

# **EDUCATION, CULTURE AND SPORT COMMITTEE**

Tuesday 26 March 2002  
(*Afternoon*)

Session 1

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## EDUCATION, CULTURE AND SPORT COMMITTEE

### 10<sup>th</sup> Meeting 2002, Session 1

#### CONVENER

Karen Gillon (Clydesdale) (Lab)

#### DEPUTY CONVENER

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

#### COMMITTEE MEMBERS

\*Jackie Baillie (Dumbarton) (Lab)  
\*Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)  
\*Irene McGugan (North-East Scotland) (SNP)  
\*Mr Brian Monteith (Mid Scotland and Fife) (Con)  
\*Michael Russell (South of Scotland) (SNP)

#### SUBSTITUTE MEMBER

\*Cathy Peattie (Falkirk East) (Lab)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

Fiona Hyslop (Lothians) (SNP)  
Stewart Stevenson (Banff and Buchan) (SNP)

#### WITNESSES

Richard Wilkins (Scottish Executive Education Department)

#### CLERK TO THE COMMITTEE

Martin Verity

#### SENIOR ASSISTANT CLERK

Susan Duffy

#### ASSISTANT CLERK

Ian Cowan

#### LOCATION

The Chamber



## Scottish Parliament

### Education, Culture and Sport Committee

*Tuesday 26 March 2002*

*(Afternoon)*

[THE DEPUTY CONVENER *opened the meeting at 14:07*]

### Item in Private

**The Deputy Convener (Mr Frank McAveety):** I welcome members to the Education, Culture and Sport Committee. We are now in public session. Everyone should ensure that their mobile phones and pagers are turned off.

I inform the committee that two members might make representations on behalf of petition PE371. So far, Stewart Stevenson and Fiona Hyslop have intimated that they might be present for that item.

Does the committee agree to discuss item 7, which is on a proposal for drafting a committee bill to establish a children's commissioner, in private?

**Members** *indicated agreement.*

### Interests

**The Deputy Convener:** The second item is a pleasurable one. I welcome back Cathy Peattie—a former member of the Education, Culture and Sport Committee—as a substitute member. I ask her to make a declaration of interests.

**Cathy Peattie (Falkirk East) (Lab):** I do not think that the situation has changed since the last time I was here. I am a member of a number of organisations that promote traditional music. I convene the cross-party group in the Scottish Parliament on Scottish traditional arts and the cross-party group in the Scottish Parliament on culture and the media. I have an interest in training, mainly further education and adult training. I do not think that there is anything else that I need to add.

**The Deputy Convener:** Welcome back, Cathy. I am sure that we will benefit from your knowledge and experience.

**Michael Russell (South of Scotland) (SNP):** As I said in the chamber at the time, I deeply regret Cathy Peattie's leaving the committee. Her contribution was enormously important. She is one of the original members of the committee and I am

delighted to see her back. That goes for my party and—I hope—for the whole committee.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** It certainly does.

**The Deputy Convener:** I acknowledge that the issue has been raised of my recent appointment as ministerial parliamentary aide to the Minister for Finance and Public Services. I wish to make it clear that my role on the committee is my central role, and in that regard over the next few months I will cover for Karen Gillon, who is on maternity leave. I hope that committee members are reassured by that statement, which I wished to put on record.

**Michael Russell:** Convener, I have worked well with you over a number of years and have no personal reservations about your putting the committee's work first. However, it is right that I should put on record my party's concern that people who are essentially tied to the Executive in even an unpaid capacity might experience undesirable conflicts of interest. My party will pursue the matter in the chamber and through other means. I accept your personal assurance and I am sure that we will never find it wanting, but the general issue has not been resolved.

**Jackie Baillie (Dumbarton) (Lab):** The deputy convener's assurances are most welcome. The situation is temporary and simply allows us to cover the convener's maternity leave. After your assurances, deputy convener, I wish you well in your role.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** Although I also welcome the deputy convener's assurances, I want to record my support for Mike Russell's view. As the Conservative group has not yet discussed the issue, I cannot say that all members of the group share my opinion. I certainly think that we need to examine relationships with MPAs to the Executive. That is no reflection on your good self, Frank, but the Parliament will no doubt revisit the issue.

**The Deputy Convener:** I appreciate that, Brian.

## School Meals (Scotland) Bill

14:15

**The Deputy Convener:** The next item on the agenda is consideration of the committee's approach to the School Meals (Scotland) Bill. Members have received a briefing paper for this item. Although the current deadline for consideration of stage 1 is 10 May, I believe that there have been discussions among the business managers and clerks about moving that deadline to sometime in June. The paper raises a series of points on which I invite members to comment.

**Jackie Baillie:** I am aware that the paper probably omits any time scale because the issue of allotting parliamentary time to the bill is still under discussion. However, I would welcome further clarification of that point.

