

EDUCATION, CULTURE AND SPORT COMMITTEE

Tuesday 20 November 2001
(*Afternoon*)

Session 1

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EDUCATION, CULTURE AND SPORT COMMITTEE

30th 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

Katy Macfarlane (Scottish Child Law Centre)

Fiona Miller (Scottish Child Law Centre)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Judith Evans

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 4

Scottish Parliament

Education, Culture and Sport Committee

Tuesday 20 November 2001

(Afternoon)

[THE CONVENER *opened the meeting at 14:36*]

The Convener (Karen Gillon): I call this meeting of the Education, Culture and Sport Committee to order. I remind members and visitors in the public gallery to ensure that mobile phones and pagers are turned off or are in silent mode.

Items in Private

The Convener: I ask the committee's agreement to take items 3 and 4 in private. Those items are the consideration of a draft report on our Gaelic broadcasting inquiry and consideration of a draft report on our Scottish Ballet inquiry. Do members agree to hold those items in private?

Members *indicated agreement.*

Children's Commissioner Inquiry

The Convener: Item 2 is to take evidence in our children's commissioner inquiry. This is the second of three meetings at which we are taking evidence on a wide range of issues related to the inquiry. We have received a great deal of written evidence. We also held an event in the chamber in June. We plan a further event in December, which will involve young people. Focus groups are currently taking place across Scotland.

Today's evidence is from the Scottish Child Law Centre. I welcome Katy Macfarlane and Fiona Miller and invite them to make an opening statement before we ask questions.

Katy Macfarlane (Scottish Child Law Centre): I shall start by telling the committee briefly about the Scottish Child Law Centre. The centre has existed for 12 years. It was in Glasgow for the first 10 years and has been in Edinburgh for the past two. At present, the staff consists of Fiona Miller, the principal solicitor, and me, the acting director. We are about to employ a full-time administrator to pick up the administrative work that we generate, and we hope that that person will start in the middle of December.

The centre's work is divided into five areas. The first and most important is the advice line, which is our core function and which provides a quick response to any specific inquiries that come in. The second area of our work is information. From the advice that we give out, we can decide on what the unmet needs of our callers are. We then compile leaflets, briefings or whatever to try to fill those gaps and disseminate information.

The third area that we deal with is education. We give many educational talks and provide training to professionals who work with children, to parents and to children themselves. We hope to take on representation work from 2002, but that is still in the pipeline and we are still in the process of organising things.

Finally, we carry out legislative work, the bulk of which is done through our responses to Scottish Executive consultation documents and our participation in several working parties, such as the adoption policy review advisory group.

That is a brief outline of what the centre does. We are now open to questions.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): Who funds your centre?

Katy Macfarlane: Our core funding comes from the Scottish Executive. We are trying to expand our funding from next year by applying for funding to the Calouste Gulbenkian Foundation and some local authorities. For example, we have applied for

funding to help us with our telephone advice line.

Ian Jenkins: So although you are funded by the Executive, you are independent of it.

Katy Macfarlane: Yes. We are neither instructed by nor do we have to answer to the Executive on anything other than financial matters.

Ian Jenkins: Has the centre identified any children's rights issues that your services are not able to address? If so, what are those issues, and what is getting in your way? We are thinking in particular of issues that a children's commissioner might be able to address but that you might not.

Katy Macfarlane: As I said at the beginning, one area in which the centre would like to work is the representation of children. However, because there are only two of us in the centre, such work would be difficult to do as it consumes a lot of time and resources. However, we hope to develop that shortly and feel that it is an issue on which the centre could liaise well with the commissioner and could help to develop the commissioner's work.

Ian Jenkins: Presumably, a commissioner might examine legislation to ensure that children's interests were taken into account. I was about to use the term "child proofing", but that has a double meaning. Do you think that a commissioner should be carrying out that sort of work?

Katy Macfarlane: Yes. I foresee that the commissioner's office will carry out work similar to that of the centre and other agencies that deal with children. It should examine consultation documents and find out whether the Executive's proposals could be improved or changed to better suit children and their rights.

