

EDUCATION, CULTURE AND SPORT COMMITTEE

Tuesday 11 March 2003
(*Afternoon*)

Session 1

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2003.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 11 March 2003

	Col.
ITEM IN PRIVATE	4103
SUBORDINATE LEGISLATION	4104
Schools (Scotland) Code Amendment Regulations 2003 (SSI 2003/75).....	4104
LEGACY PAPER	4111
WORK PROGRAMME	4113

EDUCATION, CULTURE AND SPORT COMMITTEE

7th Meeting 2003, Session 1

CONVENER

*Karen Gillon (Clydesdale) (Lab)

DEPUTY CONVENER

*Cathy Peattie (Falkirk East) (Lab)

COMMITTEE MEMBERS

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

COMMITTEE SUBSTITUTES

Murdo Fraser (Mid Scotland and Fife) (Con)
Marilyn Livingstone (Kirkcaldy) (Lab)
Fiona McLeod (West of Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Val Cox (Scottish Executive Education Department)
Stewart Robertson (Scottish Executive Education Department)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Susan Duffy

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 2

Scottish Parliament

Education, Culture and Sport Committee

Tuesday 11 March 2003

(Afternoon)

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

The Deputy Convener (Cathy Peattie): Good afternoon. The convener will be a few minutes late, so she asked me to open the meeting. As we are in public session, I ask everyone to ensure that all mobile phones and pagers are turned off. I welcome to the audience clerks from the Education Committee and the Culture, Arts and Leisure Committee of the Northern Ireland Assembly.

Item in Private

The Deputy Convener: Do we agree to take item 5 in private?

Members *indicated agreement.*

Subordinate Legislation

Schools (Scotland) Code Amendment Regulations 2003 (SSI 2003/75)

The Deputy Convener: The committee must consider the Schools (Scotland) Code Amendment Regulations 2003 (SSI 2003/75) under the negative procedure.

Michael Russell (South of Scotland) (SNP): We have points to raise, if that is appropriate.

The Deputy Convener: Okay.

Irene McGugan (North-East Scotland) (SNP): I have concerns about nursery teachers. We support integrated working, with social work and education working more closely together. I accept that the regulations do not compel local authorities to remove teachers from pre-school settings, but there is a feeling that that might happen. One of the triggers might be efforts by some local authorities to reduce costs. I know that when the guidance first came out, the General Teaching Council for Scotland placed on record its concerns that any reduction in the role of teachers might damage the education system and the success of early-intervention, literacy and numeracy initiatives.

My queries and concerns are around those points. I suppose that I want to hear some reassurance from the Executive that the proposed flexibility will not result in lower pay and lower levels of qualification, especially given that nursery nurses are balloting on whether to take strike action on their pay and conditions. What guarantees or quality protectors will there be to ensure that, following repeal of the code, standards will remain high, if not increase?

The Deputy Convener: I will just interrupt you for a moment to welcome Stewart Robertson from the teachers division of the education department and Val Cox, who is the head of the early education and child care division. Irene McGugan has already asked her question.

Irene McGugan: That explains my hesitation at the beginning, convener—you had not yet introduced the people whom I was going to address.

The Deputy Convener: I had some papers and I was reading to see what was coming next.

Michael Russell: It is very Victorian, but we feel that we have to have an introduction before we address people.

The Deputy Convener: Absolutely.

Val Cox (Scottish Executive Education Department): Now that I have been introduced, I can hold forth. Irene McGugan has raised some important issues, but I think that I can offer reassurance on all the points that she mentioned.

On quality assurance, the new integrated inspection regime, which involves inspections by Her Majesty's Inspectorate of Education and the new care commission, will secure the quality that we all want in pre-school education. The advantage of the new regime over previous arrangements is twofold. It is far more extensive, as it covers all forms of pre-school provision, whereas the previous arrangements applied only to local authorities—the private and voluntary sectors were inspected only once for registration purposes. Under the new regime, all pre-school units will be inspected annually. In the first three-year period, every pre-school centre will be subjected to an integrated joint inspection on one occasion. We think that the new regime will secure the quality that the committee is understandably concerned about.