The second half of the part of the paper entitled "Cost" suggests that

"There would ... be regional variation in the financial impact"

of the bill, which means that provision might vary across the board. I believe strongly that we need to plan on the basis of 100 per cent take-up, because universal entitlement to school meals will mean a universal cost.

Equally, under the part of the paper entitled "Effect on School Management", we need to consider whether catering organisations will be able to cope with the increase. At the moment, they provide for only 49 per cent of pupils throughout Scotland. It would also be useful to receive evidence from local authorities that have introduced alternative schemes such as switch cards. Indeed, I recommend that we consider East Dunbartonshire Council, which has introduced useful schemes in Bishopbriggs.

There might be an omission in the part entitled "Written evidence". It occurred to me that we should probably also talk to parents, because they are a critical part of the process. I wonder whether we should also discuss the matter with the Scottish School Board Association or other appropriate organisations.

Another critical issue that has not been covered is the behaviour patterns of children. If we give out school meals—free or otherwise—children will demonstrate acceptance or refusal by taking them or by going elsewhere. The bill and the committee have failed to consider such behaviour.

Finally, I seek confirmation that we will receive a shortlist of advisers from which to select.

**Martin Verity (Clerk):** Yes.

**Jackie Baillie:** Thank you.

**Michael Russell:** I am certain that everyone accepts that there are things wrong in the present situation and that there are considerable difficulties with child nutrition, with adequate provision of nutrition in schools and in ensuring that children have the best opportunity to eat healthily. However, whether the bill is the right solution to those problems is the matter for debate.

I have a difficulty with the issues on which it is suggested the committee should take oral evidence, on page 6 of the paper. It strikes me that that cannot be done in a mechanistic way that will rule out some aspects from consideration by the Education, Culture and Sport Committee. I seek an assurance that, even though we will major on the issues that are set out in the paper, it will be open to us to take and assess evidence on child nutrition. After all, the committee deals with children and education and there is a children and education department. Even if the Local Government Committee takes evidence on cost and uptake, we should be able to consider that, because elements of cost will have to be met through education budgets. Spending priorities in education budgets is an issue. I am concerned about the breakdown of subjects as outlined in the paper and—as a member of the lead committee—I would not feel happy if we did not consider the bill in its totality. I hope that the paper will be changed to take account of that sentiment.

Jackie Baillie mentioned a shortlist of experts. We want to bring experts together. I will reserve judgment until I have seen experts' reports. The approach that has been outlined is the right way forward.

**Cathy Peattie:** I agree with what all other members have said. I am concerned about removing from the Education, Culture and Sport Committee consideration of child nutrition, cost and uptake—those matters must be examined.

I am also interested in organisation. We are considering the appointment of an adviser to examine the bill's financial implications. Most people in schools—head teachers and so on—do not know what they will do if all the kids have school lunches. We must look at how to deal with the infrastructure and related issues. Although finance is important, it is a secondary concern—whether the bill will work is more important. It would be a negative thing to get hung up on the appointment of a financial adviser. That said, it would be helpful to have an opportunity to consider suitable advisers.

**Mr Monteith:** I share Mike Russell's concern about oral evidence. Although we are all able to attend meetings of other committees to hear the evidence that they take—as long as attendance does not conflict with the meetings of the

committees of which we are members—and can read the written evidence and accounts of the cross-examination of that evidence, we must avoid a situation in which gaps open up. I listened to some of the evidence that was given on Nicola Sturgeon's Tobacco Advertising and Promotion (Scotland) Bill. The Health and Community Care Committee allowed the Enterprise and Lifelong Learning Committee to consider the advertising aspects of the bill. It was noticeable that nobody from the advertising industry gave evidence; the only people speaking for the tobacco industry were tobacco industry employees. That appeared to amount to a gap in the evidence, which was not picked up on. There should have been cross-examination on that aspect.

If we leave child nutrition to the Health and Community Care Committee and cost and uptake to the Local Government Committee, we might feel—because we might not be able to attend the relevant meetings—that the cross-examination on some areas is inadequate. As Mike Russell said, we must leave ourselves the option of exploring some of those issues.

We must consider the views of children when we take evidence. As a committee, we have taken a lead in seeking the views of children—in school or elsewhere—on many occasions. We had a children's parliament here a good year and a half ago. One of the most important topics of debate among the children who attended that event was school dinners—particularly the portions, as I recall. It was clear that children have strong views on school dinners. I am sure that we could elicit their views on the bill.

Not only the public sector is involved in the provision of school meals. The private sector is involved in catering—please excuse the pun—for school dinners and it might have a view. Nestlé produces a great deal of research into children's nutrition. We must cast our net wide to include as many views as possible.

