



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE

Wednesday 9 March 2011

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# **EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE**

## **8<sup>th</sup> Meeting 2011, Session 3**

### **CONVENER**

\*Karen Whitefield (Airdrie and Shotts) (Lab)

### **DEPUTY CONVENER**

\*Kenneth Gibson (Cunninghame North) (SNP)

### **COMMITTEE MEMBERS**

\*Alasdair Allan (Western Isles) (SNP)

\*Claire Baker (Mid Scotland and Fife) (Lab)

\*Ken Macintosh (Eastwood) (Lab)

\*Christina McKelvie (Central Scotland) (SNP)

\*Elizabeth Smith (Mid Scotland and Fife) (Con)

\*Margaret Smith (Edinburgh West) (LD)

### **COMMITTEE SUBSTITUTES**

Ted Brocklebank (Mid Scotland and Fife) (Con)

Hugh O'Donnell (Central Scotland) (LD)

Cathy Peattie (Falkirk East) (Lab)

Dave Thompson (Highlands and Islands) (SNP)

\*attended

### **THE FOLLOWING GAVE EVIDENCE:**

Angela Constance (Minister for Skills and Lifelong Learning)

Ailsa Heine (Scottish Government Directorate for Legal Services)

Fiona Hyslop (Minister for Culture and External Affairs)

Stephen Kerr (Scottish Government Directorate for Employability, Skills and Lifelong Learning)

Jean MacLellan (Scottish Government Directorate for Health and Social Care Integration)

Shona Robison (Minister for Public Health and Sport)

Richard Wilkins (Scottish Government Directorate for Culture and Digital)

### **CLERK TO THE COMMITTEE**

Eugene Windsor

### **LOCATION**

Committee Room 2

# Scottish Parliament

## Education, Lifelong Learning and Culture Committee

Wednesday 9 March 2011

[The Convener opened the meeting at 09:19]

### Broadcasting in Scotland

**The Convener (Karen Whitefield):** Good morning. I open the eighth meeting in 2011 of the Education, Lifelong Learning and Culture Committee with a reminder that mobile phones and other electronic devices should be switched off for the duration of this morning's meeting. We have received apologies from Elizabeth Smith, who regrets that she is unable to join us for the start of the meeting but hopes to be able to join us later.

Agenda item 1 is an evidence-taking session on broadcasting in Scotland with the Minister for Culture and External Affairs to conclude a series of such sessions that the committee has held throughout this parliamentary session. I am pleased to welcome to the meeting the minister, Fiona Hyslop, who is accompanied by Richard Wilkins, head of broadcasting policy at the Scottish Government.

I invite the minister to make a short opening statement.

**The Minister for Culture and External Affairs (Fiona Hyslop):** I welcome this opportunity to give evidence in the last of the committee's evidence sessions on broadcasting. The committee and the Parliament as a whole have played a major role in furthering discussions on broadcasting over the past four years and I believe that the increased attention and greater focus on the subject have brought real benefits to Scotland.

Since September 2008, the Scottish Government's key priority has been to try to ensure the implementation of the Scottish Broadcasting Commission's recommendations, and we have been helped in that respect by the strong consensus and support in Holyrood for the commission's proposals. In taking forward the commission's report, we have focused on three major issues, the first of which is commissioning from the United Kingdom networks. Much has been achieved in that regard; indeed, of particular note is the increase in BBC commissioning. In 2007, only 3.3 per cent of the BBC's UK network programming was commissioned from Scotland whereas, in 2010, the figure was more than 7 per cent. That increase alone, which represents an

additional £25 million a year for Scotland's creative economy, justifies the commission's work.

However, there is still much to do. The BBC aims to commission 8.6 per cent of its content from Scotland and, although Channel 4 commissioned only 2.5 per cent of its programming from Scotland in 2009, significant progress is still being made. As I believe that the commission's public scrutiny played a major part in encouraging the UK networks to change their commissioning practices, it is vital that that scrutiny is maintained.

The second area that I want to highlight is the work undertaken by the Scottish Government and our public sector agencies. Scottish Enterprise now account manages 18 television production companies while, on the skills side, Skills Development Scotland has invested £250,000 in a drama training programme that has been launched in conjunction with the Broadcasting, Entertainment, Cinematograph and Theatre Union and BBC Scotland. That programme, which is worth more than £540,000 when contributions from the Scottish Trades Union Congress and BBC Scotland are taken into account, focuses on developing high-level skills in drama series production. Creative Scotland has agreed partnerships with four broadcasters: the BBC, Channel 4, STV and Sky Arts.

Finally, on the commission's chief recommendation of the establishment of a Scottish digital network to provide secure and sustainable competition to the BBC for public service broadcasting, although the idea of a Scottish digital network was explicitly welcomed in the Parliament's unanimous endorsement of the commission's final report in October 2008, no progress has been made on it primarily because it has been impossible to agree how such a network might be funded. For that reason, I established last September the independent Scottish digital network panel and charged it with coming up with proposals for establishing and funding a Scottish digital network. Today, the Scottish Government will publish its formal response to the panel's report, although I have to say that its contents will not be a major surprise. We believe that the report is clear, insightful and thorough. The panel reached the firm conclusion that a fairer redistribution of television licence fee income is the most appropriate method of funding a new network and the Scottish Government agrees with that view.

Since September, when I established the panel, the UK Government has agreed with the BBC that, in future, the licence fee will provide £95 million of funding support for the Welsh language channel, S4C, and provide a significant initial subsidy for local TV services. The UK Government's action

make it clear that the licence fee is no longer almost exclusively a means of funding the BBC but is, instead, the preferred method of funding non-commercial public service broadcasting in the UK. Just 2 per cent of TV licence fee revenue, which now amounts to more than £3.5 billion a year, would fully fund a Scottish network.

The panel's report also makes it clear that, if it were impossible to reopen the licence fee settlement, which is meant to run until 2017, an alternative funding mechanism might be possible. That would involve allocating Scotland a share of revenues from the sale of spectrum, which is expected to take place once the digital TV switchover has been concluded. As I believe that the UK Government should act to ensure that the additional network is established, I have responded to its consultation on local TV by proposing a Scottish digital network as the best possible core network for local TV services in Scotland. I believe that that proposal represents the best possible way of meeting the UK Government's aspiration for more local television while simultaneously satisfying the consensus that exists in Scotland on the establishment of a digital network.

The digital network panel's report pointed out that, in many respects, it is bizarre that Scotland, as a modern western European nation, does not already have its own television network. I firmly believe that the momentum behind the proposal for an additional network is such that a network will be established. The key questions around the establishment of a network relate to when, rather than if.

BBC Alba has been one of the undoubted success stories of the past four years, and I am delighted that it will soon be available on Freeview. It is worth noting that, when the BBC trust decided in December that it would finally make the channel available on Freeview, it specifically cited

"the strong views expressed by the Scottish Government and the Scottish Parliament"

as one of the factors that it took into account in making its decision. The strong consensus of support in the Parliament had a significant and positive impact on that decision.

I hope that the digital network panel's report can form the basis of a similar consensus around the funding of the network. The Parliament's role has already been significant in delivering improvements in broadcasting during the past four years. I firmly welcome the committee's current inquiry into broadcasting, and I hope that it can play a similar role in helping to make the case for an additional network in the future.

**The Convener:** Thank you. You will be aware that the committee has been taking evidence on the issue during the current parliamentary session. We have already had two evidence-taking sessions on broadcasting this year, both of which were pretty upbeat and positive about the future for broadcasting in Scotland.

What is your view, and the Scottish Government's view, of the state of broadcasting in Scotland? How positively do you view the future?

**Fiona Hyslop:** I am positive about the current situation and the future. As I indicated, significant progress has been made in the interests of Scotland and viewers over the period. Undoubtedly, there are challenges, as we realise, but there is a resilience in the broadcasting sector. There is also an appetite for collective responsibility in advancing the skills base to ensure that we have the quality that we need to go forward.

In particular, I am struck by the work that major broadcasters are doing with different agencies. Rather than just concentrating on their competitive edge, which will always exist with regard to quality, production, the number of viewers and so on, they are recognising that broadcasting is a major industry. The creative industries have a role to play in shaping the future.

There are great opportunities. On a whole variety of measures, we are in a far more successful position than we were in four years ago. My comments about BBC Alba prove that influence and control by the broadcasting organisations themselves are important in doing more. The fact that so many independent productions come from BBC Alba, for example, proves that commissioning can be very important in enhancing quality and skills capability into the future.

The future is positive. There are major challenges, and we have to wait to see what will happen, particularly with regard to the UK Government's plans. I wrote to the committee just yesterday to indicate how I am engaging with the UK Government on its plans for the future. A major broadcasting act is due, and there are proposals on local television.

We can see the current situation as a glass half empty or as a glass half full; I very much view it as a glass-half-full opportunity for us. Collectively, we have a job of work to do to persuade the UK Government of what is in Scotland's best interests, and we have to grab that opportunity.

