner should have such a role. Part of our written submission relates to issues of policy and practice that are raised with us all the time, as well as with Who Cares? Scotland and other organisations, and that we cannot take further. The complaints system for children and young people in Scotland does not work particularly well or effectively and children and young people do not use it. The commissioner should review and monitor the operation of complaints procedures, as a safeguard for children and young people.

**Linda McCracken:** There is a lot that local authorities could do, under the Children (Scotland) Act 1995, to make corporate parenting more effective. It is still difficult for departments in local authorities to work together. The commissioner would have a role in that. Before we came here today, we were saying that there could be tension between the Scottish Executive and local authorities. For example, in January 2000—when

the number of children and young people needing to be looked after had increased—the Scottish Executive advised local authorities to reduce the looked-after population by 10 per cent. The commissioner would have a role in that, too.

16:30

**Mr McAveety:** Page 9 of your submission talks about the overlap between the work of children's rights officers and a children's commissioner. That paragraph indicates that you deal with only a small number of young folk. More worrying was that you said:

"There is little or no children's rights and advocacy service provision for the majority of children and young people in Scotland."

I want to ask a question that has been asked of all the witnesses today. Do you envisage the children's champion dealing with individuals and general issues? Should he or she identify which issues should be allocated to the different agencies? Alternatively, should he or she identify where there are gaps throughout Scotland—gaps will probably be found once the issue is examined—and spend time campaigning for resources and policies to address those gaps at local authority and parliamentary level?

**Anne McGaughrin:** I do not know whether this is answering the question—

**Mr McAveety:** I apologise—there are three questions in there.

**Anne McGaughrin:** The creation of a commissioner's post will make a statement about the profile and rights of children and young people. One of the key roles of the commissioner would be to consider the implementation of the UN convention. It is 10 years since the UK Government ratified it but many children, young people, parents, carers and teachers do not know about it. One of the key rights in the convention is the right for children to be heard. Considering the implementation of the convention means considering how well we listen to children in schools and nurseries and allow children under five to express their views. The commissioner's role would be to consider which parts of the convention have been implemented, what is good practice, what works well, where the gaps are, what action needs to be taken through council policies and Government policies and practice—children's services plans, for example—and what needs to be done to address fundamental rights. That is a broad answer, but the commissioner has to consider basic children's rights and how well we implement them.

**Mr McAveety:** Do you think that the commissioner should be concerned with individual rights that relate more to children's collective

experience than to individual cases? I am quite troubled by that.

**Linda McCracken:** In instances where an individual child or young person is involved, the commissioner's role may often be to ensure that the responsible agency carries out what is necessary for that child. It is then a matter of deciding whether there are more serious issues that require investigation by the commissioner.

**Mr McAveety:** In the area that I represent, a significant number of young folk are involved in complex custodial cases, such as family disputes. The social work services are constantly under stress in the east end of Glasgow. The case load is not being dealt with, probably because too few folk are being recruited. The answer should be to improve the resource base and the quality of the link between services such as social work and education. Where would the commissioner fit into that? Perhaps those are the kind of areas that the commissioner might really kick into. That might take two or three years, but in the long run it will benefit many individual children. That would be a more effective role, certainly for the area I represent.

**Linda McCracken:** I do not anticipate that the commissioner would become involved in the case of a child who was going through the children's hearing process, for example, because there are other mechanisms that would ensure that that child's case is considered fully.

**Mr Monteith:** Your paper explains your role as children's rights officers and the gaps that are left, which the children's commissioner might deal with. Clearly, there could be an overlap of responsibilities, depending on what we decide the duties of the children's commissioner should be. If that overlap meant that the children's commissioner picked up some of the work that you do—but did not work with individuals, which seems to be a natural role for you—would you be comfortable with that?

**Anne McGaughrin:** Absolutely. Children's rights officers and Who Cares? Scotland would be delighted if the blockages that we deal with were analysed and addressed. That would be best done by a commissioner, as it is the responsibility of local authorities and the Government to implement the United Nations Convention on the Rights of the Child, but it would be the commissioner's role to monitor how effectively that was being done. The issues that we are raising are clear breaches of children's rights under the convention. Local authorities and the Government are aware of that. The children's commissioner would have to consider what can be done about it. We would welcome the children's commissioner taking as much work as possible from us.

**Linda McCracken:** There is an issue about where a young person is supposed to go if they are not happy with the service that is provided. Who do they go to if that is the case? They are scuppered.

**Ian Jenkins:** The final part of your paper suggests that you would welcome the creation of a children's commissioner and sets out four guiding principles. You have already mentioned using the United Nations Convention on the Rights of the Child as a guiding framework.

One recommendation is that there must be "an exclusive focus on children and young people".

You also suggest that the post should be

"independent of Government and have security of tenure and security of funding".

I assume that you envisage the commissioner having powers similar to those of Her Majesty's inspector of prisons, who can comment independently of Government. You also say:

"The Commissioner will have certain statutory powers".

We can take a couple of those suggestions as read. I am interested in the age range that you have in mind when you talk about the exclusive focus on young people and what statutory powers you think the commissioner might have to have.

**Anne McGaughrin:** The United Nations Convention on the Rights of the Child applies to people under the age of 18 and the Children (Scotland) Act 1995 applies to people up to the age of 21 or 25. I do not have a fixed view on the upper limit, but I would certainly say that it should be over 18.

**Linda McCracken:** On the statutory powers that the commissioner might have, I have been impressed with the role that has been created in Wales for a similar post. It is important that the commissioner has the authority to comment and has powers to require investigations and inquiries. We must be careful not simply to give you a wish list of things that would happen in an ideal world, but I would like the issue of 16 and 17-year-olds' entitlement to benefit to be re-examined. I do not know whether that will ever happen. I would like the commissioner to have the power to require consideration to be given to serious issues.

**Ian Jenkins:** As Michael Russell said, a statutory power might have knock-on effects. I am sure that you recognise that.

**The Deputy Convener:** I thank our witnesses for giving evidence this afternoon.

## Adoption and Children Bill

**The Deputy Convener:** We have before us a Scottish Executive memorandum on the UK Adoption and Children Bill. We have to consider whether to invite a minister to a meeting to answer questions on the memorandum.

**Michael Russell:** I cannot see much point in doing so as we have already passed the Sewel motion without a vote. The time for consultation was before the motion was passed. It is regrettable that the Executive did not make the offer then. There is no use doing anything other than making the point that we urge the appropriate Westminster committees to consult the relevant Scottish organisations. This committee could offer to give evidence as well.

**The Deputy Convener:** Is that agreed?

**Members** *indicated agreement.*

16:40

*Meeting continued in private until 16:50.*



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