**Ian Jenkins:** I support most of what has been said, particularly the idea that we should consider the bill holistically. We should not pretend that consideration can be split up among different committees. We must draw information from everywhere.

I was at a dinner hosted by the Food Standards Agency last week. Local authority caterers, who run the school meals and hospital meals services, attended that meeting. There are many issues about the changes to catering that will be necessary if local authority caterers need to do many more pre-packed meals, for example. We need to consider such issues.

I do not want to hold the committee back. I support what has been said. The appointment of advisers will be necessary to draw all the evidence

together.

**The Deputy Convener:** The paper suggests that we call immediately for written evidence. It is suggested that the deadline for submission of written evidence should be the end of April. Once we have considered that evidence, it would be appropriate to consider from whom else we wish to take oral evidence. That oral evidence can be taken by 21 May.

The paper also suggests that we appoint two advisers. Jackie Baillie has rightly said that we should be clear about and discuss who those advisers will be. We should commit ourselves in principle to appointing two advisers. We will come up with names at the appropriate time. The committee would select the two advisers from a short list on 23 April.

**Ian Jenkins:** Will the advisers whom we appoint serve some of the other committees as well?

**The Deputy Convener:** They can do that.

On Mike Russell's comments, we can explore any area that we wish to. We should explore the issues that Mike Russell raised, if appropriate. I do not disagree with him on what our reference points should be.

We need to consider extending the timetable for stage 1. It is likely that the final stage 1 report will be signed off on June 18. In order to allow for the report to be printed, the extension will be until 27 June rather than until 10 May. We have had discussions with the Parliamentary Bureau and the business managers to try to address that matter.

On what Jackie Baillie said, it would be helpful to take evidence from local authorities that have tried to modernise the way in which youngsters are registered for school meals. One of the key elements of the bill is a legitimate attempt to try to reduce the stigma that is associated with eating school meals. We should take evidence on the removal of that stigma.

We should consider local authorities that have attempted different ways of providing the service. The largest authority in Scotland has tried fuel zones, which some folk consider to be innovative and other folk have questions about. The two complementary parts of that scheme were aimed at addressing take-up of school meals in the poorest area in Scotland. It might be worth inviting the director of that service to tell us why that approach was taken and how the bill fits with that broad strategy.

**Cathy Peattie:** It would be worth considering the cost to local authorities of delivering such services. The argument is not about costs; it is about organisation and ensuring that resources get to the appropriate places. It would be helpful to find out not only how local authorities have delivered

particular approaches, but what the costs are. It would also be helpful to examine the softer indicators of the benefits of such services.

**The Deputy Convener:** Do we accept the recommendations in the paper?

**Members** *indicated agreement.*

## Subordinate Legislation

### Provision of School Education for Children under School Age (Prescribed Children) (Scotland) Order (SSI 2002/90)

**The Deputy Convener:** The next item is consideration of an instrument that is subject to negative procedure—the Provision of School Education for Children under School Age (Prescribed Children) (Scotland) Order (SSI 2002/90). Committee members have the procedural note, an extract from the 16<sup>th</sup> report of the Subordinate Legislation Committee and the explanatory note, which is not part of the instrument.

Executive officials will be present for the item. We have with us Richard Wilkins and Linda Gregson from the early education and child care division. [*Interruption.*] I am sorry, we have Louyse McConnell-Trevillion—you are making things easy for me this afternoon—in place of Linda Gregson.

The order defines which children are eligible for pre-school education and to how much pre-school education those children are entitled. Do the witnesses want to make a statement or are they happy to receive questions?

**Richard Wilkins (Scottish Executive Education Department):** We are happy to receive questions. The purpose of the order is to commence a policy that has been known about since the passing of the Standards in Scotland's Schools etc Act 2000. In many ways, the order is a continuation of existing practice in the many local authorities in which pre-school education is provided for three and four-year-olds.

**Ian Jenkins:** How do the recommendations of the deferrals working group tie in with the order? I know that to answer that is not as easy as it sounds.

**Richard Wilkins:** As members know, under the original proposals to expand pre-school provision, children whose birthdays are in January and February became eligible for their first term of pre-school education in the summer term when they were three years old, after which they were eligible for a full year of pre-school education. Such children were entitled to only four terms of pre-school education, after which, at the age of four and a half, they could either attend primary school or defer entry, in which case they would not be eligible for pre-school education during the period of the deferral.

It was pointed out that that system potentially put some children at a double disadvantage. First, they were eligible for pre-school education only for four terms rather than for five or six terms.



Secondly, the system increased the temptation for parents to put their children into primary school at a younger age than other children in the group. Although that is appropriate for many children who are four and a half, it is not appropriate for all of them. As a result of those problems, a working group was set up to consider deferrals. It was decided that children whose birthdays were in January and February should be entitled automatically to receive pre-school education if their entry into primary school is deferred. In effect, they are entitled to seven terms of pre-school education.