Ian Jenkins: What other agencies do you work with in this area?

Katy Macfarlane: At the moment, we are working with Children 1st on ways of reforming the current system of child witnesses. Fiona Miller is examining adoption processes and helping in the adoption policy review advisory group. We work a lot with Enquire and Children in Scotland. Indeed, because we carry out much work involving children with special educational needs, we liaise a fair bit with Enquire, and that link is ever-expanding.

Irene McGugan (North-East Scotland) (SNP): I do not think that we received a written submission from you.

Katy Macfarlane: That is right.

Irene McGugan: In that case, maybe you could give us some information on issues that others have raised. It would be useful to hear your views on the role and primary functions of a children's commissioner.

Katy Macfarlane: As other written evidence has highlighted, a children's commissioner should be underpinned by the United Nations Convention on the Rights of the Child. The commissioner's remit should extend to children who are under 18. We have discussed the age limit and the commissioner's remit at some length. We believe that it would be more appropriate for the remit to apply to under-18s, rather than to under-16s, although in Scotland a young person technically becomes an adult at 16. We believe that 16-year-olds and 17-year-olds are still in a vulnerable position and that it should be part of the commissioner's remit to seek to protect them until they reach 18.

14:45

The commissioner should have statutory powers and assured funding. They should be able to take action where there are clear breaches of children's rights. The commissioner should be a watchdog—a champion for children's rights. They should be independent of Government and should not be answerable to Government or take instruction from it.

We believe that the commissioner's office should cover both devolved and reserved issues, unlike that of the Welsh commissioner, which deals only with devolved issues. The Scottish commissioner should have a wider remit that includes reserved issues. Their office should collaborate with other UK and international organisations, including the European Network of Ombudsmen for Children.

Irene McGugan: That was very comprehensive. Clearly, you believe that the remit that you have outlined would not impinge in any way on the work that is already done by the Scottish Child Law Centre.

Katy Macfarlane: There would be some overlap, but that would not necessarily be a bad thing. We envisage the commissioner's office working in tandem and liaising with us. The children's commissioner's office will not be an all-powerful office from the start. Obviously, it will have teething problems. We do not know how many members of staff will be allocated to the commissioner's office, if there is to be one. The work of the Scottish Child Law Centre and of the other agencies that deal with child law and child rights issues in Scotland can complement the work of the commissioner's office, which could fund us to carry out projects in areas in which we are expert and in which we have worked for years.

It would be unwise for the commissioner's office to take over. I do not think that that would be possible, but the office would have to recognise that existing agencies have great expertise in

certain areas of children's rights. We would want to work in tandem with the commissioner's office and to be used by it for the benefit of all children.

Michael Russell (South of Scotland) (SNP): If we are to explain the commissioner's work to the people of Scotland, their role in relation not only to general children's issues but to the high-profile specific cases that the public read and hear about will need to be understood. I am talking about cases of abuse and so on. In your view, what role should the commissioner play in such cases? Should they play a primary role, an investigatory role or an ombudsman's role, or should they be responsible for clearing up after the event? This is a crucial question that the legislation will have to address.

Katy Macfarlane: The commissioner's role should not be that of an ombudsman. The position of ombudsman is reactive. Ombudsmen react to complaints about maladministration. I envisage the commissioner's office being proactive rather than reactive. As well as dealing with current problems, staff would seek the views of children and try to pre-empt problems that might arise. An ombudsman's office would be restricted to waiting for complaints to come in and then dealing with them.

The centre believes that the commissioner's office should not take on individual cases, as that would absorb a great deal of its time and resources. In effect, it would mean having a private practice of solicitors in the commissioner's office. That is not a good use of resources. However, I think that the commissioner's office should reserve and retain the discretion to take on high-profile individual cases. The commissioner's office should be able to raise and fund legal proceedings in selected cases in which a much broader children's rights issue is involved. That role would be selective and would be reserved for the very high-profile cases.