Pay issues are a matter for the employers, not for the Executive. However, we are keen to secure the highest level of qualifications for the early-years work force across the piece and we have invested significant resources in achieving that. We are currently providing £3.4 million of training money specifically for early-years workers. Next year, that figure will increase to £6 million. The money is primarily intended to help those workers who do not have any accredited qualifications or who might have a relatively low level of qualification to access additional accredited qualifications, thus increasing the quality of the work force.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): Paragraph 6 of the Executive note says:

"The repeal allows more flexibility for local authorities to deploy staff according to their skills and experience not just the level of initial qualification. This is not to say that teachers are not a valuable resource."

That is almost damning with faint praise. What do you believe that teachers bring to pre-school education that nursery nurses and others do not? Why should their role be protected?

Val Cox: We all acknowledge that teachers bring with them an important range of experiences and expertise. Our guidance is clear on the involvement of teachers in pre-school education. Their particular skills are in curriculum planning and the assessment of pupils and young children. They can also help other staff to review pre-school pupils' learning. Increasingly, we are trying to provide opportunities for local authorities to use staff more flexibly in that way.

Ian Jenkins: That implies that teacher input, oversight or contact with all providers would be a good thing.

Val Cox: That is absolutely what the policy is aiming for. The intention is to secure a level playing field throughout all forms of pre-school provision, whether statutory, private sector or voluntary sector. Evidence shows that some local authorities are taking on board the examples in our guidance. For example, some local authorities are deploying their teaching staff in a peripatetic way to provide the kind of inputs that we have just discussed to a wide range of providers that would not necessarily have been able to access those skills and expertise otherwise.

14:15

Michael Russell: There is something seductive about saying, "We are going to sweep away some old regulations because they stifle initiative." However, my alarm was increased by the dread word "modernisation", which appears in the memorandum. Perhaps it was not sensible to use that word.

Although I share Irene McGugan's concerns, my particular worry relates to the removal of regulations 5(3), 15(e) and especially 6(2). As the Executive is aware, the removal of the promoted-post structure, which was foreshadowed in generality—although not in detail—by the McCrone agreement, is being interpreted differently in different parts of the country. In Dumfries and Galloway, for example, there seems to be a willingness to leave the present structure in place and to see what happens. In Argyll and Bute, however, the proposal is for a reduction of almost 50 per cent in the number of promoted posts in secondary schools. Once the school code is amended, will it contain anything to prevent such a difference in practice or to protect the educational structure where it was seen to be beneficial?

Stewart Robertson (Scottish Executive Education Department): The code, which is discretionary on local authorities, sets out the type of promoted post that can be deployed. The agreement document "A Teaching Profession for the 21st Century" sets out the types of post; the matter is then up to authorities. At the moment, the code does not say that every school will have a deputy head teacher or an assistant head teacher; it says that those teachers may be deployed. That will still be the situation after repeal.

Michael Russell: So why repeal those provisions?

Stewart Robertson: Because the agreement does away with assistant head teachers. The new structure consists of head teacher, deputy head teacher, principal teacher and so on.

Michael Russell: Why do we not amend the code just to do away with assistant head teachers? Why do away with the entire listing?

Stewart Robertson: Because there is no need to legislate on such a detailed matter, which could be covered by the agreement.

Michael Russell: You said that the code is not mandatory, but advisory. If the change in structure requires only the removal of the post of assistant head teacher, why are all the other provisions of the code being repealed?

Stewart Robertson: It is difficult to keep the code up to date. At the moment, it does not cover all the promoted posts. There are senior teachers and deputy heads in primary schools—that was not covered by the code and yet the posts were provided for by direction in 1992. If the promoted-post structure keeps changing, the regulations also have to be changed. It is as easy to allow for such changes through the agreement, as they relate to a condition of service, after all.

Michael Russell: So you are telling me that, even with the removal of regulation 6(2), the tripartite agreement that is still to be reached between the Executive, unions and local authorities would be the proper way of proceeding in respect of the number of posts and what they are.