Children whose birthdays fall between August and December are still entitled to defer entry to primary school, but they are not entitled automatically to another three terms of pre-school education. The working group decided that because such children receive five terms of pre-school education, they receive many advantages from it and, because they are slightly older, they are less likely to be at a serious disadvantage if they enter primary school when they are younger than five.

The issue is finely balanced, but it was decided that the children who should have an automatic entitlement to pre-school education during the period of the deferral were those whose birthdays are in January and February. The Association of Directors of Education in Scotland helped to produce guidelines to try to ensure consistency in the way in which local authorities set about providing pre-school education to children whose birthdays fall between August and December. The aim is to achieve some national consistency in how deferred-entry children in that age range are granted pre-school education.

**Ian Jenkins:** Did the funding from the Scottish Executive take cognisance of those changes?

**Richard Wilkins:** Yes. There was a working group on the reintegration of the pre-school grant, which took into account deferred-entry children.

**Michael Russell:** The Subordinate Legislation Committee report is hardly glowing, but the defects are not sufficient to justify choosing the nuclear option. I am waiting for the opportunity to choose that option. If we continue to receive reports from the Subordinate Legislation Committee that say that instruments are defectively drafted, we would be in dereliction of our duty if we did not choose that option. I make that point with the utmost generosity and kindness towards our witnesses. This might not be the occasion, but the time to take the nuclear option will come if we continue to receive defective instruments.

**The Deputy Convener:** The convener of the Subordinate Legislation Committee has offered to

make a presentation to this committee.

**Michael Russell:** I look forward to that with bated breath; I would be delighted to welcome the convener of the Subordinate Legislation Committee to this committee. I spoke to her about the matter this morning. We are both concerned about it, as are the members of the Subordinate Legislation Committee. The problems with drafting staff are legion, but that does not mean that the Parliament should not have correctly drafted legislation.

14:30

**Jackie Baillie:** As our witnesses may be aware, the Education, Culture and Sport Committee is rightly concerned to have properly drafted legislation. However, as the drafting errors in the order are not significant, I do not think that this is the occasion on which the committee should press the nuclear button. Having said that, I hope that the *Official Report* of this meeting will communicate to the Executive the fact that improperly drafted legislation is not acceptable and that, in future, the committee will take a rather dimmer view of the matter.

**Ian Jenkins:** As a member of the Subordinate Legislation Committee, I say that it is part of our job to ensure that drafting standards are maintained. It has been suggested that the Education, Culture and Sport Committee could have an informal discussion with the Subordinate Legislation Committee's legal adviser or clerk to discuss the areas that most disturb this committee.

**Mr Monteith:** There is little point in having a nuclear option unless one is willing to use it. I am interested to see the number of members of the committee who are contemplating using it. I agree that this is not the time to press the button, but I have no doubt that, one day, the red phone will ring.

**The Deputy Convener:** I get the impression that there are no recommendations from members of the committee. Do we agree that the Education, Culture and Sport Committee has no recommendations to make with regard to the order?

**Members indicated agreement.**

**The Deputy Convener:** I should inform our witnesses that they got off lightly compared to civil servants who have appeared before the committee previously—I do not know whether that is the talk of the steamie yet, but I expect that it soon will be.

## Petitions

### Free School Transport (PE368 and PE371)

**The Deputy Convener:** We must decide whether to take any further action on petitions PE368 and PE371. Members have received a series of notes and papers, including responses from the Scottish Executive, Aberdeenshire Council and West Lothian Council and a note from the Scottish Parliament information centre. With us today is Fiona Hyslop, who is one of the regional list members for the Lothians. Stewart Stevenson, who has an interest in PE371, indicated that he would be present, but he has not yet arrived—perhaps he is trying to get a bus. Robert Brown, who is one of the petitioners, is in the public gallery.

Petition PE368, from Robert Brown, and PE371, from John Calder on behalf of Banff Academy and other Aberdeenshire parents action groups, are concerned with the criteria for the provision of free school transport and the adequacy of the relevant legislation. The petitioners are also concerned about road safety for children travelling to school.

The Public Petitions Committee has referred the petitions to our committee with the recommendation that we either take further action and consider whether the current legislation is adequate or agree to take no further action on the grounds that the legislation appears to be reasonable and that its application is a matter for the responsible local authorities and, ultimately, the courts.

Before I invite members to comment on the petitions, I will allow Fiona Hyslop to make a statement.

**Fiona Hyslop (Lothians) (SNP):** Thank you for allowing me to attend the meeting.

A common theme of the petitions appears to be that times have changed since the Education (Scotland) Act 1980 was introduced. Issues that affect safety have changed somewhat since I was at school.