I hope that the table that I have produced for the committee, which outlines what is likely to happen over the next period, will inform the committee when it is considering its legacy paper and help it

to identify some of the broadcasting issues that a future committee of the Parliament might want to examine.

As a staging post, my report to the committee is that we are in a positive position. There are opportunities, but they will be positive for us only if we grab them. That means that all of us must get involved, whether that is the public sector or, in particular, the broadcasters themselves.

09:30

**The Convener:** You touched on the challenges to do with securing additional commissioning and greater production of programmes in Scotland and ensuring that Scotland has sufficient people with the right skills to undertake such work. During the past few years, there has been considerable upheaval in the creative industries. Creative Scotland has been established and there have been changes at Skills Development Scotland. How is the Government ensuring that there is good interaction and exchange of information between Creative Scotland and SDS, to ensure that we have the best-qualified workforce to support the creative industries and to try to ensure, if possible, that there continues to be a positive upward trend in additional commissioning and television production in Scotland?

**Fiona Hyslop:** I had responsibility for skills in my previous ministerial position and I have been a keen champion of the creative industries in my current post. Some of the developments around drama were part of my thinking in my previous post about ensuring that we work positively, through the skills agencies, with the broadcasters.

It is highly significant that one of the first things that Creative Scotland did when it was constituted last summer was to announce work with broadcasters. I think that it was at the television festival that Creative Scotland made its first announcement about its agreement—I think that it was with Channel 4 at the time, but Creative Scotland is now working on partnerships with Channel 4, the BBC, STV and Sky Arts. Skills Development Scotland's investment of £250,000 in television drama training, which I was involved in initiating in my previous post, is significant, and what is happening with STV and BBC Scotland and with skills agencies and unions, including BECTU, represents a significant change from where we were several years ago.

The example of the industry coming together, articulating its demands on skills and training and helping to commission and implement the type of training that we need is a positive example for other industries. If you asked me to describe a significant change that has taken place, that is the one that I would identify. I think that we will see

progress and success in that regard. Creative Scotland, in particular, is very much engaged with the broadcasters. There is a lot of interest in working creatively with Channel 4, for example. There is also interest in working differently with other creative industries, such as the video games industry, and in forging relationships. On the issue that you asked about, there has been a step change from where we were a few years ago.

**Alasdair Allan (Western Isles) (SNP):** Much of the evidence that we heard about a Scottish digital network centred on the democratic aspect of the issue. You said that it is bizarre that Scotland does not have a digital network. Mr Jenkins told us that on the whole he is

“disappointed with how broadcasting has responded to devolution.”—[*Official Report, Education, Lifelong Learning and Culture Committee*, 9 February 2011; c 4668.]

Will you comment on that?

**Fiona Hyslop:** First, let me emphasise that we are calling for a Scottish digital network, of which broadcasting will be only one aspect. The opportunity for the additional network to be used for other public service delivery purposes should not be underestimated. However, I am aware that broadcasting is the focus of the committee's inquiry.

On broadcasting since devolution, some of us can remember the amount of political coverage that there was before devolution. I remember Scottish Television's “The Scottish 500” and “Scottish Women”—I am not sure whether members took part in those programmes. There was quite a large range of popular, accessible coverage of political issues and debates. Blair Jenkins was perhaps correct in identifying an issue in relation to people's expectations in 1999 of the type and range of coverage of public issues that there would be.

One change at STV, which is a challenge for us, is that the amount of public service broadcasting that it must deliver was scaled back. For example, the amount of current affairs was scaled back to an hour and responsibility for Gaelic broadcasting was limited. For news coverage, the public service broadcasting requirement is down to four hours. The time that is dedicated to such broadcasting is limited in comparison with where we were in 1999.

I suspect that a quality issue is involved. Going into an election, it is always dangerous for a politician or a minister to cast doubt on the range and quality of broadcasting, but people should probably be disappointed that the coverage of devolution has been more limited than we might have expected. News coverage is provided—we see coverage of topical political events and of what is happening in Parliament—but one of the

most interesting aspects of devolution arises from the status of committees. Committees do not meet at the same time as the whole Parliament, because their work should be given the same status as that of work in the chamber.

There is more limited coverage and more limited in-depth analysis and discussion of pertinent issues that committees look into in inquiries, for example, and which engage the public. As important as the Public Records (Scotland) Bill that we discussed last year and on which we will vote in the chamber next week is, it will not generally be talked about in the street. However, issues in which the Health and Sport Committee or other committees are involved could be broadcast. Viewers would have an appetite to engage in those matters. Coverage probably fixates on “he said, she said,” on political personalities and on political parties’ positioning, whereas the strength of devolution was always meant to be that it would place a spotlight on issues that matter to people.

Perhaps an opportunity has been missed. One challenge is how to engage on such coverage, if viewers want it. We as politicians must be careful about dictating content. Issues are always relevant to people. When people say that they are not interested in politics, that tends to mean that they are not engaged by political parties, although they are interested in political issues, as members all well know. All members of the committee will have a view on that and might want to reflect on that in their deliberations.

**Alasdair Allan:** More positively, Blair Jenkins said that a digital network would be “a game changer” for Scottish broadcasting, not just in what the public receive but in the potential that it would create for the broadcasting industry. Is it fair to say that the mere existence of such a network would make a dramatic change?

**Fiona Hyslop:** Yes. Such a network would commission work and deliver activity. Blair Jenkins’s proposal would involve about four hours of new material a day. If STV has four hours of dedicated public service broadcasting a week, the proposal would mean a step change in the volume of activity. The challenge is to ensure that the material is of the quality that we need.

The industry’s reception for the proposed digital network has been positive. We held a conference in Glasgow, at which Greg Dyke kindly agreed to be the keynote speaker, where one interesting aspect was that the people who are involved in production said that they would have an opportunity to showcase our best work and to help new talent to come through.

We have fantastic productions. In many regards, the quality of our cultural output is world leading,

but accessing it can be challenging. Giving some of our top performances wider coverage on the digital channel would be fantastic. Performances at the Edinburgh international festival and elsewhere would benefit from wider showcasing, such as those of the National Theatre of Scotland, which has just celebrated its fifth anniversary and has fantastic productions; those of our other national companies; and quality productions from elsewhere. Showcasing such performances on a digital network would also help with audience development by encouraging people to see live events. On top of that, opportunities would exist for new productions and new television shows.

The challenge from the commission was that we were light on drama. If we want sustainable skills development and income generation for production companies, sustainable drama series—not just one-offs—can make a big difference and a step change. There are obviously more opportunities for that on a digital channel. Blair Jenkins talked about the platform that it would provide for greater range and quality.

**Alasdair Allan:** The commission indicated that the likely cost of a Scottish digital network would be £75 million. Where do we go from here with the debate given the apparent resistance of the BBC to further top-slicing of the licence fee? How do we progress the debate about the funding of the channel?

**Fiona Hyslop:** The Government established the panel that looked at the finance, which had a very esteemed membership. I publicly thank them again for their input. Within the membership of that panel, we included people with a range of experience not only in different media and newspapers but in investment.

The issue is to keep challenging the UK Government on its responsibilities to provide funding. It was disappointing that the negotiations on the BBC licence fee were concluded rapidly over a weekend with very little input from anybody outside the Department for Culture, Media and Sport and the BBC. The UK Government currently takes the firm view that that is it—that the licence fee money is all accounted for. I know that there are arguments for sustaining the funding of the BBC, but we hear a number of criticisms from our constituents that the BBC could make better use of its public funding. Mr Allan has had personal experience in the Parliament of some of the highly paid broadcasters from the BBC. I know that there are challenges there and that people expect better value for money from the BBC. The point is that policy decisions have already been made that the licence fee should be used not just for the BBC and the issue is how Scotland gets its fair share of that money.



Some of the licence fee is to be top-sliced for local television broadcasters. We must ensure that we get value for money from that and that we have an opportunity to showcase what we have got and to set up the Scottish digital network. There are two opportunities, the first of which is in the policy change about the use of the BBC licence fee. Scottish licence fee payers have paid their licence fee and, under the UK Government's new provision, are now subsidising Welsh television. I am a big supporter of S4C, but we are now seeing top-slicing from which Welsh viewers are benefiting but from which there is, as yet, no benefit for Scotland. What is the benefit to Scotland? What will be our share of the local television funding? I do not know whether you will come on to this, but it is about what we can do and what the different options are for local television in Scotland. It is not just about the additional network, although we think that that is the best core and spine for the use of funding.

If the Government says no on the licence fee, the panel has also identified an opportunity in the spectrum sell-off and there might be, until the next negotiation on the BBC network in 2017, an opportunity for bridge funding to get the network up and running with a view that that spectrum could be used. A lot of the spectrum sell-off is happening because of the switchover and, once we have had the final switchover, there will be profits to be made from the spectrum that is left over. Either all that money will go to the Treasury and never be seen again or we can say that Scotland is entitled to its share of that. Those are all avenues and possibilities.