Stewart Robertson: The agreement that has been reached deals with the promoted-post structure. However, the number of promoted posts is probably a matter for local authorities as part of a job-sizing exercise. As I said, the types of post were agreed in the agreement.

Michael Russell: Does not the same argument apply to the promoted-post structure in primary schools? Some authorities are considering radical proposals that would change the promoted-post structure in primary schools. That is causing concern.

Stewart Robertson: The same argument applies. The agreement also suggests that there will be principal teachers in primary schools, for example. If the code were to be kept as it is, it would have to include that post. It can also be argued that the promoted-post structure in primary schools is part of the conditions-of-service agreement.

Michael Russell: Okay. My next point is about the size of classes in nursery, secondary and special schools. Why is it necessary to repeal the code in that respect?

Stewart Robertson: The class sizes for secondary schools and special schools are out of date in the code; they were overtaken by agreements in the Scottish Joint Negotiating Committee for Teaching Staff in School Education.

I suspect that most of those agreements were made in the 1970s, which means that, since then, we have relied on teachers' conditions of service to determine class sizes in secondary schools.

Val Cox: There are two points in relation to nursery provision. One is that, as members have heard, we intend to provide for more flexible use of teachers. The code defines a class as a group of children who are under the supervision of a teacher, which means that, if a group is not directly supervised by a teacher, it is not, technically, a class. A more substantive argument is that the new national care standards will set staff to child ratios of one staff member to 10 children, when the children attend for fewer than four hours. When the children attend for more than four hours, the ratio changes to one adult to eight children. Obviously, those ratios are more generous than the current one to 20 ratio.

Michael Russell: I notice that paragraph 15, which is on the financial effects, states:

"The repeal will not impose any additional financial burden on local authorities."

Some people might think that the repeal will free local authorities to save money on education, which would be undesirable. If we take out the management and financial factors, what are the educational benefits of the repeal?

Val Cox: I will respond on the pre-school element. The educational benefits of the repeal are that it will enable the resources that schools and teachers provide to be used more widely throughout the pre-school estate, if we can call it that. The repeal will enable better use to be made of resources; it will provide greater opportunities for all children to benefit from the particular skills that teachers bring and it will also provide for affordable pre-school education.

Stewart Robertson: The regulations are the first part of a two-stage repeal. The regulations are a tidying-up instrument that will get rid of some largely defunct provisions.

Michael Russell: What are the educational benefits of that?

Stewart Robertson: In itself, the repeal is just a tidying-up exercise—I suspect that there are no direct educational benefits.

Jackie Baillie (Dumbarton) (Lab): I welcome the fact that pre-school establishments will be inspected, which will raise standards and ensure consistent quality across the board. Unlike some of my colleagues, I am not a dinosaur—I have no problem with the word "modernise", because something that might have been appropriate 20 years ago is not necessarily appropriate now. However, the implementation on the ground by local authorities troubles some people slightly.

There is a genuine desire to ensure a modicum of protection.

I ask the witnesses to confirm that, in essence, the code is about the type of post deployed and therefore does nothing to determine the quantity of posts, which is a matter for local authorities. I also ask them to confirm that there are gaps in the existing code, such as posts that are not included and posts that are included but should not be. Another way into the issue is to consider whether such matters are decided by agreement or by direction from ministers.

Finally, I turn to the point that is of interest to us all. Given that local authorities interpret the McCrone agreement and the promoted-post structure differently, what mechanisms does the Executive have in place to monitor whether implementation by local authorities follows the spirit and intent of the agreement?

Stewart Robertson: I confirm your point that some posts are included in the code and others are not—the regulations tidy up that matter. On your other point, the number of promoted posts is a matter for local authorities. The job-sizing exercise is still to be undertaken, so we do not know the result, but it aims to give every post a job weight.

The safeguard that you seek is that the Executive is a full member of the Scottish negotiating committee for teachers, whereas we were simply observers at the SJNC. The agreement is tripartite. I am sure that the SNCT will want to monitor the type and number of promoted posts.

Jackie Baillie: Are you saying that, if there is unfortunate practice within a local authority in respect of its suggested promoted-post structure, there is a mechanism through which people can raise their concerns and the Executive would intervene?