One of the main concerns of Mr Brown's petition, which was signed by 600 people, is safety. Livingston is a new town with a great number of underpasses. The route to school, which is the subject of the petition, uses routes on which, since 1999, 17 offences have been committed, including a murder. The issue is of serious concern.

The committee might also want to raise the point that although the Education (Scotland) Act 1996 amended the Education (Scotland) Act 1980 to say that councils must have regard to personal safety, that concept was not defined. It is all very well for council officials to inspect during daylight

when everything is fine; but the public's perception of, and concern about, safety must also be considered.

I have serious concerns about the number of violent incidents in Livingston. Compared with other areas, Livingston has unique problems that arise from the type of underpass there. Worried young women who must spend extra to travel safely by public transport and who are unable to participate in activities are being discriminated against, which is a serious matter. I hope that the committee will give that matter the serious consideration that it deserves and perhaps consider guidelines and the interpretation of personal safety. After reading the responses from the Executive and the local council, my main concern is that it seems that no one wants to be responsible for saying what personal safety means.

**The Deputy Convener:** I also welcome to the meeting Stewart Stevenson. We will give him an opportunity to speak on behalf of the petitioners from his area, because of his constituency interest in the issue.

**Stewart Stevenson (Banff and Buchan) (SNP):** Thank you. I am trying to share my time among three committees this afternoon, so I apologise for my slightly late arrival.

The issue that PE371, from John Calder, presents on behalf of people throughout Aberdeenshire is related to, but slightly different from, the issue with which PE368 deals, as it is about school transport in a relatively densely populated rural area. A particular problem has arisen in north Aberdeenshire because of the fact that from the 17<sup>th</sup> to the 19<sup>th</sup> centuries many model villages were built within 2 or 3 miles of larger conurbations. Historically, Aberdeenshire Council and its predecessors operated a school transport policy that provided free school transport for secondary school children who lived beyond the 2-mile limit. The recent change that extended that limit to 3 miles, which was made for financial reasons as much as for any other reason, means that many children from those old villages who are 3 miles from a larger conurbation must pay for school transport.

The difficulty that John Calder brings to our attention is that the choice is between parents paying or the children not being safe, because the majority of the roads over which children might walk or cycle to school are simply not suitable for those purposes. There are few pavements and the road verges are often steep, so no safe exit from the road surface can be made to grass, gravel or another surface. Furthermore, since the original legislation, under which councils across Scotland operate, was brought into force the character, speed and weight of vehicles that use what are

essentially rural roads has greatly changed.

For example, members might not know that in Fraserburgh, which is a relatively remote but substantial habitation, 90 per cent of the United Kingdom's refrigerated trailers are manufactured, which tells members something about the area's character. Large lorries transport for the fish industry up and down roads that were not built for that purpose. That creates real risks. We want to encourage children to walk or cycle, but if they are being forced for economic reasons to do so where it is unsafe, that is inappropriate.

In addition, many of the buses in which children are being transported do not have seat belts. That is an issue not only in Aberdeenshire but throughout Scotland. If we are considering the whole issue of safe transport and safe routes to school, the petitioners want to draw the committee's attention to the lack of bus seat belts.

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

I have a couple of additional comments to make on the petitions. I should say that I am familiar with the Aberdeenshire situation and have met many of the parents who have been affected by the changes in policy there. A case can be made for examining the current legislation and how it is applied. There is a good argument for saying that councils are guilty of failing to comply with the spirit, if not the letter, of the law.

The claim that providing transport for which people pay amounts to providing a safe alternative could be challenged in many ways. We should not forget how hard that policy hits low-income families or families with several children at school, for whom the cost of transport may be considerable. If people want to avoid paying for that transport, the only option is for their children to walk to school.

As Stewart Stevenson said, on some routes there are no pavements and there is a high volume of heavy goods vehicles. Also, the weather in the north-east is inclement, to say the least. The SPICe paper points out that Shetland Council has taken note of that and reduced the distance from school beyond which free transport is available to 1.5 miles during the winter months. That is an enlightened and realistic interpretation of the law, which I would like to be extended. We should take a closer look at the legislation and how it is being applied, and consider whether it is still relevant to the situations in which children going to school now find themselves.

**Cathy Peattie:** Personal safety is very important. For a long time I have campaigned on the issue of women's safety in underpasses and so on.

I represent an urban constituency, which has a BP facility right in the middle of it. Many children

have to travel to and from school fairly close to roads that tankers use. However, this is an issue for local authorities. As Irene McGugan says, there is an argument for examining the legislation governing the matter, but I am reluctant for the committee to become involved in examining how a local authority is making decisions on the cost of buses or on mileage, or how the infrastructure of Livingston does or does not work. Those are matters for local authorities. If we start to do some of the work that the petitions are asking us to do, every community in Scotland will submit similar petitions and we will spend our lives dealing with local authority issues. I could mention six communities in my constituency that have similar concerns about transport.