It is important for the debate that we keep talking about what is happening and scrutinising it, not just in the Government but in the committee. The debate is not going to go away—it is not finished. There must be democratic scrutiny of how these public funds are used. Scottish taxpayers and Scottish licence fee payers are contributing to a pot, and the issue is whether we are getting a sufficient share of that pot through what is coming back to Scotland.

We want to make sure that there is more investment in the BBC and BBC Scotland and that that is sustained but, given the decisions that have recently been taken, there is a question as to whether Scotland is getting its fair share within the UK settlement. A digital network would be a very positive way forward in many different ways. Keeping the debate running is not just the responsibility of Government; it is the responsibility of the Parliament and the committee, too.

09:45

**Ken Macintosh (Eastwood) (Lab):** You mentioned the success of BBC Alba. In the event of the Scottish digital network becoming established, do you envisage BBC Alba being a separate entity or being combined with the new network?

**Fiona Hyslop:** It was right for the digital network panel to address the issue of the relationship with BBC Alba. When I received the report from the panel, I immediately wrote to Bòrd na Gàidhlig and MG Alba to seek their views on the issue. There will need to be a relationship of some kind, not least because we would expect a digital network to have Gaelic broadcasting as part of what it was doing.

I concur with the views of Blair Jenkins, chair of the digital network panel. Any relationship would have to be by invitation, not by instruction. There might be opportunities to showcase more of our Gaelic production, not least by commissioning from MG Alba and getting some of its programmes shown on the network.

It would have been wrong for the network to ignore the fact that we have the Gaelic channel just now. I have been told that, if the relationship undermined Gaelic in any way, it would not be welcome. I agree with that position. We should support the success of BBC Alba. We have the time and opportunity to think about what the relationship between the separate entity of BBC Alba and the digital network might be. My reading of the responses is that everyone is willing to engage in that kind of discussion. I do not see any difficulty or threat to BBC Alba whatever.

**Ken Macintosh:** On a separate issue, I note that the UK Government has provided £10 million to improve broadband connectivity in north Wales. What role does the Scottish Government see for the Government in Scotland in improving connectivity in Scotland?

**Fiona Hyslop:** I recently met Ed Vaizey, the UK minister with responsibilities in these areas. This comes back to Alasdair Allan's point about the fact that the licence fee is being top-sliced and used for broadband. Again, it is a case of what Scotland can receive as a result of that. We have been successful in the first tranche of funding for the pilot to improve connectivity in the Highlands and Islands. We are actively working with many different Government agencies to look at what we can do for the south of Scotland in particular. Our digital strategy was published last week. We see the big challenges for connectivity not necessarily in the central belt, where the market will by and large be able to get connectivity and roll it out, but in rural areas.

We have been successful in having money top-sliced from the licence fee used to fund the Highlands and Islands pilot. We are currently supporting the strong bid from the south of Scotland to ensure that it can get funding from that, but that is not enough. On broadcasting and the opportunity for local television, the real test is in the south of Scotland. We can get the connections and the funding support—we hope to get it for the south of Scotland from the next tranche of the top slicing. I have tried to keep the committee informed about the proposals for local television put forward in the report by Nicholas Shott, whom I met. There is a danger that the only viable, sustainable area for local television would be Glasgow and the west of Scotland, which is probably the best served in terms of connectivity, broadband and the availability of localised news, whether from STV or other areas.

The real test of the success of the venture will be what the people of the south of Scotland get as a result of it. Although that is quite an extensive answer, it touches on areas that the committee might want to go into.

**Kenneth Gibson (Cunninghame North) (SNP):** Good morning, minister. A strong recent trend has been the devolution of production throughout the regions and nations of the United Kingdom. Indeed, Channel 4's nations and regions directorate is based in Glasgow, with a licence to source 30 per cent of original productions from companies outside the M25, which, in any case, is where the overwhelming majority of the population live.

The witnesses from STV told the committee that the ITV network

"has become more metropolitan in its outlook."—[*Official Report, Education, Lifelong Learning and Culture Committee*, 23 February 2011; c 4712.]

STV argued that it wants to consolidate and develop the Scottish creative industries, partly because of its recent decision to opt out of the ITV schedule at peak times. Given that STV, as a commercial broadcaster, can make its own commercial decisions, do you have any views on the issues facing channel 3 in Scotland, particularly in relation to news broadcasting and the wider development of the creative industries in Scotland?

**Fiona Hyslop:** I am pleased about the positive early results for 2010 that STV has posted. In STV's evidence to the committee, it outlined what it saw as its position.

The challenge, which I referred to earlier, is the decision by the Office of Communications to reduce the public service broadcasting obligation, which has limited the amount of public service

broadcasting, news and current affairs, compared to where we were some time ago. The UK Government has made it clear—Ofcom has confirmed this—that it expects STV to realise its responsibility for news coverage until 2014.

There is a real challenge to STV's ability to support the creative industries. We acknowledge that STV does a great deal already, but we will always push all broadcasters—the BBC, STV or Channel 4—to do more. However, if you talk to independent producers, the question tends to be whether there is sufficient commissioning by STV for new content from small, Scotland-based independent producers, or a tendency for centralisation. I think that it was referred to as the brass-plaque syndrome—people might have an office in Scotland, but all the production is being done elsewhere.

There is an issue about interrogating more thoroughly Ofcom's statistics. I have heard the criticism from Channel 4, too, that more might be being done than people think. It is important to get clarity on that. STV recently produced an important report. Unfortunately, it was after the UK Government's consultation on independent producer status for STV. We need to give more consideration to how we can have major broadcasters that can thrive and be competitive while still supporting the activities of independent producers. The recent report seemed to indicate that independent production in Scotland is being supported more than people had anticipated and that there is not necessarily a conflict between independent producer status for the STV and centralisation. As part of the debate, we need to ensure that parts of the industry talk to each other.

In February last year, one of the first things that I did as minister was to hold a broadcasting conference in Glasgow at which I got everyone round the table. STV and the independent producers were there to try to work out their criticisms of each other and how we can work together more collectively. On my first point to the convener, the thing that is quite different now from where we were a few years ago is that the Government has helped to facilitate that discussion.

**Richard Wilkins (Scottish Government Directorate for Culture and Digital):** There is one point that I want to go back to—the brass-plaque syndrome. It is worth highlighting one of the first changes that happened back in 2007 or 2008. The BBC, in setting its targets for commissioning from Scotland, moved from its previous definitions of what constituted a Scottish commission. That led to some high-profile examples of programmes that were not really made in Scotland being badged as Scottish. It has moved from its own definitions to accepting

Ofcom's definitions, which are significantly more rigorous in establishing how much expenditure has to take place or what level of management or commissioning has to take place from Scotland.

Then, in about 2009, Ofcom tightened up its definitions a bit further, so it is more difficult for a pure brass-plaque production to count towards Scottish commissioning statistics than it was four or five years ago in broadcasters' self-reporting.

Different productions have different levels of economic benefit to Scotland, depending on where the crew come from and so on, but in general it is now far less likely that productions that count as Scottish productions in commissioning statistics and which come from producers with offices in Scotland would be just brass-plaque productions. As a result of definitional changes over the past three years or so, it is normal that a significant amount of economic activity would take place in Scotland.

**Fiona Hyslop:** On definitions, I am supportive of Channel 4's argument that it does a great deal of work with the digital gaming companies, and that a lot of its commissioning—not only in broadcasting, but to do with the benefits that are associated with engagement on digital gaming—should count towards Scottish output, as opposed to that output being based purely on broadcasting of traditional programming. That does not get Channel 4 off the hook—we would still like it to do more on Scottish productions, but it moves the debate on and recognises the broadcaster's work with the Scottish creative industries. That is the point that Kenny Gibson was arguing. What is contribution to the creative industries? Creative industries around broadcasting include not only the traditional forms of television shows and dramas; more happens in wider broadcasting activity that can be counted as output, production and benefit to the viewers.

**Kenneth Gibson:** It is important that the industry in Scotland remains competitive on quality and on output that other countries will pick up. For example, we heard about how "Born Fighting" is likely to be exported to other countries, which would be an exciting development.

You touched on collaboration. How significant will collaboration among broadcasters in Scotland be in ensuring that we retain competitiveness in the industry? It almost seems like a contradiction that we look for collaboration among broadcasters in order to maintain the competitiveness of the creative industries, but it is not. In fact, it might create a more sustainable future. What is your view on that?

**Fiona Hyslop:** I am very open to that. The broadcasters are independent organisations that

must determine and decide on collaboration themselves. However, there are models. Let us take a policy area with which the committee is familiar—universities. When the collaborative model of research pooling was introduced, it was quite unusual—I think that it is still unique among European models—but it allows institutions to be competitive and to gain added advantage. We need to consider such models for the broadcasting industry. The Government or its agencies can help to facilitate that, but at the end of the day such matters are commercial decisions and have to be made very toughly in STV and, in terms of value for public money, the BBC. Opportunities exist and there are already examples of collaboration on skills and training. That will be interesting in commercial models for the future.