Stewart Robertson: I do not think that the Executive has powers to intervene or statutory powers to direct a local authority to employ X number of staff or have X number of promoted posts. However, I think that the matter would be raised in the SNCT. The teachers' unions, which are the other party to the agreement, would obviously be greatly concerned about the matter.

Ian Jenkins: You mentioned the job-sizing exercise and changes in the promotion structure. There are people in promoted posts in the profession who will lose those posts, although there will be some kind of salary conservation through a spinal salary scale. Do you recognise that, however antiquated the system in the code is, it has afforded some protection? There used to be a red book that gave the number of promoted posts according to the size of the school and

guaranteed that authorities would have to fill those posts—they could not be left lying around. Do you understand that teachers are worried that, unless the job-sizing exercise is done properly and a way of improving the collegiate working that is involved in McCrone is found, the safety net will be under threat? I am not saying that it will be totally lost, but there is uncertainty in the profession about how people will be dealt with.

Stewart Robertson: I remember the red book—I still have a copy. I am sorry to say that I think that it came out in the mid-1970s.

Ian Jenkins: I am sorry about that, too.

Stewart Robertson: The point that I was making was that the code currently stipulates only the type of post. It does not say that a school will employ X number of deputy heads, X number of principal teachers, X number of senior teachers or X number of assistant teachers.

Ian Jenkins: But taking them together, the red book—

Stewart Robertson: I do not think that the red book has been in effect since the mid-1980s. The problem with such staffing standards is that they become ossified. In the 1980s, the red book approach was not used—the approach was the red book plus 6 per cent. On top of that, a specific grant scheme provided additional teachers. It is difficult to set a standard that keeps up to date and reflects the needs of individual schools. One difficulty with a standard is that it will become the maximum standard.

In a sense, the red book was used for funding purposes. It was a way of calculating the number of teachers that the Scottish Office was funding and it almost capped that number. Even when schools had difficulties, the local authorities would find it hard to act differently.

The Convener (Karen Gillon): As there are no further questions, are members happy for the regulations to proceed?

Michael Russell: Only with reluctance. I do not think that Irene McGugan and I are convinced that the proposals are necessary at this stage. If there is a two-stage process, both stages should come together. I am not entirely convinced by the arguments that have been made. However, as the procedure for annulling the regulations would negate items that are universally supported, we will accede with great reluctance, although we believe that there is something more behind the proposals than we can see.

The Convener: I am sure that your comments will appear in the *Official Report*.

Legacy Paper

14:30

The Convener: For item 3, members have in front of them a draft legacy paper that will be left for the successor committee.

Michael Russell: Will it be left in a sealed time capsule?

The Convener: No, it will be left in a sealed envelope.

Ian Jenkins: I must apologise: as I mentioned to Cathy Peattie earlier on, I have to leave now.

The Convener: So does Brian Monteith.

Ian Jenkins: I did not know that. We are not going together, I assure you. On the legacy paper, I will try to produce something for Thursday about early-years education.

Michael Russell: When are we publishing our report on the purposes of Scottish education?

The Convener: Either Thursday or Friday of this week.

Michael Russell: Can we be kept up to speed with that?

The Convener: Yes. We are just waiting. It is lots of—

Michael Russell: Bits?

The Convener: Because it is a fairly hefty amount of information, the gluing process is quite detailed and complex.

Michael Russell: Are you doing it at home?

The Convener: No. Usually, our reports run to two volumes, but I think that we may need many volumes—thick ones—to include all the evidence.

Michael Russell: Many of us would not be available on Friday, but would be available on Thursday.

The legacy paper seems thorough. It is remarkably comprehensive, and we seem to have done an awful lot. Unless we want to write something in invisible ink to leave for our successors, it seems reasonably complete.

Jackie Baillie: I hate to break the consensus, but—

The Convener: Why break the habit of a lifetime?

Jackie Baillie: Indeed. I recollect two issues that the committee considered and to which it would be worth returning. First, on the debate on school meals, having published its report, the committee suggested that it would want to

consider nutritional guidelines once the Executive had published its recommendations for the way forward. We should put that in our legacy paper. Equally, Mike Russell and I spent considerable time on funding for museums—I am surprised that he forgot such a wonderful experience.