I want to sound a cautionary note. These are important issues for local authorities to examine. It is not the committee's role to make decisions on behalf of councils.

**Michael Russell:** It is not a question of second-guessing or imposing things on councils. We need to consider a wider and more general question—whether the present legislation on school transport is adequate for the circumstances in which we find ourselves.

Stewart Stevenson had indicated that those circumstances are different from the circumstances in which our parents or grandparents found themselves. They are different in two ways. First, the environment in which children have to go to school nowadays is different. Fiona Hyslop made a valid point about traffic and urban infrastructure, which can be threatening, difficult and dangerous. Stewart Stevenson's point about traffic was also important. Secondly, young people's approach to such issues is different. Our grandfathers may have walked barefoot to school for 2 or 3 miles because they were forced to by their parents, but I doubt whether today we would find any child who was willing to walk 2 miles to school. They would regard that as an intolerable imposition. We must consider the issue in a different way.

I do not take a position on the individual instances to which the petitions refer, although there are cases for both councils concerned to answer and they have not fully answered those in the documentation that we have seen. However, we could find a way forward by considering more generally whether the legislation on school transport adequately meets the demands of the society in which we live. Many people have argued that it does not. I am surprised that the Convention of Scottish Local Authorities has not been prepared to respond to the petitions, because some years ago COSLA itself called for a review of school transport requirements. It is strange that COSLA has backed off—I hope that that is not because of undue pressure. However, I would like

some sort of review of school transport legislation. I have great sympathy with the petitioners, and perhaps such a review might bring them relief, if not immediately, in the longer term and for a wider group of people.

14:45

**Jackie Baillie:** I am equally cautious about commenting on individual cases and individual local authorities, but I agree with Mike Russell that a principle underpins everything that has been said to us, and certainly everything that we have read.

There is a balance to be struck. There is the question whether the legislative framework is robust enough; in my view it is. It is written at a level to ensure maximum flexibility for the local authorities implementing it. It does not exclude. It allows local authorities to respond to changes in generations. I will not give the committee anecdotes about changes in generations—other members have done so. There is always a balance between allowing flexibility and prescribing every last detail in legislation. The latter makes the legislation cumbersome and unable to respond.

The real issues are implementation of the legislation at a local level and, as Fiona Hyslop said, how we define personal safety. The guidance does not seek to define personal safety. The route might be to ask the Executive whether something further could be done with the guidance. The legislation is sufficiently flexible to accommodate changes but, by saying, "Here is the minimum standard that we would expect," the guidance is not helpful. I cannot help wondering whether that offers the less complicated but more effective way into the problem.

**Ian Jenkins:** Generally, I agree with Jackie Baillie. There is no question but that, throughout the country, there are issues to do with seat belts, the standard and quality of buses, and whether double-decker buses should be used. There are real issues to do with how kids are transported to and from school. I accept that circumstances have changed. We must not ignore the financial implications and we must judge whether the best way of spending money would be to extend free bus transport. It is not easy—it is something that requires a national debate.

I agree with Mike Russell that COSLA ought to take a position on the matter. It would have to consider the whole picture, including priorities. It is not for us to go into detail on individual authorities. In the SPICe note, there are a variety of treatments of the matter. Neighbouring authorities do things marginally differently. Clearly, there is a bit of elbow room for different authorities. Issues such as the standard of buses, distances and seat

belts are worth discussing, but that discussion ought to take place in COSLA, and COSLA should come to us with proposals.

**Mr Monteith:** One begins to wonder what COSLA is for, in as much as the reason why responsibility for school transport is devolved to local authorities is to allow them to take account of the widely differing circumstances throughout Scotland. One would hope that, as transport modes change, local authorities would come forward in a unified, representative form to say that times are changing and that we should perhaps consider how the current legislation stands. However, if that does not happen, there will be a great temptation—we have seen it a number of times in the Parliament, and indeed in the committee—to fill the vacuum left by local authorities.

I am reluctant to see the Parliament and the Education, Culture and Sport Committee meddle in local authority affairs. It is right that, from time to time, we review what is devolved to local authorities, but we must allow them to have parameters to work within.

I hope that, following our deliberations, COSLA will take a fresh look at the issue. I also hope that, on behalf of its members, COSLA will say what its views are on the subject.

**Stewart Stevenson:** I thank the committee for the constructive and positive way in which it has responded to petitions PE368 and PE371. I make it clear that I am very much in favour of allowing local authorities to respond to local conditions. Much of what Jackie Baillie, in particular, said was useful and might offer a way forward.