The output of the Scottish digital network could consist of a core spine with more localised material. We examined the different bids for the independent news consortium that was established under the previous Labour UK Government. The combinations of different media outlets working together in those were interesting. It is not necessarily about the broadcasting companies collaborating among just themselves: one of the big issues, as we heard at our broadcasting conference, is what happens with the traditional print media—which can do news gathering of fantastic quality, particularly locally—and their relationships with broadcasters. How can we maintain the quality of journalism not only in broadcast news but in print and local journalism? The success story of STV's web-based digital local news service shows that there is a real appetite for that kind of output, but we need to ensure that we support the creative industries in print as well as in broadcasting. The creative industries should be built on new and creative ways of doing things, not least in that area, so Kenneth Gibson is right to identify collaboration as an opportunity for the future. When it comes to the terms and scope of that activity, a number of rules and regulations apply, and there is the work of Ofcom and so on. We have to be careful about monopolies and all the rest of it, but there are opportunities.

10:00

**Christina McKelvie (Central Scotland) (SNP):**

I apologise for the fact that I was running a bit late this morning.

You will remember that one of the Calman commission's recommendations was that the Scottish member of the BBC trust should be appointed by Scottish ministers rather than by the UK Government. Clause 17 of the Scotland Bill requires that a minister of the Crown must not

exercise appointment functions in relation to that post

“without the agreement of the Scottish Ministers”.

Will you give us your thoughts on that? Is it an absolute necessity that the Scottish member of the BBC trust be appointed by the Scottish ministers?

**Fiona Hyslop:** That was one of the Calman commission's recommendations. It makes absolute sense that the Scottish member of the trust be appointed by the Scottish Government. I am meeting later today the new member for Scotland of the BBC trust. I very much welcome his appointment, on which I was consulted, and I look forward to working with him.

As far as the institutional arrangements are concerned, the idea that the UK Government can ask us about a proposed appointment and we can have a veto is not good enough. We should make the appointment, as the Scotland Bill Committee acknowledged.

In addition, it is not appropriate that the board and the chair of MG Alba be appointed at UK level, so I am pleased by the support that the Scotland Bill Committee has given us in that regard. It was interesting that the Scottish digital network panel report said that the Scottish Parliament should have a role in that process. There is always a sensitivity in broadcasting, in particular, to do with the importance of Government standing to one side. The appointment process cannot be seen as being a political process. There are pros and cons to a parliamentary committee being involved in it. If the Education, Lifelong Learning and Culture Committee, for example, were given the responsibility, it could be said that that would be useful because it would depoliticise the process, but it is arguable whether giving the decision to more politicians would make it less political. That is a fairly open debate, on which I would be interested to hear the committee's views. I think that accountability should rest in Scotland, whether with the Scottish Government or the Scottish Parliament.

**The Convener:** That concludes our questions to you. Thank you very much for your attendance today and for your general engagement with the committee over the parliamentary session.

I suspend the meeting briefly to allow the minister to leave and the next minister to arrive.

10:03

*Meeting suspended.*

10:09

*On resuming—*

## **Subordinate Legislation**

### **Fundable Bodies (University of the Highlands and Islands) Order 2011 (Draft)**

### **Fundable Bodies (Royal Conservatoire of Scotland) Order 2011 (Draft)**

### **Edinburgh College of Art (Transfer) (Scotland) Order 2011 (SSI 2011/54)**

**The Convener:** The second agenda item is to take evidence on two affirmative instruments, which are the draft Fundable Bodies (University of the Highlands and Islands) Order 2011 and the draft Fundable Bodies (Royal Conservatoire of Scotland) Order 2011, and a negative instrument, which is the Edinburgh College of Art (Transfer) (Scotland) Order 2011 (SSI 2011/54).

I am pleased to welcome Angela Constance, the Minister for Skills and Lifelong Learning. This is Ms Constance's first visit to the committee. She is replacing Mike Russell, who is unable to attend because of illness. Ms Constance is joined by Scottish Government officials Stephen Kerr, who is deputy director for higher education and learner support; Louise Sutherland, who is from the higher education governance branch; and Ailsa Heine, who is from the legal directorate.

I ask the cabinet secretary to make a short opening statement. Sorry, I have promoted the minister—I should not have stuck to the script.

**The Minister for Skills and Lifelong Learning (Angela Constance):** I am pleased to have this opportunity to make introductory remarks. The draft Fundable Bodies (University of the Highlands and Islands) Order 2011 and the draft Fundable Bodies (Royal Conservatoire of Scotland) Order 2011 are to be made under the powers that are conferred by section 7(1) of the Further and Higher Education (Scotland) Act 2005. The changes that will be made by the orders have, as required by the 2005 act, been approved or proposed by the Scottish Further and Higher Education Funding Council. The funding council may fund only institutions that are listed in schedule 2 to the 2005 act. The purpose of the orders is to reflect two name changes: the UHI Millennium Institute has changed its name to the University of the Highlands and Islands, and the Royal Scottish Academy of Music and Drama is changing its name to the “royal conservatoire of Scotland”. The orders will allow the funding council to continue to fund the institutions under their new names.

It gives me particular pleasure to be speaking about the university of the Highlands and Islands, as members will be well aware that the creation of the university in the Highlands and Islands has been a long-held desire by many people. The Scottish Government has been supportive of the UHI's journey to this historic moment. The university has a pivotal role in the educational, economic, social, cultural and environmental infrastructure of the region and it reaches out to the people of the Highlands and Islands and the rest of the world through its research and teaching.

On the draft Fundable Bodies (Royal Conservatoire of Scotland) Order 2011, the RSAMD is currently engaged in a review of its programme to refashion its curriculum. It is also developing a second campus to accommodate, among other things, modern ballet and technical and production arts. The RSAMD views that as being a fundamental step change in its development and that the time is right for it to represent itself as the royal conservatoire of Scotland. The RSAMD wishes to make its name change on 1 September 2011, for moving into the next academic year.

The third order under agenda item 2 is the Edinburgh College of Art (Transfer) (Scotland) Order 2011. Members will be well aware that, earlier this year, Mr Russell approved the merger of the Edinburgh College of Art and the University of Edinburgh. The merger has the full backing of the boards of both institutions and, more importantly, of the student associations of the college and university as well as the staff unions. The order is required to effect the merger by transferring the college's staff, property, rights, liabilities and obligations to the university on 1 August 2011. On that date, the university will re-establish the college as part of the university and the college in its present form will be closed on 2 August.

We are aware that the Subordinate Legislation Committee has drawn certain matters to the attention of this committee. As outlined in the Government's response to the Subordinate Legislation Committee, we consider that the provisions in article 3 relating to the re-establishment of the college, its principal and location are linked directly to the closure of the existing college and the transfer to the university of the college's staff, property, rights, liabilities and obligations. The order has been made with the full involvement and consent of the university court. It understands that any future changes to remove the college or its principal would require the Scottish ministers' consent. The court recognises the need not simply to preserve the identity of the Edinburgh College of Art, but to enhance it within

the university. At the time of approving the merger, Mr Russell had regard to the university's express commitment to preserving the college's identity, ethos and studio-based culture as binding. The funding council has been asked to monitor and report on progress as the merger is implemented.

10:15

Section 47(1) of the Further and Higher Education (Scotland) Act 1992 enables Scottish ministers, by order, to close Edinburgh College of Art and wind up its governing body. Section 47(2)(a) of the 1992 act allows its assets to be transferred, which will be to the University of Edinburgh in this case. Section 47(2)(f) of the 1992 act allows the inclusion in the order of provisions

"of such incidental, supplementary, transitional or ancillary nature as"

Scottish ministers consider

"to be necessary or expedient for the purposes of the closure and winding-up."

We consider that the power in section 47(2)(f) is wide enough to make the provisions in article 3 of the order and that they are therefore *intra vires*.

As the provisions of article 3 all relate directly to the closure of the institution and the transfer of its assets and staff to the reconstituted college, and as the university has consented to their inclusion, we also consider that it is appropriate and expedient that they are contained in the one instrument.

In respect of the Edinburgh College of Art prize fund, we have noted the Subordinate Legislation Committee's views, but we are satisfied that the order provides for the fund's transfer to the university for the continuing benefit of future students.

The purpose of article 7 of the order was to ensure that it was clear on the face of the order that, on transfer of the fund, it continues to be subject to the existing trust and the same conditions as currently exist. The fund was identified by means of a footnote in the order.

Thank you very much for your patience and indulgence as I made that rather lengthy statement.

**Margaret Smith (Edinburgh West) (LD):** Minister, I echo your comments on the UHI and what will become the royal conservatoire of Scotland, which are two of Scotland's most innovative higher education institutions. I think that we all wish them well.

As the minister noted, the Subordinate Legislation Committee indicated to us that there is

some legal concern about the Edinburgh College of Art order. I have spoken to the principal of the University of Edinburgh and received certain assurances from him. Indeed, he has written to the convener to make it clear that the university court and the university are clear about the future of the art college, its principal's position, its location in Lauriston Place and so on. Are you absolutely content that not only is that the university's view in the short term but that, based on the order, it will stand the test of time for the medium and long-term?