Michael Russell: It is in the paper somewhere. No, it is in the annual report. Is it not mentioned in the legacy paper?

Jackie Baillie: It should be in the legacy paper, because, although I am not sure of the Executive's timetable, I suspect that it will announce something in the spring.

Michael Russell: I have asked a question about that.

Jackie Baillie: Have you? Okay.

Michael Russell: The Executive has said that it has no plans to announce anything at the moment.

Jackie Baillie: Okay. It might be worth putting down a marker in the legacy paper that the issue is outstanding.

Cathy Peattie (Falkirk East) (Lab): I agree that school meals need to be dealt with. I am reading the paper quickly. I see nothing in it on asking the Executive to produce appropriate guidelines for the closure of schools—rural or otherwise. The issue is important, as no up-to-date guidance is available. It comes up continually in petitions to the Parliament, for example. It is important that something happens with that.

The Convener: I remain optimistic that we might have a response from the Executive on that before the dissolution of Parliament. Should we not have a response, the matter will go into the legacy paper. We will also add the other two points that Jackie Baillie made.

Since the clerks and I drew up the paper, one thing has come up on the football inquiry that I am doing. Sportscotland, the Scottish Football Association and the Executive are doing a review of youth football, which probably ties into what I am doing. The report on that review will not be produced until the end of March, so the football inquiry will require to go into the legacy paper.

Cathy Peattie: I am sure that that will be the case with other inquiries. We devote a lot of time to considering reports and any recommendations that are made. I hope that the committee will take on board the idea of including such reports in the legacy paper.

Michael Russell: If we are including school closures in the legacy paper, it might be important to note that Cathy Peattie was the reporter on the matter, responded to a series of petitions on it and was involved in the situation in Argyll in particular. It would be of interest to the successor committee

to know that there was a way of examining the matter and pointing out the flaws in the procedure, which was important in saving a group of rural schools.

The Convener: That is missing from section 2. Members have no other points on the legacy paper, which I will leave in a sealed envelope, signed in blood.

Cathy Peattie: Will you hide it somewhere in the new building?

The Convener: No. If it were buried in the new building, the successor committee would have to dig it up to find it.

Work Programme

The Convener: Item 4 is an update on the work programme. Do members wish to raise anything before I discuss Gaelic?

Cathy Peattie: Grampian Television has been raised on several occasions during the committee's work in the first session. If I recall correctly, it was raised at the committee's second meeting. This week, we hear that there will be redundancies at Grampian Television. There is concern that trade unions have not been recognised and there are issues about broadcasting in Scotland. I wonder whether we could consider the matter very soon, before dissolution.

The Convener: My response to that will probably depend on the conclusion of our discussion about Gaelic. It is my honest view that, if we proceed to stage 2 of the Gaelic Language (Scotland) Bill, there will be very little scope within the programme to do anything further, as the time scale will not allow it.

Jackie Baillie: Could we have a rapid rundown of what we have left to do and when we must do it by? That might help to shape the discussion.

The Convener: We have two meetings, on 17 March and 25 March. The meeting that is scheduled for 17 March will be held at Loch Lomond. We will have to discuss the outstanding reports and inquiries, of which there are three. We will have to deal with the Executive's response on the rural schools closures. If we proceed with the Gaelic Language (Scotland) Bill, we will take evidence, which will be followed by stage 2 amendments. I suggest that the meetings are already pretty full.

Michael Russell: Although I have an interest in the Gaelic Language (Scotland) Bill, I am sympathetic to what Cathy Peattie has said. The situation at Grampian Television is serious. The assurance that, once it is in its new premises, it

will not reduce the number of jobs for the duration of its present licence represents a small gleam of light, but that is a small consolation if one recalls that, 10 years ago, Grampian Television employed 380 people and when it moves to its new premises, it will employ 78 people. The reduction in 10 years is most extraordinary. I am also sympathetic to any discussion on Gaelic, but we will have to see what we can manage. Cathy Peattie and I will want to raise the situation involving Scottish Television and Grampian Television directly with those organisations and through the Broadcasting, Entertainment, Cinematograph and Theatre Union, which has already been in touch with the two of us.