Michael Russell: That automatically creates a raft of new questions. What are those cases? What is the decision-making process and is it defined in statute or is it at the discretion of the commissioner? I am just listing the questions, which are complex; I do not expect you to respond to all of them. Where does the commissioner stand in relation to an investigation in the courts? Can individual children go to the commissioner with specific cases? There are a whole range of questions that go wider than the children's commissioner. We may be looking at a substantial legal innovation and the operation of that could cause difficulty for existing structures.

Fiona Miller (Scottish Child Law Centre): We envisage the children's commissioner having an

investigatory role similar to that of a fatal accident inquiry. In a high-profile case of sexual abuse in a children's home, the children's commissioner would not necessarily take on the role of representing individual children, but would investigate what could be remedied and what could be done to make the situation better for children of the future. The individual children could have their rights protected by being represented by solicitors whom the children's commissioner might accredit as child law representatives.

Michael Russell: Let us take a specific case and see where the children's commissioner would fit into that. I refer to the Orkney child abuse case. At what point in the process would the children's commissioner have been involved? What would the function of the commissioner have been? How would that have altered the process and the outcomes?

Katy Macfarlane: In such a case, the commissioner's office would recognise that there was a problem and would then institute an investigation.

Michael Russell: How would the commissioner have recognised that there was a problem in that specific case in which children were removed from home by a social work department operating within the law—we know now that it was outwith the law, but it was within the law at that stage? How would the children's commissioner become involved in such a case? That is a genuine question. We have to consider those issues to understand the process.

Katy Macfarlane: I feel that the commissioner's office needs to be an office to which children can comment. That might be through an open page on a website, or via a telephone helpline.

Michael Russell: Hang on a second. I am sorry to draw you down, but let us look at the specific case. At what stage and how would the children's commissioner have become involved in such a case? The children are taken into care away from their families and it is not known whether they have unsupervised or unmediated access to the web. How would the children's commissioner become involved in such circumstances?

Could the parents go to the children's commissioner and say that that they think that their children have been wrongly used and that they are acting for their children by asking the commissioner to investigate? Could the children get involved? Where does the children's commissioner sit as far as the police are concerned in criminal investigations? We need to have answers on that scenario.

Katy Macfarlane: The children's commissioner becomes involved when a problem arises. The centre believes that the children's commissioner's

office should be open for parents to get information as well. If parents are concerned about aspects of what is going on in their child's life, they should be able to contact the commissioner's office for advice.

Michael Russell: The children's commissioner in a case such as the Orkney case might be contacted by the parents who say that the social work department has removed their children and that they want the commissioner to become involved. Would the children's commissioner then undertake an investigation of that? Would his office have undertaken an investigation of Orkney Islands Council? Would the children's commissioner, in those circumstances, be able to determine that the council had acted against the interests of the children? How would that sit with the continuing investigation into an alleged crime in that case? Those are webs that we have to pull apart.

Katy Macfarlane: I do not have specific answers to those questions. The matter is a grey area on which we have not come to a conclusion. I suggest that the children's commissioner would adopt an investigative role. The children's commissioner would not decide to investigate Orkney Islands Council on the basis of one or two calls. He would investigate what was going on and realise that something was happening that needed to be investigated further before he took on a major investigation of the council. The children's commissioner could certainly be involved in that. I do not know whether he would be involved only in gathering information.

Michael Russell: My problem with that is that one can argue quite convincingly that, to safeguard children's rights and to comply with the UN Convention on the Rights of the Child, it is necessary to have an advocate for children, but we run into a minefield when we get into the role of the children's commissioner in particular cases, which is what many members of the public will think the commissioner's work will be about. That has not yet been thought through.

I ask you again: how would it be possible for the procurator fiscal and the police to live alongside a children's commissioner's investigation into circumstances like those of the Orkney case while criminal proceedings were live? Surely the children's commissioner would run the risk of being in contempt of court or at least getting in the way of the criminal investigations. There therefore might be no role for the children's commissioner in such a case, except after the fact. After the fact, as we know, is often too late.

Katy Macfarlane: You have a valid point. We have not thought the matter through to that extent. I imagine that the role of the children's commissioner would be to gather information. I do

not know how that would tie in with the courts. I understand your concern about the commissioner possibly being in contempt of court.