**Angela Constance:** I am. I have been assured of that by officials who have far more legal expertise than I do. However, I accept the spirit of Margaret Smith's question. For reasons that are well known to the committee, the order is necessary for the future of Edinburgh College of Art. I have sought assurances from Scottish Government officials that the order is, indeed, in order and *intra vires*, and absolutely necessary. However, I ask Ailsa Heine to give you more technical assurances.

**Ailsa Heine (Scottish Government Directorate for Legal Services):** We consider that the provision, particularly article 3 of the order, is within the powers of Scottish ministers. As far as we understand it, the Subordinate Legislation Committee has expressed doubts about the provision but has not actually said that it considers it to be *ultra vires*. As the minister indicated, the legislation under which the order is made gives the power to make such supplementary or ancillary provision as Scottish ministers consider

"necessary or expedient for the purposes of the closure" of the college.

The Subordinate Legislation Committee has taken the view that the provision regarding the continuation of the college and the office of principal is not connected with the closure and, indeed, will apply afterwards. However, we think that seeing this as simply a closure is to take a very restrictive view; it is actually a closure and a transfer and, given that and the interests of all the parties involved in maintaining the college's identity, it was felt expedient to make the provision in the order. As it is expedient, it therefore falls within ministers' powers.

**Stephen Kerr (Scottish Government Directorate for Employability, Skills and Lifelong Learning):** I think that the question contained a policy element related to the covenants and undertakings that we have been given by the University of Edinburgh. I would say two things about that: first, the university has quite a good track record of absorbing smaller institutions and seeing them grow. For example, the Moray House brand is still strong and the

Roslin institute, which has been part of the university for some months, if not years, continues to flourish. Secondly, as documents on the university's website make clear, its vision for the merger is very clearly to

"build a vibrant, growing and sustainable Edinburgh College of Art"

where existing provision is developed and strengthened and new provision created, and which will have

"a more diverse student body"

and "greater public impact". We feel that in addition to Tim O'Shea's undertakings the mood music around the merger is very positive and, putting all that alongside the university's current track record in this regard, we have cause to be optimistic about the future.

**Margaret Smith:** As I have some constituency experience of dealing with the University of Edinburgh when it took on Dunfermline College of Physical Education, as it once was, I do not know that the picture is always so sunny. However, let us move on.

Minister, you mentioned in passing that ministers might have a role to play if there were any moves, for example, to lose the college principal or to change the college's name or location. Can you be more specific about what would be covered in that respect?

**Angela Constance:** Margaret Smith has probably seen the letter that Mike Russell sent to both institutions, in which he clearly states that guarantees about the ethos and identity of Edinburgh College of Art are binding. Within the scope of the order, we have made it clear that any substantial or significant changes must revert to ministers.

Ms Smith might be interested to know that the Scottish funding council, on behalf of ministers, will monitor the merger very closely and report back after six months and at regular intervals thereafter. Today is not the end of the process and I hope that I can reassure the committee that ministers will take an on-going interest in the matter.

**Ken Macintosh:** I have more of an observation than a question. Putting the mood music to one side, I think that concerns remain, particularly with regard to loss of independence at Edinburgh College of Art. The college has been a very successful institution for many years now and it is unfortunate that it has had to be swallowed up by the University of Edinburgh. I realise that a lot of work has gone into this move and I think that it is the only thing that will save the college at the

moment but, nevertheless, this is something to be regretted rather than celebrated.

**Angela Constance:** The comment in the cabinet secretary's correspondence that he viewed the merger

"with regret as well as anticipation"

chimes somewhat with Mr Macintosh's view. Indeed, Mr Macintosh is right to suggest that events have been unfortunate; however, we are where we are and we now have to preserve and enhance Edinburgh College of Art.

We are very aware as a Government of the concerns about a loss of independence. Although we note that the response was two to one in favour of the merger, we take on board the range of views and concerns that have been expressed. We hope that the Government has shown itself to be diligent in pursuing the agenda, and we will continue to oversee matters as best we can within the scope of our powers.

**Alasdair Allan:** Members of the committee have all been briefed by the principal of the University of Edinburgh, and the minister has put on record that she feels that the measure is necessary. Can you indicate, minister, what you feel the consequences will be if the legislation is not passed?

**Angela Constance:** I am very aware that the timescales are critical. The Government acted on advice from the Scottish funding council at the beginning of this year that we as ministers had to make a decision, as a process would need to be put in place before Parliament rose in order to retain Edinburgh College of Art.

The Scottish funding council has been crystal clear in saying that Edinburgh College of Art is not viable in the medium to longer term, so we really need to act now. That is in the best interests of the college.

**The Convener:** That concludes questions to the minister and our evidence taking on the instruments.

We move to agenda item 3, which is formal consideration of two affirmative instruments, the draft Fundable Bodies (University of the Highlands and Islands) Order 2011 and the draft Fundable Bodies (Royal Conservatoire of Scotland) Order 2011. I invite the minister to move motions S3M-7890 and S3M-7891. Members will remember that we have up to 90 minutes to debate the motion if necessary.

*Motions moved,*

That the Education, Lifelong Learning and Culture Committee recommends that the Fundable Bodies (University of the Highlands and Islands) Order 2011 be approved.

That the Education, Lifelong Learning and Culture Committee recommends that the Fundable Bodies (Royal Conservatoire of Scotland) Order 2011 be approved.—  
[*Angela Constance.*]

*Motions agreed to.*

**The Convener:** The committee is required to report to Parliament on those affirmative instruments. Are members content to delegate authority to me to agree the text of the report with the clerks?

**Members indicated agreement.**

**The Convener:** Agenda item 4 is consideration of the Edinburgh College of Art (Transfer) (Scotland) Order 2011 (SSI 2011/54). Members will note the paper from the clerk, which sets out the concerns that the Subordinate Legislation Committee highlighted and considers the minister's answers to questions in our earlier considerations. No motions to annul have been lodged in respect of the instrument, and I see that there are no comments from members.

Does the committee agree to make no recommendations on SSI 2011/54?

**Members indicated agreement.**

**The Convener:** I suspend the meeting briefly to allow the minister's officials to change over.

10:30

*Meeting suspended.*

10:31

*On resuming—*

## Education Bill

**The Convener:** Agenda item 5 is consideration of a legislative consent memorandum from the UK Government on its Education Bill. The LCM relates to the proposed abolition of the Young People's Learning Agency in clause 62 of the bill.

The minister has remained with us and the only new official who has joined us is Clare Morley from the Scottish Government. I invite the minister to speak to the LCM.

**Angela Constance:** I have lodged a legislative consent motion in relation to a minor aspect of the current UK Education Bill that extends to Scotland.

The bill abolishes the Young People's Learning Agency, the main functions of which extend to England only. However, its enabling legislation, which the Education Bill will repeal, provides that Scottish ministers can make arrangements with the Young People's Learning Agency for the provision of services in relation to education or training, or can agree to the agency taking part in relevant arrangements in Scotland. Those are unexercised functions and, given the forthcoming abolition of the Young People's Learning Agency, there will not be an option to use them in the future. It is in the interests of clear legislation to remove reference to those functions from the statute book. Because they are devolved powers, legislative consent is required under the Sewel convention.

There is no suitable Scottish legislative instrument to make the changes and, given their minor, technical nature, separate legislation would be disproportionate. The LCM route is therefore the appropriate legislative approach to the matter.

**The Convener:** Thank you, minister. As committee members have no questions for the minister, that concludes our evidence taking on the LCM.

Agenda item 6 is our formal consideration of the LCM, on which the committee is required to report to the Parliament. Such a report would usually include any comments on the merits of the policy, justification for the use of the LCM mechanism, comments on the draft motion and a clear recommendation to the Parliament on whether consent should be given. However, the committee need not make such a recommendation if it so decides.

As members have no points that they wish to make in the committee's report to the Parliament, I express my gratitude to the witnesses for their

attendance and I suspend the meeting to allow them to leave.

10:34

*Meeting suspended.*



10:34

*On resuming—*

## Subordinate Legislation

**Additional Support for Learning (Sources of Information) (Scotland) Amendment Order 2011 (SSI 2011/102)**

**Additional Support Needs Tribunals for Scotland (Appointment of President, Conveners and Members and Disqualification) Amendment Regulations 2011 (SSI 2011/103)**

**Additional Support Needs Tribunals for Scotland (Disability Claims Procedure) Rules 2011 (SSI 2011/104)**

**Additional Support Needs Tribunals for Scotland (Practice and Procedure) Amendment Rules 2011 (SSI 2011/105)**

**Individual Learning Account (Scotland) Regulations 2011 (SSI 2011/107)**

**Ethical Standards in Public Life etc (Scotland) Act 2000 (Devolved Public Bodies and Stipulated Time Limit) and the Freedom of Information (Scotland) Act 2002 (Scottish Public Authorities) Amendment Order 2011 (SSI 2011/113)**

**Children's Hearings (Scotland) Act 2011 (National Convener Appeal against Dismissal) Regulations 2011 (SSI 2011/143)**

**Adoptions with a Foreign Element (Scotland) Amendment Regulations 2011 (SSI 2011/159)**

**The Convener:** The committee will now consider its final batch of subordinate legislation for this parliamentary session. No motions to annul have been lodged on these eight negative instruments and I invite members' comments.