The Convener: On the Gaelic Language (Scotland) Bill, members have received two letters, one of which is a lengthy epistle from Mr Michael Russell.

Michael Russell: There should be a third, which is my response to the Presiding Officer.

The Convener: Flipping heck, this is becoming worse than the Hampden inquiry. It is all about who wrote to whom and when. The second letter is the Presiding Officer's response. Do we have a third letter?

Michael Russell: I asked my office to give the third letter, which is my response to the Presiding Officer, to Susan Duffy at lunch time, but in the interest of economy of paper, I will explain what was in it when we come to it.

The Convener: We have the letter from Mike Russell and the letter from the Presiding Officer. I will take us through them. I am slightly reluctant about taking up Mike Russell's suggestion that we should deal with amendments on 17 March, as I want to tie up a number of other issues on that day. In addition, if we want to take evidence, that will take us a substantial amount of time. For that reason, I suggest that we should not deal with amendments on 17 March.

Michael Russell: Perhaps I could say a word or two in introduction. I am conscious of the fact that there could be an unreasonable burden. I copied the material to each member of the committee as soon as I drafted the letter to the Presiding Officer, and I made the point that dealing with the bill would require a lot of good will. The suggested timetable is only a suggested timetable; it is no more than a template on which we could start to build an argument about where to go.

Considering that the one amendment that I suggest could be dealt with on 17 March is absolutely non-controversial, and that it is agreed by the Executive, me and everyone on the committee, it would not create any difficulty if it were taken singly at another session. However, I am conscious that there are two other sets of

amendments, one of which is almost as simple. However, the issue of how to do it is complex. That will be informed by evidence, although progress was made in the stage 1 debate in understanding how the bill might be expanded. I know that the Parliamentary Bureau is discussing the issue this afternoon, but I put it on record that I will do everything that I possibly can to get the bill through.

Jackie Baillie: Given that the committee supported the general principles of the bill—we are clear about that—everybody would like it to be passed, but the last bit of Mike Russell's explanation troubles me most. I have no doubt that while there will be widespread acclaim from the Gaelic community for extending the bill's provisions to the whole of Scotland—it is the right thing to do legislatively—but there is a hearts-and-minds operation to be carried out with some of the people from whom we are likely to take evidence on 17 March. There will also need to be a much more robust discussion to spell out how we deliver the bill, so that it becomes real where it is appropriate to deliver it throughout Scotland. It is that bit that makes me slightly nervous.

I am not suggesting that we should take forever over the bill, but neither am I comfortable with rushing at it, when it is so important that we get it right. In some senses, the discussion is not just for us. The bureau is discussing the bill today. I would like clarification on who will take the decision, because I am conscious that, in some respects, the matter is one for standing orders, which are not a matter for the committee, and that, in other respects, we are talking about principles—not just our work load, but getting the legislation right and examining what we have left to do. I would appreciate guidance on who decides what, when and where.

The Convener: As I understand it from the Presiding Officer's letter, we cannot start stage 2 until 18 March at the earliest, because of the dates, unless Parliament agrees to suspend standing orders at a meeting of the Parliament on Wednesday or Thursday. I must deal with things as they are at the moment and not with what might happen in future, which means that we are not in a position to discuss amendments until 18 March.

As I understand it, it will be for the Parliamentary Bureau to timetable the discussion in Parliament. It will be for this committee to take evidence and to discuss amendments. As convener, I will not treat this bill any differently from any other bill that we have had at committee. I know that Michael Russell would not expect me to do that. We will scrutinise the bill properly and proceed with amendments on that basis. I have timetabled amendments for 25 March. As the standing orders stand, that would not allow the bill to pass stage 3,

because there would not be enough sitting days between us completing stage 2 and Parliament having stage 3. We would require a motion and a vote in Parliament to allow that to happen.

On top of that, a financial resolution requires to be laid by the Executive prior to stage 2 commencing. There are issues around that. We have raised concerns about the financial memorandum and its effectiveness. I do not know whether Mike Russell has discussed that with the Executive.