However, I feel that a role exists for the children's commissioner in such cases. Perhaps we just have to sit down and bash that role out. I presume that the committee's inquiry is for the purpose of bashing out such problems and coming to a conclusion. The Scottish Child Law Centre has not yet come to any conclusion on that matter. There is food for thought. It is a matter for us to go away and think about.

Mr Brian Monteith (Mid Scotland and Fife) (Con): Surely, in the instance that Mike Russell has brought up to try to tease out a better idea of your suggestion, the commissioner would no longer be a children's commissioner but would be a parents' commissioner. Surely Mike Russell's suggestion is that if the children's commissioner were to take up parents' interests when those parents were under criminal investigation, it would be arguable whose rights the commissioner would be looking after. Is that the dilemma that has to be resolved?

Fiona Miller: I do not consider that to be a dilemma, to be honest. Parents and society have a duty to protect children. If a call comes from a parent who says that he or she is concerned about children, that is a matter not of representing the parent's rights but of protecting the children.

Mr Monteith: I understand that point of view. The difficulty is that, if a criminal investigation is going on—this was Mike Russell's point—and, to all intents and purposes, the jury is out on the parents, it is difficult for another Government body to become involved in what could be called a counter-investigation. That creates a dilemma. It may be proper that investigations are made at some stage, but they may be made after the event. Competing forces are at work. We are trying to resolve them and want the benefit of your view.

I will take the question further. Should the children's commissioner be involved in more than dealing with institutions? The example of the Orkney case was clearly about the relationship with the social work department and the criminal investigation.

Should a children's commissioner be fundamentally involved in something similar to ChildLine, which children can ring up to lay before the commissioner evidence about problems? Those problems might not involve institutions, but parents or guardians. Do you want the commissioner's role to include that?

Katy Macfarlane: Yes. The commissioner's office needs to be open to every type of call from children. It cannot restrict calls by saying, "Sorry,

we don't deal with problems with parents. We only deal with a certain category of problem." It would not be in the commissioner's interests to restrict the trade to one area of child law.

If the commissioner's office receives a call from a child who is worried about an incident about which the office feels the child should see a solicitor, the office should not take on that case. There should be a network of solicitors to which the child can be referred. Those solicitors should not only be accredited as child specialists by the Law Society of Scotland, but have an accreditation as a child representative from the commissioner's office. Children would be able to go to such solicitors to seek further legal help and advice. In that way, the commissioner's office would not wash its hands of cases, but pass them on to an arm of the commissioner's office.

15:00

Mr Monteith: I follow that answer and I understand the idea of the children's commissioner becoming a conduit to direct children to some form of justice. Given your earlier comments, do you think that the commissioner should reserve the right to take up a case which, in the light of the evidence, is seen as being of ground-breaking significance? You talked about that situation in relation to institutions. Do you envisage the children's commissioner having a similar role in cases involving individuals?

Katy Macfarlane: I do not rule that out. Interventions by the commissioner would have to be strategic and be done because of the high-profile nature of a case. Such a case would influence children's law and children's rights throughout Scotland and become, as you said, a ground-breaking case or a case that would influence other areas of law. I am not talking about small cases in which children need representation—nothing major would come of them—but major, ground-breaking cases that would influence strategically the position in Scotland.

Mr Monteith: I am aware that there are laws against abuse and incest but I am not aware of ground-breaking areas. Given your proximity to legal cases, I presume that you are aware of them. Will you outline, either now or in written evidence, the areas in which there could be ground-breaking cases? I realise that I am springing the issue on you, but such an outline would be useful and would give shape to your suggestion about interventions by the commissioner. We are trying to tease out some of the hypothetical or abstract possibilities, but we must also consider practicalities, which is why Mike Russell mentioned Orkney.

Fiona Miller: An example—which is perhaps not ground breaking—is the centre's experience of local authorities taking away funded places for children with special needs on a large scale. I do not think that the children's commissioner should take up that issue alone, but it might be one issue on which the commissioner could assist other accredited child law representatives.