**Ken Macintosh:** I have some concerns about the Additional Support for Learning (Sources of Information) (Scotland) Amendment Order 2011, which lists the Scottish Child Law Centre as a body that can be a source of information for parents under the Education (Additional Support for Learning) (Scotland) Act 2009. First of all, I make it clear that I have nothing against the Scottish Child Law Centre or Barnardo's Scotland, with which it works in partnership—both are fine organisations—but I have strong concerns about

the awarding of the contract for the advocacy service under the 2009 act. Independent Special Education Advice (Scotland), which had provided the service for many years, did not get the contract; to date, I have found the whole process and the explanation given in that respect to be very unsatisfactory and I have pursued a number of questions on the matter.

I note that ISEA is not mentioned in the order either. It might be part of the Scottish independent advocacy alliance, but I do not think so. I just find it odd that ISEA is not on the list of bodies that can be a source of information, especially in view of the fact that over the past decade it has been the main source of support and one of the main sources of information for parents.

My final concern is about the two Government-funded information events for parents. Those free events will be held in Glasgow and Aberdeen but I note that no events are planned for the rest of the country. I realise that it is difficult to cover every part of the country but people in huge parts of the south and east of Scotland are also concerned about these matters. Are they expected to fund their own events? Why is there no support for them? The events, which are about the information available both to parents and to carers under the ASL legislation, are obviously very important.

I realise that this is the committee's final meeting and do not particularly want to stop the order going through. However, could the committee make a formal comment or write to the Minister for Children and Early Years about my concerns? As I have said, I have asked parliamentary questions on these matters, but I want to note my concerns and raise the matter with the Government.

**The Convener:** Are other committee members content for us to write to the minister with a copy of the *Official Report*, asking him to respond to the concerns that have been raised?

**Members indicated agreement.**

**The Convener:** If members have no other questions to raise or points to make, I ask whether the committee has any objection to a single question being put on the instruments.

**Members:** No.

**The Convener:** In that case, are members content to make no recommendation on these instruments?

**Members indicated agreement.**

**The Convener:** I suspend the meeting for a short comfort break and to allow the Minister for Public Health and Sport to join us.

10:39

*Meeting suspended.*

10:50

*On resuming—*

## Autism Strategy

**The Convener:** I reconvene the meeting. We move to the eighth agenda item, which is to hear an update on the Scottish Government's autism strategy. As members will recall, this was a recommendation in the committee's stage 1 report on the Autism (Scotland) Bill. Members will also recall the Scottish Government's consultation on its draft autism strategy, which was concluded just prior to Christmas.

I am pleased to welcome Shona Robison, the Minister for Public Health and Sport, to the committee. Ms Robison is joined by Jean MacLellan and Jonathan Moore from the Scottish Government. Minister, would you like to make a short opening statement?

**Shona Robison (Minister for Public Health and Sport):** Thank you, convener, for the invitation to come before the committee again to update members on the progress that has been made on the recommendations of the draft autism strategy. I made a commitment to the committee and Parliament to provide regular updates and I am happy to do so. I am aware that this is the committee's final meeting before dissolution, so I am grateful for the short window of opportunity to update you on progress since we last met on 17 November.

There is quite a lot to report, despite the brief period of time that has elapsed. I will focus briefly on some of the key achievements. It is worth saying that I am aware, as I am sure members are, of the huge weight of service users' expectations for us to deliver the recommendations of the strategy and to improve access to service provision for people with autism. In response to that, the autistic spectrum disorder reference group now meets monthly to ensure that momentum is driving forward the recommendations.

We are creating four sub-groups of the main reference group, each of which will focus on an individual theme of the strategy. The committee was particularly concerned about the provision of adult services, so I am pleased to say that one of the sub-groups will focus on adult provision. We are also in the middle of securing the services of Dr Andrew Stanfield, an adult psychiatrist who specialises in autism. Part of what the sub-group will do is promote the benefits of self-directed support, which is increasingly being shown to lead to good outcomes for those who are on the spectrum. The other sub-groups will focus on transitions; diagnosis, assessment and

intervention; and training. Remits for each sub-group have been drafted and are being finalised.

I have allocated £250,000 in the current financial year to allow us to better understand and tackle existing waiting lists for diagnosis and assessment.

The committee asked that the current membership of the ASD reference group be further extended to strengthen user and carer participation, and that point is being addressed. I have asked members of the reference group to identify user representatives from the east and west who will join the group, and we are making steady progress in identifying those new members. So far, three individuals from across Scotland have expressed an interest, and I hope that they will be in a position to attend the next meeting of the reference group. It is fair to say that not all users want to take on representative roles, but their voices still need to be heard. We are, for example, exploring the possibility of an autism group in the west of Scotland feeding in its ideas regularly without necessarily having to attend meetings of the full reference group.

The ASD reference group will also hold an annual meeting and invite stakeholders to attend to hear at first hand what progress has been made.

I should put on the record how much I continue to value the contribution that the reference group is making through its already diverse membership. Many individuals give freely of their time and talents in addition to their demanding day jobs. The progress that has been made to date could not have been achieved without that commitment.

I just want to touch on finance, if I may. I mentioned the £250,000 that has been allocated to support the research into ASD diagnosis and waiting lists. At the previous committee meeting, I was unable to let members know what resource had been allocated to support the on-going work to develop the strategy, as the Budget (Scotland) (No 5) Bill was still being scrutinised at that point. I am now pleased to inform the committee that I have allocated £2.6 million to be invested in 2011-12 to support the work to implement the recommendations to create better access to improved services for people with autism and their families. Subject to the next spending review, we intend to provide £3.6 million in subsequent years to support that strategy. That is, in essence, an investment of £10 million over three years.

That was just a short summary of the main progress that has been made so far. I hope that you agree that quite a lot has been done; nevertheless, a lot more still needs to be done. Much of what I have described is about putting the

foundations in place to build on what we have achieved—services that meet the needs of users and which are sustainable and easy to access. I am happy to take questions.

**The Convener:** Thank you, minister. Can you provide a little bit more detail about the reference group and engagement with key stakeholders, which you touched on in your opening statement? When we were considering the Autism (Scotland) Bill, the committee heard from stakeholders that there was sometimes a feeling of alienation and that they were not involved in the process. How have you worked to overcome that and create a shared agenda so that everybody is confident that we are all working together at every level to address the issues that people with autism face?

**Shona Robison:** I will ask Jean MacLellan to say a bit more about the detail of that.

It is difficult, especially in trying to get a users' perspective, to ensure that people are heard on a representative basis. People often speak as individuals from an individual perspective, and there is nothing wrong with that, but trying to balance that and get a geographical spread has been quite challenging. That is why we have come to the conclusion that, if the autism group in the west of Scotland wants to have a discussion about key issues and feed that into the reference group, that is fine. We should not push for it to attend the meetings if it does not want to and would rather have those discussions within itself. We are trying to be flexible enough to ensure that all views are fed in without forcing people who are reluctant to attend the reference group to do so.

The idea of holding an open annual meeting is to hear directly from anyone in Scotland who wants to come and reflect on how things are going at that moment. I hope that they will be able to talk about the implementation of the strategy and give their views on the success or otherwise of that from wherever in Scotland they come. We are trying to open that up as an opportunity for anybody to come to us.

Jean MacLellan has been more closely involved with the reference group, in attending the meetings and trying to negotiate around the attendance.

**Jean MacLellan (Scottish Government Directorate for Health and Social Care Integration):** I have only two or three things to add. While the strategy was being consulted on, there were a number of consultation events throughout the country, which were an attempt to go out and hear at first hand what people wanted to say. I attended one consultation event at the University of Strathclyde at which about 50 users of services and carers came to give their

perspectives. It was largely on the basis of that experience that the idea evolved of having an annual, very open meeting. It need not be just one meeting—we may replicate it in different parts of the country. However, at least on an annual basis, users and carers will feel that they can hold the reference group to account for the progress that is being made.

When the remits of the sub-groups are finalised, the intention is to offer places to users and carers on each one. We have not yet got to the stage of communicating that, but it is an aspiration that we have for precisely the reason to which you have alluded. We want to ensure that the message continues to go out that it is very much a sharing exercise and that there is an open door.

11:00

**The Convener:** That is helpful to know, because that work is important. It is always positive to have opportunities for service users and their carers to engage. I sometimes get a sense that some people in the community feel excluded from the decision making. The issue is how we can be confident that they feel not only that they will be listened to annually at events, but that they are part of the decision-making process. In that regard, I know that the Cabinet Secretary for Health and Wellbeing and a community representative jointly chair one of the reference groups on mental health. Could we do something around the reference group that would mean not only that we would listen to people, but that they would have a key role as decision makers as well?