I draw attention to two issues. The fact that specific distances are included in legislation dominates the landscape when local authorities are taking decisions on the matter. That is certainly the case in Aberdeenshire. Furthermore, that fact also dominates the way in which local authorities are supported by central Government in respect of their needs assessments.

The legislation could be changed to remove prescribed distances and simplified to make public safety the main consideration. That would create a simpler situation, in which local authorities would be allowed more discretion to respond to local needs. It would also avoid the situation of having to apply arithmetic norms, which have to be varied. That can happen even within local authority areas, which—in many instances, such as Aberdeenshire—are quite large.

I was very interested in and taken by what Jackie Baillie said on the non-statutory ways in which the issue could be developed. If I am in a position to do so, I will support any moves to proceed along those lines.

**Fiona Hyslop:** Members will see in the table at the back of the SPICe paper that most authorities use the 3-mile radius.

The issue that is common to the petitioners is that of personal safety. The problem stems from the 1996 act, which amended the 1980 act to require local authorities to have regard to personal safety. However, what is considered to be personal safety today is different from what was considered to be safe in 1980.

Jackie Baillie's constructive proposal on guidance might be the route to take. The committee is not suggesting that legislation needs to be more regimented; we are acknowledging that there are problems and that communities face considerable difficulties. We should not kick things off to COSLA. People use the petitions route to access committees of the Parliament such as the Education, Culture and Sport Committee. We are supposed to be a responsive Parliament. This morning, I was at a meeting of the Procedures Committee at which we took further evidence on the principles on which the Parliament was founded.

If COSLA is considering a review, a debate on guidance would give it an opportunity to make constructive proposals. We are not trying to clip the wings of local authorities; we are trying to help to resolve some of the issues around personal safety. If we were to examine the guidance and ask the Executive to develop proposals, that would form a positive way in which to proceed.

**Ian Jenkins:** A few of the things that Fiona Hyslop said were in line with what I wanted to say. However, if there is broader discussion, certain authorities might want to discuss the particular burden that they are under because of their geographical structure. How school transport impacts on their education budgets is also a subject for debate. Certain authorities feel that their burden is heavier than that of other authorities because of their geographical position.

**The Deputy Convener:** Members have had the opportunity to make their views known. I also thank the two members who have raised the issue.

**Michael Russell:** How are we going to proceed with the issue?

**The Deputy Convener:** I am about to summarise that, in case you are anxious.

**Michael Russell:** Yes, I was anxious that we were just going to say thank you and goodbye.

**The Deputy Convener:** No. I was generous and allowed you back in to remind me of my duties as deputy convener.

**Michael Russell:** Thank God somebody does.

**The Deputy Convener:** I have picked up the message from the committee that we are reluctant to interfere with the decision-making process. We should not be interfering with the decision-making processes of local councils, which are accountable to their electorates.

However, several members have raised the issue of guidance from the Executive. We will write to the Executive to seek its further views and bring the response back to the committee. We are seeking a response on the question of the guidance and, in particular, on personal safety and the terminology used in the 1980 act

Secondly, as we are cognisant of the role that local authorities should play, we should ask COSLA to respond to the issues raised by the petitioners and members. Are there any other issues that members want to raise?

**Michael Russell:** Once we have seen the responses, we might want to take a wider view of the issues of school transport and the modernisation—if I might use that terrible word—of the legislative framework. The committee might not want to endorse that approach, but we should take the steps outlined by the convener within that context. It might not be necessary to take a wider view. We might be devastated by information from COSLA that changes our views. However, there is a case for considering the legislative context. I am not as happy with it as Jackie Baillie has indicated herself to be.

**The Deputy Convener:** We can agree on the two core elements and address the issue that Mike Russell has raised when we receive the responses from the Executive and COSLA.

**Jackie Baillie:** Legislation does not always end up satisfying people. I am not minded to review legislation just for the sake of it. The route in is guidance. However, I appreciate that Mike Russell wants to take a wider view and that, if the responses we get are not satisfactory, the committee would take that view. I just hesitate to go down the legislative route because it does not always produce results.

### **Cramond (Roman Remains) (PE9)**

**The Deputy Convener:** The next item is about the Roman remains at Cramond. That is a long-standing issue for the committee.

We have a letter from Herbert Coutts, who is the director of culture and leisure of City of Edinburgh Council. Mr Guild, who is the main petitioner, is in the public gallery. Mr Coutts has replied to the committee's letter on behalf of City of Edinburgh Council and his letter details the actions that were agreed at the first meeting of the Cramond management group on 1 March.

Members are invited to comment on that response and agree what further actions to take.

As he is the major Roman on the committee, I invite Mike Russell to make a contribution—personally, I thought he was an episcopalian.