Ian Jenkins: That is an interesting point. You are talking not only about individual cases but about an institution's disregard of children's rights, or the infringement of children's rights.

What role do you think the commissioner would have in cases like the Orkney case or the Stephen Lawrence case? Although people demand public inquiries, they recognise that that system is cumbersome and expensive. Should the children's commissioner take the place of the public inquiry system? The commissioner could be the person who conducted such investigations. If the commissioner were given that status, we could cut across the genuine difficulties that exist with big public inquiries.

Fiona Miller: Yes. A primary role for the children's commissioner would be to carry out such inquiries and investigations in the circumstances in which there had been a breach of children's rights or people had failed children.

Ian Jenkins: In cases like the Orkney case, the commissioner might come in—regrettably, at the end of the inquiry—saying, "Look, things have gone wrong here." The office of the commissioner would be the court of last resort for the public in such cases.

Fiona Miller: I explained earlier that such inquiries would be similar to fatal accident inquiries. If something went wrong, the children's commissioner would investigate to identify ways of preventing the recurrence of those circumstances.

Katy Macfarlane: The children's commissioner's office would have to let the law take its natural course. It might say at the end of an inquiry, "Let's amend these practices—let's look at them, see what has gone on and change them so that the rights of children come first," without interfering in the natural course of justice. Perhaps that is what its role should be.

Ian Jenkins: May I ask a final question on an issue that we have not yet touched on?

The Convener: You may ask only one more question, Ian, as a lot of members wish to ask questions.

Ian Jenkins: Sorry.

The Convener: Carry on.

Ian Jenkins: Let us go back to first principles. In what ways do you envisage young people

accessing the commissioner's office? We asked the youngsters that question last week. What do you think their relationship with the commissioner will be? How will the commissioner's work be informed by youngsters' views?

Katy Macfarlane: Young people will access the commissioner's office in several ways. We believe that the commissioner's office will be of most use to children if it listens to their views. That may involve a team of people going out and listening to children's views, but that is the way in which the commissioner should do the bulk of his or her work with children. The fact that children want to be listened to came across loudly and strongly from the evidence that I have read and from the Children in Scotland video about the commissioner. Children in Scotland thought that the primary function of the commissioner should be to listen to children, rather than disregarding their views, to take note of workable views and to try to incorporate those views into existing practices in Scotland. Our view is that that should be the primary way in which children access the commissioner's office.

Other suggestions include providing a telephone line that children could telephone and leave messages on or having an open page on a website that children could write to in order to state their views. Often, children do not want to do things face to face and they might not open up to someone who goes out to seek their views. A child is much more likely to say what is in their heart if they are sitting in front of a computer than if they are speaking to someone face to face. The use of a website would be a crucial way of obtaining children's views on the issues that concern them. That would be a useful way for the commissioner to access the views of children.

Cathy Peattie (Falkirk East) (Lab): I will pick up on the issues that were addressed by Mike Russell and Ian Jenkins. I assume that you agree that the children's commissioner would not have a role in children's individual cases and that instead he or she would work directly with organisations.

Katy Macfarlane: Do you mean should the children's commissioner be involved in individual cases?

Cathy Peattie: Yes.

Katy Macfarlane: We do not think that the commissioner's job should primarily be to take on individual cases, although I know that other written evidence has supported that. It might take away from the resources for doing other things. We understand that the commissioner's office will not have a huge staff, especially at the start. We do not know what the proposals for staffing might be. In Norway, the office of ombudsman has been in operation for about 20 years and has a staff of 11

full-time members. I cannot envisage the Scottish children's commissioner having much more than that at the start. If the commissioner's office took on the individual cases of children it would use up staff and turn the office into a private practice for children. That is not the best use of resources. The commissioner's office should have a network of solicitors and give out the names of solicitors that it knows are good child representatives. A child could go to see a solicitor, but the office itself would not take on the role of legal representative for children in individual cases.

Cathy Peattie: How would the children's commissioner's office link in to agencies such as yours?