**Shona Robison:** Yes. We can certainly consider that. I chair the learning disability group twice a year, so we could consider your suggestion in that context. In addition, Jean MacLellan could take the idea back to the reference group and ask whether it would find it helpful.

**The Convener:** Thank you. I invite questions from members.

**Kenneth Gibson:** How are you addressing the inconsistency in service provision, minister? When we took evidence on Hugh O'Donnell's proposed bill on autism, we heard that there is much greater awareness of autism in certain areas of the country and that service provision is better there than in other areas. Clearly, some families who have autistic members are concerned about why they do not get the same service provision as places only a few miles away.

**Shona Robison:** That is an important point. We secured a commitment through the Convention of Scottish Local Authorities for guidance to try to address such inconsistency. We need to work at

the issue of service provision. Some areas have very good practice, so we must try to capture that and apply it elsewhere.

Another clear issue is the fact that we do not have national standards for service delivery for adults with autism. Obviously, we are talking about the national health service side of things here. We gave a commitment to address that through a set of national standards. We therefore have that mechanism to address issues around the NHS and we have started to tackle the waiting lists through investment in NHS Lothian. On the local government side, the guidance will be extremely helpful.

I suspect that, as we continue to monitor and scrutinise the roll-out of the strategy, this committee and, indeed, some of the stakeholder events will want to look closely at those elements to see what impact they have had on the strategy. The success of the strategy will be in dealing with the inconsistency and driving up standards that are not as good as they should be.

**Kenneth Gibson:** There is a concern not only about the provision of adult services—although that concern was expressed strongly—but about the transition between childhood and adult services. That is a stressful time, particularly for parents, who need a lot more reassurance that their children will not find themselves in at the deep end during the transition feeling that they have been abandoned.

**Shona Robison:** That is an important point. One of the reference group's sub-groups is focusing specifically on transitions. That issue is often raised with me. Parents may feel secure about the provision for their child, and knowing what they have means that they can plan the family's week around that. Come the end of that provision, at age 18 or sometimes 19, the situation is suddenly different, and they are looking to adult services to make provision and they are having to negotiate, which can be very difficult. The work of the sub-group will therefore be extremely important. It is particularly important to start the process early enough. Conversations on getting a plan in place should happen long before the child finishes school, whether or not the support will be self-directed.

As I said the last time that I was before the committee, self-directed support packages could offer a really good solution for adults with autism, and in particular school leavers during the transition period, because they can be tailor-made around their needs. The early indications from the work that we have been doing on self-directed support are that adults with autism—particularly young adults—are the group who are benefiting most from self-directed support packages. If we

can tie all that together, there is an opportunity to resolve the transition issue once and for all.

**Christina McKelvie:** My colleague Kenny Gibson pre-empted some of my questions on transition. An issue that comes up in our postbags is the transition from primary school to secondary school and from secondary school into adult services.

Recommendation 26 in the draft strategy proposes the development of good practice transition guidance, but there is still a wee bit of concern that if such guidance is produced, it might not be effective if organisations do not comply with it. Is the sub-group working on ways to ensure that the guidance is complied with, so that people get what they need in the transition period?

**Shona Robison:** The sub-group that is looking at transition will be very much involved in the good practice transition guidance, but what else we put in place around that will also make a significant difference. That is where self-directed support through the strategy and through legislation will open a new door for young adults with autism. Self-directed support will not be for everyone, and we have to acknowledge that it will not be everyone's choice, but it is a choice that has not been available previously and it may well be a very good choice for school leavers with autism.

Jean, do you want to say anything about transition guidance?

**Jean MacLellan:** The work is at a very early stage. The sub-group is currently refining its remit and the actions that it will undertake. Obviously, the sub-group will devise the guidance, which will be subject to public consultation and will also have to go back through the main reference group, which, as the committee has heard, is diverse. It includes the Association of Directors of Social Work and the Association of Directors of Education in Scotland, both of which are new members that will strengthen the sub-group, and COSLA. The key partners are therefore involved, which will help to ensure that the guidance is effective at local level.

**Christina McKelvie:** One issue that came up was the training of professionals in diagnosis. We heard stories about people being misdiagnosed. Given the additional support for learning legislation and some of the measures that have been put in place for children, I hope that we will get to a stage at which children with autism are identified early on in their education career, but what about adults who have been misdiagnosed or maybe sent down the mental health route? Is the reference group or a sub-group specifically working on the training of professionals?

**Shona Robison:** A sub-group is specifically looking at training, because it is an important issue, although one challenge is that diagnosis is not an exact science. We hope that the development of national standards and the work that is being done as a result of the £250,000 investment in NHS Lothian will begin to tackle some of the issues around diagnosis. Jean, do you want to add anything?

**Jean MacLellan:** The waiting list work has been given to NHS Lothian because it has particular expertise in the area. The person who will lead that work is Dr Iain McClure, who is a consultant psychiatrist in child and adolescent psychiatry. He will be supported by Andy Stanfield, who works in the area of adults with autism and is about to join the main reference group to strengthen it.

The work will involve examining the patterns of referral for diagnosis to children's and adult services to get a better understanding of, among other things, what types of referrals are made and when there are false positives prior to formal diagnosis, including when comorbid conditions are involved. The aim is to ensure that people are routed to the best support possible.

**Alasdair Allan:** I want to ask about the timescales that are associated with the strategy. Are you satisfied that you have a series of outcomes that are clear enough to measure against?

**Shona Robison:** I think that we have. I hope that my comments on what we have done in the space of a couple of months since the last time I was here to discuss the issue have given a sense of the pace at which we expect work to be done. The reference group is meeting monthly because of the high expectations on it, us and everyone to make a big difference through the strategy. Some things will take a bit longer to achieve than others, but the pace is good and the work on the sub-groups will continue at that pace and will begin to come up with the good outcomes that we expect. Given the financial climate and the not insignificant resource that is required to support some of the work, we want the pace to continue. Obviously, we will drive the process from the centre with the expectation that things will begin to be delivered fairly quickly.

**Margaret Smith:** I want to pick up on the point about the not insignificant resource that is required and the financially straitened times. One concern that we had about the Autism (Scotland) Bill was that there were no resources behind it. No matter how good a strategy or piece of legislation is, if it does not have finances behind it, it might not do what is needed or deliver what is expected of it. Will you talk us through the £2.6 million that you mentioned? Is that new or redirected funding?

What will it be directed at? How will that £2.6 million break down in relation to the elements of the strategy that you have talked about?

**Shona Robison:** We have talked about the sub-groups and the priorities. The resource will be directed towards those priorities, which are transitions in support for adults, training and better diagnosis. Jean MacLellan can give a more specific breakdown, although I am not sure that we have a breakdown that shows how many pounds will go to certain measures. In essence, we expect the resource to back up the work that needs to be done on the key priorities. The fact that we have already provided £0.25 million to kick-start the important piece of work in NHS Lothian on diagnosis and tackling waiting lists shows that those are issues on which we really need to make progress.

The resource will oil the wheels of change, but we should not see it in isolation because, in addition, there are resources for self-directed support and for short breaks for carers. We have to see the issue in the round. The £2.6 million is not the only resource that will impact on the lives of adults and children with autism and their families—other resources are available. However, we need to ensure that the support is joined up. If we are to make people's lives better, we need to join those dots explicitly in a package of support.

I ask Jean MacLellan to confirm my point that there has not been an explicit breakdown of the £2.6 million or of the further resources—the £3.6 million a year—that shows how much will go on training and other measures. I believe that there is an element of flexibility.

11:15

**Jean MacLellan:** There is. Given the point about the importance of ensuring user and carer involvement, there is a danger of being premature if we respond quickly and say that X amount is going to certain initiatives. We need to strike a balance. We must allow time for the sub-groups to define the remits, for those to go back to the main group and for there to be to and fro on the absolute priorities and timeframes. That will be translated into an action plan, which the committee has asked for. We are not quite at the action plan stage, although we have a shell of what it might look like.

The training need, for example, is vast and wide. The issue goes from awareness raising for classroom assistants right through to the specialist expertise that is required of psychiatrists. The previous strategy had a lot of input at that specialist end, which we need to refresh, so quite a bit of money will probably need to go there. However, that is speculative. The issue is open

and the exchange has begun on the actual allocation.

**Margaret Smith:** This is less of a question and more of a comment. When we had the more informal session with people from Glasgow, I was struck by the fact that some of the ideas from people who are on the spectrum about what could make a big practical difference to their lives were less about money and more about thinking through how to assist people. For example, there was a scheme involving Strathclyde Police. I appreciate that the issues will not be solved just because we have a parcel of money. The point is well made that we must ensure that the users and carers are listened to, because some of the solutions will come from them.

**Shona Robison:** I agree. Some of the changes might be about spending money differently. Self-directed support is a good example of that, as it is about unlocking resources that are tied up in other things, such as day-centre activity. Some adults with autism might be happy with that, but others, particularly young adults, might want something different. Self-directed support is about unlocking resources to give people more choice about how they spend their day. Part of the resource is about oiling the wheels of that change and supporting people through the transition from one type of service to another. I take on board the point that some things that we can do will not cost money and that we should just get on and do them.