Michael Russell: I am happy to give an update.

The Convener: That would be helpful. We are obviously tied by the procedures of the Parliament. I have amendments timetabled for 25 March, with evidence on 17 March, assuming that everything goes ahead. My only concern with the Presiding Officer's letter is the subordinate legislation issue. We would meet after the Subordinate Legislation Committee had met on the morning of 25 March, so that would be an issue if there were to be subordinate legislation. I am not sure how the amendments will be drafted—whether they create powers is obviously a matter for the draftspeople. Currently, there are no such powers, but we would have to see whether they would be required.

It would be useful if Mike Russell could update us on the financial stuff.

14:45

Michael Russell: You are absolutely correct in what you say. The reality of the situation is that the Parliamentary Bureau must refer the bill to us—I presume that it will do that—but we cannot start stage 2 without a financial resolution. I was in discussion with the Minister for Tourism, Culture and Sport last week. I am open to discussion with him and his officials, as is the non-Executive bills unit, but so far, that discussion has not taken place. I have made it clear, both in the letter that the committee has seen, which went to the minister, and in the subsequent letter in response to David Steel's letter, that I am still open to that.

Of course, it is possible to amend the financial memorandum as the bill progresses and is amended, and it is possible to lodge a financial resolution to allow stage 2 to start—that is not uncommon. That is what I am asking the Executive to do, and it will be able to say at the bureau meeting this afternoon whether it will do that. If it decides to lodge a financial resolution, we can follow the timetable that you have suggested, which would allow us to take stage 2 on 25 March. The Executive would then be required to agree to a suspension of standing orders to allow the bill to go on to stage 3 on 26 or 27 March. At the moment, I do not anticipate that there will be subordinate legislation provisions that the

Subordinate Legislation Committee will have to consider but, if there are, I would ask the Subordinate Legislation Committee to make the appropriate arrangements so that the timetable could be met.

These are unusual circumstances. The lateness of the bill is not entirely of my own making—there were technical reasons, which relate to the non-Executive bills unit. However, given the good will that the Parliament showed the bill last week, it is technically possible, with the suspension of a single standing order, for stage 3 to take place in the final week and for the bill to be passed.

I concur with what Jackie Baillie said. The real difficulty lies in the final area of consideration and does not relate to the ombudsman or even to the simple technical matter of making the bill apply to the whole of Scotland. The question is how the bill applies. The precedent that is being considered most closely at the moment is the reporting that takes place on Gaelic's place within the national priorities in education. Some authorities do not have to report and some do, and some report minimal activities. Considerable work is being done on that, and I have already discussed the matter briefly with the minister.

That might provide us with a way forward and a template for inserting a preamble to the schedule to the bill to remove the obligation to prepare a Gaelic language plan on those places that do not need to do so. I referred to that briefly in summing up last week, when responding to a point from George Lyon that the Deputy First Minister also made. Tavish Scott made a point to me privately about the position of Orkney and Shetland, and those are two local authority areas that would obviously not have to prepare a plan. A lot of thinking and work must go into those areas, and I have said that the best way to achieve that would be for the minister and his department to work closely with me and others to see whether we can formulate amendments in an agreed fashion so that they can be presented to the committee for scrutiny.

The Convener: I am a bit confused by what you have just said. Did you say that Orkney and Shetland would not be asked to produce plans?

Michael Russell: There would be an obligation on all authorities in Scotland, but Orkney and Shetland would not produce a formal plan of the complexity and length that would be required for other areas. I thought that that was the main point that was made in the debate on Thursday. Orkney and Shetland have no history of using the Gaelic language.

The Convener: They would still be required to draw up a plan, would they not? My understanding of where we were at stage 1 was that we were

looking to have all authorities producing plans and considering how those plans could be used in the development of Gaelic.

Michael Russell: The point that I am making is that Orkney's plan or Shetland's would be very different from the plans for the Western Isles or the Highlands.

The Convener: Obviously, yes—as would the plan for the Borders.