**Michael Russell:** There are a number of interpretations of that, Mr McAveety, but you and I can debate that later.

I continue the religious theme and give thanks for this miracle. The Cramond management group met on 1 March, after being properly pressured by Mr Guild, and after there were a number of events including a media event with the Antonine guard. That takes serendipity to new heights.

We are seeing the necessity of keeping constant pressure on people to listen to what is being said, not just by the committee or by Mr Guild—although he is a formidable campaigner on such matters and I know that he is sitting in the gallery—but by those people who go to Cramond to look at the sites. Those people ask whether that is really all that can be done.

Is this how we care for our heritage—we allow such a mess to exist and allow it to be made worse by lunatic planning decisions? I welcome the progress that the letter describes, as far as it goes. I hope that the committee will continue to keep a watching brief in support of Mr Guild and his activities. We have been invited to walk the site. I have done that once with Mr Guild. The activity is energetic, but it is worth doing. Perhaps, at an appropriate time, as the weather improves, the committee should do that. I am delighted that we are at last seeing some signs of spring in the winter of discontent about Cramond, although we are not there yet.

**The Deputy Convener:** I was waiting for the words “Beware the ides of March” to pop into those remarks.

**Mr Monteith:** The letter from City of Edinburgh Council raises several issues. The first bullet point says:

“A system of signage was presented for consideration by the group and broadly agreed.”

It might be useful if we had a timetable for installation. The letter says that installation will be progressive. It would be useful if Herbert Coutts gave us details of the progression that he expects.

It is disappointing that an alternative access road to Cramond down the eastern boundary might not be possible. We should keep a watchful eye on the opportunity for pedestrian access along that route, to find out whether that is followed up.

Otherwise, we must review constantly what the council and the management group have done and hear regular reports from them.

15:00

**The Deputy Convener:** I am aware that members have been invited to the site. We are trying to organise a visit, in which there is a reasonable level of interest, which should please the petitioner. We will keep an eye on that and raise with the council the points that Brian Monteith and Mike Russell made.

## Budget Process 2003-04

**The Deputy Convener:** The next item is to update members on the 2003-04 budget process and to discuss and agree the proposed timetable, issues and witnesses for oral and written evidence. Members will note from the opening paragraph of the committee paper that the time scale for gathering evidence is relatively tight. Given the committee's work load, it is suggested that we focus on two of the four proposed issues for oral evidence. That suggestion is up for discussion. Given the time scale, we must agree today on a timetable and on who will be asked to give written and oral evidence. I invite members to comment on the paper and to agree a timetable for written and oral evidence.

**Michael Russell:** I agree that we must narrow our scrutiny. If I had to choose, I would pick ring fencing, which will be of major importance in the coming years, and the national institutions. If the Minister for Tourism, Culture and Sport gave evidence on the national institutions, I would like to ask him a question or two about Gaelic, for which he is also responsible.

We must narrow our scrutiny and be clear about what we are doing. I am slightly concerned that some of the suggestions for oral evidence are a little narrow. On culture and the national institutions, Scottish Ballet's situation showed us the enormous importance of the audience and those who are concerned about the arts. It would do no harm to widen the choice of groups to give oral evidence.

**The Deputy Convener:** I am keen for us to choose at least one issue from the education sector and one from the cultural sector, so that we have a reasonable spread over the budget areas. I support Mike Russell's suggestion.

**Mr Monteith:** I acknowledge what you say about focusing on two issues, but I would expect questions on ring fencing and the excellence fund, for instance, to be answered by the same minister, so they could be covered at the same session. I understand all the arguments for examining ring fencing—doing that is crucial.

I mentioned at the outset about three weeks ago that my concern with the excellence fund is that it is a large amount of funding, but it is difficult to establish the criteria for its allocation. If we take evidence on ring fencing, we should leave some time to take evidence on the excellence fund. I hope that, separately, we will have a session on culture, given that the Minister for Tourism, Culture and Sport is responsible for other areas of culture and sport. If we have one day's session with ministers and others on education and one on culture, that will give us a broad focus but allow us

to examine in detail what we have to examine.

**The Deputy Convener:** That is a helpful suggestion. Given the nods that I see from committee members, I am sure that it is welcome.

**Ian Jenkins:** That is the point that I was going to make. It is the way forward.

**The Deputy Convener:** Jackie Baillie agrees. We have a consensus behind Brian Monteith's suggestion.

**Michael Russell:** Another miracle.

**The Deputy Convener:** It is the magic of convenueership.

Do members agree to the timetable?

**Members indicated agreement.**

**The Deputy Convener:** The next item is to be taken in private, so that concludes the public part of today's business.

15:05

*Meeting continued in private until 15:36.*





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