**The Convener:** We all want greater take-up of self-directed support but, as an MSP who sometimes has service users contact me to ask for assistance, I am struck by the fact that, particularly for autistic young adults who are at the more severe end of the spectrum, self-directed support is not necessarily about the person taking decisions, but their parents or carers. How do we ensure that those parents and carers have the confidence to do that, especially when they are struggling to look after a young adult with severe autism, with all the challenges that that brings? Self-directed support is just one more thing for them to manage. They can see the benefits in the longer run, but the issue is whether they can cope with that one extra thing to do. Are you considering that?

**Shona Robison:** That is a strong point. One benefit of self-directed support is that it gets away from the idea that people can only have either a council service or a direct payment. Actually, there is a lot between those two options. For example, someone can have an identified budget so that they know what resources are allocated to them by the local authority and, potentially, the health service. The approach is about having more control over how that money is spent, rather than having responsibility for the whole direct payment.

That is a good option for some people, but it might not be the preferred option for others.

We want to give people more choice and control without putting them in a position that they do not feel ready for. They may need support to help them to articulate their increased say over the way in which the local authority budget that is allocated to their family is spent.

Test sites have been useful in identifying some of the gaps. SPAEN is an organisation that has been supporting people in negotiating on some of these issues.

**Jean MacLellan:** SPAEN is the Scottish Personal Assistant Employers Network. Some people who want to go down the route of self-directed support tend to be quite tentative to begin with. As they become more confident in knowing the procedures that have to be followed they move towards employing their own personal assistants. They need to be assured, for example, that good recruitment practice and good training are in place. As you suggest, convener, that can be quite daunting for families. SPAEN specifically provides all that kind of support—it is very direct and very hands-on. The organisation helps people through. General support organisations also exist, but SPAEN helps with the personal assistant component in particular.

**Ken Macintosh:** I welcome the work that has been going on, especially in relation to the reformed reference group, the expanded membership, the open annual meeting and so on. All of that is very welcome.

During our consideration of the member's bill, we heard evidence of the underidentification of adults with autism. Many such people will not be service users, and will not become service users; however, they will have needs and they will encounter difficulties with public authorities in one form or another—often criminal justice authorities. It is not one of the recommendations, but will part of the strategy address underidentification?

**Shona Robison:** That will happen through the efforts put into training to national standards. That all relates to better diagnosis and to trying to get things right from the start. Many adults with autism are already in the system but will not have been identified. On a previous occasion, we considered how we could have better procedures and better training. There is obviously an opportunity when the NHS takes over from the criminal justice system—in the health service within prisons, for example. At that point, we might be able to discuss the better identification of adults with autism. When those adults leave prison, we would then be able to ensure that a more appropriate package of support was available for them. We

have to take the opportunities that will arise through changes.

**Ken Macintosh:** There is a problem with underdiagnosis, but many adults will have been diagnosed as children and then disappeared off the system. If we simply rely on social care and social work improvement Scotland, or on the health service or the criminal justice system, it will almost, but not quite, be crisis management. It is only when things go wrong that we will encounter people.

To work out whether or not our autism strategy is working, we need to know how many people are involved and we need to be more proactive in identifying them and seeking information from them before things go wrong. Could that be part of the strategy, or something to be discussed by the reference group?

**Shona Robison:** In terms of the criminal justice service, there is an opportunity to do that proactively within the prison population. There is an opportunity there. Jean MacLellan has reminded me of the census question. That might give us better population-based analysis. Obviously, the census is self-reporting, which brings its own challenges. Nevertheless, it will be interesting to see what it tells us. We can compare the returns with what we thought we knew. Obviously, we will want to have a very close look at that.

You make a reasonable point. Part of the training for health professionals could be done in the same way as happens for general practitioners who look out for carers—they undertake carer identification in a proactive way. Perhaps we need to get our front-line health professionals to think in a similar way about adults with autism. As you say, those adults may or may not have had a formal diagnosis, but a health professional who has a suspicion that someone is on the spectrum may decide that that person requires support. It is then about adequate signposting. What we all want is more of the services and outcomes that the person needs, whether or not they have a diagnosis. We need to get that bit better so that someone has a better support package around them when they come out of prison, whether provided by their general practice or the prison service.

**Ken Macintosh:** I absolutely agree. In its briefing, the National Autistic Society Scotland has highlighted the variation across Scotland in identification. I believe that there is underidentification in the whole population.

I turn to outcomes and how we monitor and evaluate the successful implementation of legislation, rights and so on. I am thinking in

particular about how we measure the support that is in place. As you say, it is not so much about identifying individuals as working out whether they are getting the care and support that they need. What mechanisms are being put in place to ensure that children and adults receive support? We have just done a big inquiry into local government education funding. We found that the system is not very transparent. Much as I totally agree with the direction of policy and the policy intent, I am conscious that we seem to be heading in another direction. Local authorities are already shedding pupil support assistants and so on. We are heading in one direction in terms of policy, but the actual experience of children and adults may be running counter to that. Are we measuring implementation?

**Shona Robison:** Without a doubt, these are difficult financial times—we cannot hide from it—that make it all the more important that our resources are deployed in the most effective way possible. The action plan, which is being worked on at the moment, will be important in setting out what the measurements are. There will be clear outcomes. The question is how we will judge whether outcomes are effective. The ASD reference group will have to think carefully about that if we are to get the right measurements. That is a key piece of work. The sub-groups will be working on their own areas and some of that work will be easier to do. Certainly, people will be focusing on outcomes.

As well as capturing the hard figures, we also need to capture the qualitative feedback. Perhaps we can use the opportunity of the annual event to gather more personal feedback, which is important in letting us know whether people feel that they are better supported. It can be hard to catch that in the hard figures, which do not always tell the full story. We need a mixture of hard-nosed figures and opportunities for people to give their view on whether they feel that things are better.

11:30

**Ken Macintosh:** I thoroughly agree. In these difficult financial times, not only statutory care services are being cut; the cutting of voluntary support services will also have an indirect, if not direct, effect.

Crucial to the strategy is the information that we have about the number of people who have autism and what the service levels are. I will make two points on information gathering. First, it is felt that far too many people on the autistic spectrum who end up in the criminal justice system should not be there and that the strategy should concentrate on finding ways of reducing those numbers. Secondly, a lot of evidence that we took in our

inquiry suggested that supporting adults with autism into employment would have a tremendous impact on not only their lives, but society.

**Shona Robison:** On your first point, I said earlier that people with mental health problems and, potentially, autism had found their way into the criminal justice system and, with the NHS's involvement in health delivery, we might be able to take a more systematic approach to examining the triggers for that. Was there some breakdown in the family supporting them or in their independent living arrangements? Had they been influenced by the people around them? If people are to be discharged successfully from the prison system and not be caught in a revolving door, we need to get a better understanding of the events that led them into the system in the first place. That will need to happen on a multi-agency basis.

Your second point was about employment. I am very optimistic about the rolling out of self-directed support test sites to adults and young adults with autism because of some of the success stories that have been emerging about employment opportunities. This approach has given individuals a package of support to enable them to secure and maintain employment. It is very hard to have a one-size-fits-all service to meet the needs of people with autism—after all, everyone is different—but self-directed support enables the service to be personalised in order to fill the gaps. Those gaps might not be huge and it might not cost all that much to fill them, but if they are not filled, nothing will happen. Some of the interesting stories that I heard showed that even a very modest resource made all the difference between a person being able to secure and maintain employment and not being able to. As a result, we must be very clear and ensure that, through self-directed support, these kinds of opportunities are open to people. After all, you are right. The independent living, the confidence and the sense of a life opening up that can flow from being able to hold down a job are all great, and we are very focused on such matters.

**Jean MacLellan:** I would like to add two very specific points. First, one of the items on the agenda of the last reference group meeting was about people on the spectrum who have forensic or challenging needs; there was a presentation from Dr Tommy MacKay, a clinical psychologist who specialises in this area, the purpose of which was to begin to generate solutions. Dr MacKay has provided us with additional text for the revised version of the strategy that maps out what the needs are. We have not yet reached the solution stage, but we have identified the various issues and some of the revolving door problems to which the minister has just alluded.

Secondly, on employment, the committee will recall that we discussed Martin Knapp's work, which is mentioned in the draft strategy, and the adults group's intention of considering the economic consequences of autism that he has been examining, including, for example, the notion that getting 4 per cent of people on the spectrum, particularly those with Asperger's, into employment would be beneficial not only for them but for the economy.

**The Convener:** That concludes our questions. I thank the minister for her attendance this morning.

I suspend the meeting to allow the minister and her officials to leave.

11:35

*Meeting suspended.*



11:36

*On resuming—*

## **Annual Report**

**The Convener:** If members have no comments on the draft annual report for this parliamentary year, which was submitted in advance of the meeting, I ask whether the committee is quite happy with its contents.

**Members** *indicated agreement.*

**The Convener:** We now move into private session.

11:36

*Meeting continued in private until 11:48.*



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