Katy Macfarlane: We see that as very positive. The Scottish Child Law Centre welcomes the prospect of working with the children's commissioner's office. We expect agencies such as ours, Children 1st and Who Cares? Scotland, which exist for the welfare of children and the promotion of their rights, to work in tandem with the commissioner's office. We at the Scottish Child Law Centre would take on any kind of project work that the commissioner's office would like to give us. We are experts in our field and are happy to work with the commissioner's office. We would be happy if the commissioner's office chose to fund a project that we could carry out, liaise with us about statistics that we keep or liaise with any agency about what it knows in its area of expertise.

Fiona Miller: Specifically, we would be keen to take on the representation and education of children and the question of their being informed of their rights. We would hope to do that in tandem with the children's commissioner.

Michael Russell: This is no criticism of you, as you have been very helpful, but the more evidence we take on this the more confusing it becomes.

Katy Macfarlane: I agree.

Michael Russell: We have a big task to pull this apart. There is a sense in which what you are saying today presents an interesting dichotomy for the committee. On the one hand, the children's commissioner might be viewed—unsympathetically; it is not my view—as simply adding to the professional advocacy network that already exists in Scotland. It might be viewed as another part of the quango state that is involved in the welfare of children and the promotion of their rights—that is the term Katy Macfarlane used—and as essentially assisting organisations to assist children. It may be worth while to do that, but many people will consider a children's commissioner as having a proactive role in helping children generally in society.

The idea of a children's commissioner as a sort of referral network to solicitors almost promotes

that view. It is better to have a referral network than not to have one, but it is not as good as having proactive intervention. However, if we are to have that proactive intervention, we are looking not at only a larger organisation in financial and organisational terms but some profound questions of legislation involving children and the investigation of problems concerning children that would have far-reaching consequences. With that dichotomy in mind, if you had a blank sheet of paper to write a job description of the children's commissioner in order really to help children in Scotland today, what would be on it?

Katy Macfarlane: I do not see the two as being mutually exclusive. You refer to the fact that the children's commissioner might be seen as another layer of bureaucracy—I do not see it that way. One of the prime tasks of the children's commissioner—as for the Scottish Alliance for Children's Rights—is to promote the rights of children and knowledge of the rights of children.

We have to say to children that the children's commissioner's office is not just somewhere to phone if they need a lawyer. Going out and actively promoting the idea that children have rights—whether that is done in schools, playparks, youth clubs or wherever—would also be the role of the children's commissioner. Those roles are not mutually exclusive; I see the commissioner's office doing a variety of things. One of the primary tasks would be to promote knowledge of what the office does, getting the point over that it is not just an office for people who need help, but an office that will allow young people to express their views.

15:15

I do not know whether committee members have seen the video made by Children in Scotland. At one point, a group of children from a children's home talk about phones, saying that previously they had been allowed to make private calls from the office but have now been told that they have to make their calls from the public phone box in the common room. The children say that no one asked them about it. If they had asked, they would know that the children do not want to make calls in front of 50 other children playing pool; they want privacy. The children were not asking for a big change. If someone had listened to them, the change could have been made. To avert the problem, all it might have taken was a phone call from the children's commissioner to say, "Can you listen to the views of the children? They are not asking for much; they just want privacy to make their calls."

Children must know that they can come to the commissioner with small problems as well as huge problems. No problem should be too small—to come to the commissioner about, to phone the

helpline about, or to write about on the website.

Michael Russell: That is a wide, catch-all role for the commissioner. If we do not want to keep adding to bureaucracy and the quango state, which organisations should merge into the office of the children's commissioner? This may be asking you to be self-sacrificing, but should the Scottish Child Law Centre cease to have a role once there is a children's commissioner? It may be that other organisations will accept that their roles will be subsumed into that of the children's commissioner, so that we can have a cleaner, more effective and more accessible structure, rather than a structure to which we keep adding things?

Katy Macfarlane: I cannot speak for the other agencies. I refer you to my previous answer about the Scottish Child Law Centre. As I have said, I do not see the two roles as mutually exclusive. I see the Scottish Child Law Centre helping with the work of the commissioner, taking a load off the commissioner and doing some of the work at which the centre is expert. For example, one of the tasks that was cited by the Scottish Alliance for Children's Rights was the promotion of the knowledge of children's rights. At the moment, we at the centre are devising a set of talks to give to children at schools—for a kind of road show—to promote the knowledge of their rights.

Michael Russell: Could not the children's commissioner do that?

Katy Macfarlane: Yes—it is something that the children's commissioner could ask us to do on their behalf. That would release resources so that the commissioner could do things that they were better prepared to do.

Michael Russell: But we can stand this on its head and say that that is the role of the children's commissioner and that, therefore, you should not be funded to do it.

Katy Macfarlane: No, no—it is—

Michael Russell: But we could argue that, could we not?

Katy Macfarlane: Well of course you could argue that—you could argue anything.

Mr Frank McAveety (Glasgow Shettleston) (Lab): He does.

Katy Macfarlane: The role of the children's commissioner could be to promote the knowledge of the rights of children. That does not necessarily mean going out and telling children that; it could mean—

Michael Russell: But it could mean that.

Katy Macfarlane: It could mean that, but it could also mean using facilities that are already in existence to do that work, thus releasing

resources in the office of the children's commissioner to do other things and to address other unmet needs.

Fiona Miller: The two roles are not mutually exclusive. As Katy said earlier, she and I are the only ones who work in the office. Scotland is a big place, so we see ourselves complementing the role of the children's commissioner, who would take on another part of Scotland.

Michael Russell: Maybe we should make Katy the children's commissioner, and widen the work. I am just searching for some solutions so that we can do the work more effectively.

Mr McAveety: It would be fun.

Katy Macfarlane: I take that as a compliment.

Mr McAveety: I am trying to lighten the load a bit.

What consultation does the Scottish Child Law Centre have with young people? How has that consultation influenced the opinions that you have expressed this afternoon?

Katy Macfarlane: Our core function as an advice line is a very good way of getting information about things that we believe are not working well in Scotland or that need to be addressed. It highlights for us unmet needs and areas where more information is required. Recently we published a couple of leaflets on children and alcohol and the rights that children have with respect to alcohol.

Mr McAveety: I am not asking about that sort of information, which we could find, but about the mechanisms that you have in place to help young people shape your work. I know that in parts yours is a very technical area of work and that it may not be as appropriate for you to have such mechanisms as it is for other organisations. However, I want to know how young people will be involved in shaping and defining the service that will be provided by the children's commissioner. There is a debate about some of the more extreme situations, which need to be explored and explained; last week both Mike Russell and I asked about the Orkney case. However, I am interested in the commissioner's advocacy role—how they would represent young folk at many different levels of decision making in local authorities, the voluntary sector and so on. Their role needs to be seen as positive and proactive. How do young people's views shape the opinions expressed by the Scottish Child Law Centre? Do you have any young people on a consultative committee? Do you get any feedback? Do you evaluate the services that you provide through questionnaires?

Katy Macfarlane: We do not have any young people on a consultative committee. Because we

have only two members of staff, it is very difficult for us to canvass children's views. We receive children's views via our phone line and via training courses that we run, some of which are directed at young people. In plenary and question sessions that we hold at the end of those courses, we ask young people what they think. Those are the ways in which we gather information. At the moment it is difficult for us to do that because we have so few staff. We could rely on the children's commissioner's office to supply us with information and to say to us, "There is a gap in the market here. We have collated children's views and we realise that they want to know about a particular subject. Could you do that work on our behalf?" We could collaborate with the children's commissioner's office on trying to fill such gaps.

The Convener: Thank you very much for your interesting evidence. If from this meeting or subsequently you identify an issue that you would like to bring to our attention, you are welcome to do that in writing.

Katy Macfarlane: I will ensure that the Scottish Child Law Centre submits a paper on ground-breaking cases and the kind of issues in which we believe the children's commissioner could be involved.

The Convener: That would be helpful. Thank you very much for your time.

15:22

Meeting adjourned until 15:34 and thereafter continued in private until 16:58.

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