Michael Russell: Essentially, we are talking about a minimal plan—nothing of the complexity of the plans for the Highlands or the Western Isles. The Borders plan might be somewhere between the two. There is a precedent for that in the national priorities on the use of Gaelic. We need to dig into the detail of that and find out about it.

The Convener: The committee was concerned that the financial memorandum does not cover the costs of implementation. Are the financial discussions continuing?

Michael Russell: Yes. I have asked the minister to let me have access to his officials, so that they can discuss the matter with me, and he has agreed to that. They have not yet indicated that they have any new thoughts on the matter, but they are thinking about it. I hope that they will have those new thoughts quickly. The non-Executive bills unit is also willing to enter into discussions to revise the financial memorandum in the light of that. It is difficult to make estimates in this area; even Executive bills have run into such difficulties in the past. The costs that would be involved for Orkney and Shetland would be of a quite different order from those involved for Highland or the Western Isles.

I am open to such discussion. As I explained in my evidence to the committee, nothing in the financial memorandum is designed to pull the wool over people's eyes. The difficulty lay in estimating the costs, so the default position was to estimate the costs of producing a plan. The costs of implementing the plans will be variable, but I would put up no barrier to our arriving at suitable estimates—quite the reverse, in fact.

Cathy Peattie: We anticipated some of these problems when we agreed to the principles of the bill. Like others, I feel that it is important that amendments are made so that the provisions can be applied countrywide. Members will recall my concern that we might end up with documents that mean little and to which people pay only lip service.

I am concerned that we might water down the important elements of the bill and that we might not take all the necessary evidence. I support the idea of having plans in local authority areas, but I would hate them to be the sort of plans that I have

seen in some areas in the past, where people write something that is ultimately lost. The danger is that, unless we have the—

Michael Russell: The purpose of the bill is not simply to put in place Gaelic language plans; it is also to enshrine in law the basis of equality between English and Gaelic, and to give a means to express that. Gaelic language plans could be arrived at in any sort of way; the purpose of the bill is to enshrine in law what I would call the sacred principle, and then to give some initial articulation to that. The committee and I have been struck—as has everybody, I think—by the strong belief among the Gaelic community that the provisions of the bill would be something of tremendous symbolic as well as practical use, particularly so because this is happening in the first Scottish Parliament in 300 years.

One is inevitably juggling all sorts of requirements. I am rational about the bill, yet I am also quite passionate about seeing whether it is possible for us to carry out this task in what is a brief period of time, while balancing out all the requirements. Indeed, it is a balancing act.

Cathy Peattie: I am concerned that, because of the importance of the matter and because we want to get where we want to go, we might rush some important pieces of—

Michael Russell: I think that the Gaelic community would be grateful for our taking a step, rather than rushing. The bill represents a step forward. I have always referred to it as a modest measure and a step forward, and that is what it would be were it implemented.

The Convener: Matters are now in the hands of the Parliamentary Bureau. Unless the bureau refers the bill back to the committee, there is nothing else that we can do.

Michael Russell: Absolutely.

The Convener: With that in mind, I suggest that we go ahead with taking evidence on 17 March. Until the bureau refers the bill back to us, we cannot discuss possible amendments.

Michael Russell: Every bit of progress is welcome. If we reach the stage of taking evidence, that will be welcome, too. The area is important. The committee will understand that I and many others—I spoke to a number of people over the weekend—are keen to make as much progress as we can.

The Convener: As is the committee.

Michael Russell: I understand that, and I am grateful. The commentary on the debate about the bill has been that the Education, Culture and Sport Committee has moved the issue a giant step forward in its serious and positive deliberations

during the five evidence-taking sessions that have taken place. I cannot quote him by name, but a senior figure in the Gaidhealtachd, with whom I spoke over the weekend, was of the opinion that the committee has made a bigger contribution to the future of the language than any parliamentary committee has done at any other time, here or elsewhere.

The Convener: We will take evidence on Monday 17 March, and we will see where it leads us. We await the outcome of the Parliamentary Bureau's deliberations. Are members happy with that?

Members indicated agreement.

14:54

Meeting continued in private until 15:01.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Wednesday 19 March 2003

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF12BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers