



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EDUCATION AND CULTURE COMMITTEE

Tuesday 8 November 2011

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EDUCATION AND CULTURE COMMITTEE
10th Meeting 2011, Session 4

CONVENER

*Stewart Maxwell (West Scotland) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Clare Adamson (Central Scotland) (SNP)
*Marco Biagi (Edinburgh Central) (SNP)
*Jenny Marra (North East Scotland) (Lab)
*Joan McAlpine (South Scotland) (SNP)
*Liam McArthur (Orkney Islands) (LD)
*Liz Smith (Mid Scotland and Fife) (Con)
*Jean Urquhart (Highlands and Islands) (SNP)

COMMITTEE SUBSTITUTES

*George Adam (Paisley) (SNP)
*Ruth Davidson (Glasgow) (Con)
*Hanzala Malik (Glasgow) (Lab)
*Tavish Scott (Shetland Islands) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Fiona Hyslop (Cabinet Secretary for Culture and External Affairs)
Carol Kirk (Association of Directors of Education in Scotland)
Fred McBride (Association of Directors of Social Work)
Robert Nicol (Convention of Scottish Local Authorities)
Jacquie Roberts (Social Care and Social Work Improvement Scotland)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

Committee Room 4

Scottish Parliament

Education and Culture Committee

Tuesday 8 November 2011

[The Convener *opened the meeting at 10:04*]

Decision on Taking Business in Private

The Convener (Stewart Maxwell): I welcome members to the 10th meeting of the Education and Culture Committee in session four. I remind members and people in the public gallery to ensure that they switch off all mobile phones and other electronic devices, which should remain switched off at all times.

No apologies have been received. A couple of members are running late, but we expect them to join us quite soon.

Agenda item 1 is a decision on whether to take in private items 5 and 6. Are we content to take those items in private?

Members *indicated agreement.*

Educational Attainment of Looked-after Children

10:05

The Convener: We move on to agenda item 2. We continue to take evidence as part of the inquiry that the committee agreed to carry out on the educational attainment levels of looked-after children.

I welcome our panel of witnesses. Carol Kirk is the corporate director of education services for North Ayrshire Council and is here to represent the Association of Directors of Education in Scotland; Fred McBride is the convener of the children and families standing committee of the Association of Directors of Social Work, and the director of social care and wellbeing at Aberdeen City Council; Robert Nicol is team leader on education, children and young people from the Convention of Scottish Local Authorities; and Jacquie Roberts is the interim chief executive of Social Care and Social Work Improvement Scotland.

I thank the witnesses for giving up their time and coming along to give us evidence. We move straight to questions.

Clare Adamson (Central Scotland) (SNP): We have received quite a lot of submissions, and one theme that runs through them is the integration of education and social work departments. What examples can the witnesses provide of good working practices that have led to better attainment for looked-after children? Are the factors that would enable effective integrated working to take place in respect of education for looked-after children different from those that are required for integrated working generally between social work and education departments? Does something more need to be done for looked-after children?

Jacquie Roberts (Social Care and Social Work Improvement Scotland): I believe that integration between education, social work and health—as well as other local authority departments—matters for all children, not only looked-after children. It is about having an attitude of mind that it is everyone's job to look after children and to ensure that they achieve their maximum potential.

In our multi-agency inspection work on child protection, we have noticed that the local authorities that do particularly well are those in which everyone, from the elected members to chief officers and right through to the front-line services, shares the same belief in getting the best for kids; it is about working together all the way

through. It is about not only looked-after children but all children who might have special needs.

Fred McBride (Association of Directors of Social Work): The getting it right for every child policy framework is about exactly that. If it works, it will achieve the best outcomes for all children but will have a particular focus on children who have additional requirements, whether that is because they are looked after or because of other circumstances in their life.

There are challenges within the GIRFEC policy framework, perhaps in particular for universal services such as education and health. Within the policy framework there is the concept of the named person. That will usually be someone within the universal services, either a teacher or a health worker—perhaps a health visitor for children in their early years—who is responsible, if you like, for being the first point of contact should concerns be raised about children in relation to their safety, in child protection terms, or any additional needs that they might have. My colleague Carol Kirk might be able to speak in more detail about the challenges contained within the named person role.

From a social work perspective, the named person role merely formalises what we think teachers and health workers ought to be doing anyway. We hear some representation from colleagues in those services that these are additional responsibilities and will require additional resources; we do not believe that that is the case at all. It simply formalises what they ought to be doing and their responsibility for all children, but particularly for looked-after and other vulnerable children. Within the getting it right for every child policy framework we think that there are real opportunities to take forward exactly the message that you are talking about.

Carol Kirk (Association of Directors of Education in Scotland): I very much agree. The named person is crucial in taking this work forward and is a formalisation of what the role of teachers and health workers should be anyway. The key to GIRFEC working for all children is really good joint working, not only at a strategic level, but at a very local level, particularly at the level of what would be a school cluster. It is really important that the professionals in health, social work and schools all know one another at that level. That is the key to getting really fluid services around children. If those professionals work together jointly on assessment and problem solving around children, we begin to get nearer to better outcomes for young people. There is no one service that can take ownership of that, so very good joint working at a local level has to be the foundation that this is built on.

Robert Nicol (Convention of Scottish Local Authorities): My colleagues have set out quite a clear articulation of GIRFEC and how it works. I do not think that there is a massive amount that I can add. COSLA supports, and will continue to support, the getting it right for every child approach. It is the way ahead. It has been the policy direction for the past five or six years and embedding it locally is the direction that we see integration and the route to improved outcomes, not just for looked-after children, but for all children, going in.

Clare Adamson: I understand how the named person idea would work very well in a primary school setting, but as children move into larger, secondary schools it obviously becomes more difficult. There is also the issue of the child's right to privacy and how much information he or she wants disseminated. Obviously, if teaching cover is going on, it is unrealistic to expect every teacher to be fully aware of a child's individual needs. How do you feel that the named person approach is working in secondary schools? Is there room for improvement?

Carol Kirk: There is always room for improvement. Looked-after children are not a coherent group or a single-issue group. The key to making school work for looked-after children is to talk to the individual child. You are right that, in secondary schools, it is always very difficult for children who see six, seven or eight teachers, or even more, in a week. It is about them having a key person in the school and having a discussion about how much information they want other people to have. I would be very surprised if schools do not have a senior manager who is the co-ordinator for looked-after children. Certainly, all our schools, and all the other schools I know, have a co-ordinator. Different schools operate the key person link in different ways. In some schools, that person will be a guidance teacher, whereas some schools have moved to a structure in which that role is held by the front-line guidance person, who is the register teacher whom the child sees in the morning.

10:15

In other schools that I have been in, the tack has been to ask the young person whom they want as their trusted individual because, sometimes, it is not their guidance teacher but their art teacher or one of the home-link workers in the school with whom they have built up a good relationship. The key is having a trusted individual to whom they can go and who can sometimes mediate for them with other staff.

The key on privacy and sharing information is to have a discussion with the young person about the fact that it would probably help them if people

knew about an issue or about how much they want people to know and be aware of. With young people of secondary age, it is right to get into such discussions. There is no one-size-fits-all approach.

Jacquie Roberts: I agree with everything that Carol Kirk said, but it cannot be left to the individual school or at the local level; it is really important for the chief officers to take an interest as well. One director of education to whom I spoke visits secondary schools and asks for a report back on the looked-after children or the children in part-time education in the school. That person reports back in turn to the elected members. It is really important to have such commitment to, and championing of, kids in need all the way through the council.

The Convener: Robert Nicol said that GIRFEC has set the policy direction for the past six years and that that is the way that we are heading. Most of, if not all, the witnesses have talked a lot about attempting to work together in a more integrated fashion. Why, in 2011, are we still talking about integration in the future tense rather than talking about it actually happening now?

Robert Nicol: I should probably qualify that statement: I probably guesstimated the point at which GIRFEC was conceived.

The Convener: No, you were right.

Robert Nicol: I think it was about five or six years ago.

It depends on what you are referring to. Colleagues might want to say a little about their local perspectives, but I would be astonished if there were any authorities that were not considering integrated working locally. The issue is what we call it and how far we are able to go with integrated services. Every authority will have examined its local services and will have plans for integration.

The Convener: I am sorry to interrupt you, but you are still talking in the future tense about plans that authorities will have to put integrated services in place. Why is that the case?

Robert Nicol: It is possible that I am simply speaking in the wrong tense. Authorities will have plans in place now and will have integrated ways of working in place now. That is what I was trying to get across.

GIRFEC is a methodology, and authorities will not have implemented elements of it in every place. The question is how the elements that deliver change can be implemented where they have not been implemented to date.

The Convener: We heard evidence last week that the service was patchy—I think that that word was used often. Are you saying that some local

authorities have plans and integrated working in place and some do not?

Robert Nicol: No. My view is that all authorities have some form of integrated working in place. It will not be identical to the model way of doing things through GIRFEC, but there will be some model of integrated services in place. I am sure that Fred McBride and Carol Kirk will be able to talk about their local services and their colleague directors.

The Convener: Okay. Thank you.

Fred McBride: Local authorities have had responsibility for producing integrated children's services plans for some years now, and each has produced plans that describe the integrated working that goes on in their area. Of course we can debate how good they are or how well they are working, but they outline the integrated working that is being done in every authority to improve outcomes for looked-after children as well as the wider group of children.

It depends what we all mean when we use the term "integration". If we mean full structural integration—with management structures coming together and so on—that is not happening in many authorities, although it is happening in some. As far as I am aware, there is no body of evidence to validate the proposal that fully integrated management structures make any difference to the outcomes for children, including looked-after children.

When we talk about integration, we are talking about services that are integrated at the point of delivery, so that children and families do not experience disjointedness between social work, education, health and other children's services. I just wanted to make that point. Certainly, the ADSW does not see full structural integration as a prerequisite for success and, as I said, there is no evidence to suggest that that delivers success.

The Convener: Just for clarity, I was talking about front-line services. I am most interested in the impact on the family and child.

Claire Baker (Mid Scotland and Fife) (Lab): Mr McBride talked about local authorities' commitment to providing integrated front-line services. Mr Nicol also said that it depends on how far local authorities go. What are the barriers to effective integration? Are they to do with resources, workload or bureaucracy? Everyone seems to be committed to the idea but, as the convener said, coverage is patchy across the country. What are the problems?

Fred McBride: If the problems were easy to solve, we would have solved them by now. There are some pretty big challenges in relation to different professional perspectives and different

organisational cultures. We will be trying to resolve some of those difficulties in order to try—I am trying not to use jargon—to keep the child and the family at the centre of our considerations. Some progress has been made with that.

The fact is that we have organisational and professional boundaries. Some work is being done at the national level on core skill sets for all children's services professionals, which, in England are sometimes referred to as common occupational standards. That approach works at an early stage because it is an attempt to look at the core competences and skills that all children's services professionals need to have. Over and above that, a professional might well specialise in social work, teaching, health visiting or whatever. There is some value in looking at the area more closely because there is scope to begin to break down some of the cultural, organisational and professional boundaries that exist within children's services.

Some of that work is still at an early stage. That is not to say that nothing has been done, because a lot of work has been done. For example, Carol Kirk and I worked together in Stirling, where we had an integrated management structure around children's services; we did a lot of preliminary work around work-shadowing, with teachers shadowing social workers or health visitors; and we held day-in-the-life seminars so that people could fully understand one another's professional skills, outlooks, roles and responsibilities. Those examples paid some dividends.

In relation to the education of looked-after children, the figures indicate that we still have a way to go, but it is not for want of trying those ways of integrated working. Perhaps later in the conversation we will talk about the big structural issues around what causes children to become looked after in the first place—poverty, inequality, deprivation and so on. Perhaps I am moving on to another area.

Jacquie Roberts: The question was about why we are not achieving better results for looked-after children, given all that we have in place. Part of the issue is about how we measure success.

The multi-agency inspections of child protection services show us the way forward. We need to measure jointly the chief officers' joint commitment. We need to consider quality assurance together so that we do not simply have the education service looking at its quality assurance system and the social work service looking at its system. We require a commitment from all the services to consider what would be an improvement.

As Mr McBride said, the reasons why children do not do well are complex. There are many

concerns, including those about changes of placement, children not getting the background help that they should at home and an absence of early years intervention. The issues start in the early years, so we must do much more work on that. The main impetus should be to change the culture so that the agencies work together with the same aim, shared accountability and a shared and agreed measure of success.

Marco Biagi (Edinburgh Central) (SNP): I have a further supplementary question on that issue. Are there any groups of looked-after children in relation to whom integrated working presents greater challenges? For example, are the circumstances for children who are in residential care different from those for children who are looked after at home? Does the experience of those children challenge the linkage between education and social work?

Fred McBride: Yes—potentially, it does. On the educational attainment of looked-after children, the figures show that more improvement has been made for children who are accommodated away from home and that there is more of a problem with children who are looked after at home by their parents or families. Of course there is a bigger challenge there. For example, a social worker will visit those children perhaps only once a week or a fortnight, depending on the circumstances, so the intensity of input is not the same as it is with children who are accommodated in children's homes or with foster carers.

Much of that bigger challenge falls on to universal services. Those children should be at school five days a week, whereas they get only a weekly or fortnightly visit from a social worker or somebody from a specialist service. There are particular challenges for children who are looked after at home. Who has the main responsibility for them? Who is the named person or perhaps the lead professional who co-ordinates professional activity around that child and their family? There is a bigger challenge in relation to those children for whom the balance of responsibility remains with their parents.

The Convener: Ms Kirk, can you add anything to that?

Carol Kirk: I concur with that—children who are looked after at home are perhaps more challenging. When children are in local authority residential care or with foster carers, it is easier for schools to build links and to ensure that they have a more educationally rich environment and start making all the necessary connections. With children who are looked after at home, that can be trickier. A key issue is how we use our services in the community to do that. Youth workers, libraries and other resources in the community can be used to support those children and their families. To

target support for children who are looked after at home, my council has used the Duke of Edinburgh's Award new start groups. Those perform a number of functions and link into school. They give young people an additional positive role model and can provide support to the family. However, that does not always work. Some families do not want that level of connection. They are the most challenging group. All the statistics show that those children are the ones with poorer attainment and attendance and more exclusions.

10:30

Joan McAlpine (South Scotland) (SNP): My question will develop the theme of the previous question. There has certainly been no shortage of legislation and guidance at national level, but your evidence, and evidence that we received last week, has shown that that does not always get down to local level. What mechanisms are in place to ensure that national guidance and legislation are put into practice at local level?

Carol Kirk: That is usually done through the integrated children's services plan; the strategic officers get together to ensure that information is disseminated. As far as possible, we would ensure that any training on new legislation was rolled out on a cross-service basis and that that was done at local level. That is the only way that it makes a difference.

I want to pick up on something that Jacquie Roberts said. Quality assurance is important. It is not enough just to train your probationers with your social workers; you have to be sure across the board that the hard questions about looked-after children are being asked. Those questions have to be asked by quality improvement officers when they are in schools, and by directors when they are in schools. Questions have to be asked of other services as well—services such as youth work, libraries and housing. They all have to be tied in. There has to be a joint quality check.

Joan McAlpine: Are adequate mechanisms in place?

Carol Kirk: They are, but we have to ensure that there is consistency and continual improvement. That is the challenge.

Jacquie Roberts: The plans, policies and guidance are all there. There has to be shared ownership of these kids, and a desire to do better by them. We have to face the fact that some of these children and their families can be very challenging, difficult and disruptive. We have to get all services to share ownership and to believe that the kids are worth investing in and spending time on. I hope that the committee is talking to some young people who have been looked after, because they will be able to tell you that the

people who matter to them are the people who stuck with them in difficult circumstances and saw that they could achieve something as adults.

Fred McBride: I would like to sound a note of caution about more legislation, more guidance and more policy frameworks. This discussion may be for another time, but ADSW has made its views known on the proposed bill on children's services. Perhaps some tidying up of the existing legislation is needed before we start introducing more. There are some rubbing points in the existing legislation that could perhaps benefit from being ironed out. In particular, there are some potential contradictions between the legislation on additional support for learning and the Children (Scotland) Act 1995. You might argue that the ASL legislation is perhaps more beneficial to parents than it is to some children. The 1995 act focuses very much on children. Before more policy and legislation are issued, a tidying-up job should be done on what is already there.

Robert Nicol: I echo what Fred McBride said. If I understood Ms McAlpine correctly, her question was on local implementation. We have to consider two things—legislation and policy. There will always be a degree of variation in the implementation of policy. For example, over the years since the publication of the guidance, there has been a range of approaches to corporate parenting.

We should not underestimate the effort that has gone in to translating policy into local practice. Whatever legislation we are looking at—whether it is on adoption and fostering or children's hearings or something like that—will require specific things to be implemented at the local level.

As Fred McBride said, there is a range of legislation and a range of policy. There is the Education (Additional Support for Learning) (Scotland) Act 2004, the Education (Additional Support for Learning) (Scotland) Act 2009 and GIRFEC. From our point of view this is a good opportunity to draw breath, look at the policy framework and ask whether it is working nationally. If there are ways in which it is not, can we do something about that?

Joan McAlpine: Is it too complicated? Is there too much legislation?

Robert Nicol: It is always difficult to say that there is too much, but there are some very complex pieces of legislation. For example, the ASL acts are extraordinarily complex. The approach that councils put in place for GIRFEC and the principle of a single plan, does not sit easily with the principles set out in the ASL acts. That is not to say that they cannot be put together, but as principles they do not always sit easily

together. Carol Kirk and Fred McBride might say a little bit more about that.

If we are to have legislation in a couple of years' time, there is an opportunity not to add to policy or legislation but to look at how we can make what we have got work a bit better.

Carol Kirk: I concur with those comments. The GIRFEC and ASL rub up against each other in particular around areas such as looked-after children. GIRFEC has got it right in having a fully integrated plan around the best interests of the child, but parts of the ASL legislation do not sit terribly comfortably with that. That is partly because, in the ASL legislation, the responsibility sits with only one agency, which has a responsibility to call in other agencies to help, whereas GIRFEC takes a joint approach. That is a much more helpful approach to take to looking at the needs of all vulnerable children and, in particular, looked-after children. The use of co-ordinated support plans and so on seems quite dated now, compared with the GIRFEC approach. Arguably, if you get GIRFEC right and you are getting it right for every child, you do not need the ASL acts.

Clare Adamson: I will dig down into this, because it is important. You said that the ASL legislation is more of an advantage to parents than to children. Do you mean that the provisions are driven by vocal parents rather than by the needs of the child? What happens to children who do not have an advocate pushing for ASL?

Carol Kirk: You can mitigate that by ensuring that people have a good understanding of the ASL legislation and that they implement it for all children, but that is the case with the ASL acts. A close look at the tribunal system would probably back that up. The key issue is that the approach in the ASL legislation is not joined up in the way that GIRFEC is and that in the ASL acts the child's rights are very limited.

The Convener: Thank you. We will move on to the ASL legislation shortly, but we will now have some questions on GIRFEC.

Jean Urquhart (Highlands and Islands) (SNP): My question drills down a bit more into some of the comments that have been made this morning about the implementation of GIRFEC. In all the evidence that we have heard, GIRFEC generally seems to be supported by all the different agencies. It essentially sounds good, looks good and gets support, but there are barriers to it actually working.

Mr McBride cited Stirling as an example of communication between different agencies working. Where do we take best practice from? How do we spread the word about it and make the approach work?

Fred McBride: Carol Kirk and I worked together in an integrated management structure in Stirling. I would say this, wouldn't I, but I do not think that it did any harm. However, the jury is still out on whether it fundamentally changed outcomes for looked-after children. We gained some evidence on the mechanisms that we used in working together, and on how we did it, but evidence is lacking on the end delivery. What difference did it make having a single director for children's services? I know of no evidence that that kind of structural integration made the difference.

What makes the difference is the quality of relationships between the professionals in the various services for children—their getting to know one another, getting to know one another's roles and responsibilities, getting to value one another's particular professional contribution, getting to understand what that contribution is, and getting to work together regularly with particular children in localities within local authorities. For example, we try to align our children's services fieldwork teams with secondary school catchment areas, to try to create a multi-agency team in the locality. That team would work with individual children and families, get to know who the vulnerable children in the school and the catchment area are, and begin to make strategic plans around them.

There are some processes and mechanisms that we feel instinctively are right, although the statistics on the educational attainment of looked-after children plainly show that we still have a way to go. Cultural, organisational and professional barriers may well still exist. However, we should consider our successes as well, and we have to ask whether measuring the number of standard grades and highers that a 16-year-old looked-after child achieves is truly a measure of success. We understand and value the importance of educational attainment as a way out of social exclusion, but it is not the only measure of success. We made a point in our submission that I think is worth checking out further: if you consider the attainment figures for looked-after children when they are 17, 18 or 19, you will find that they get much better, because the young people go and get qualifications at college or through various means other than school. That is worth testing.

Because of their life experiences, it is not reasonable to expect 16-year-old looked-after children—especially those who have been looked after for long periods—to be in the same place at 16 as other children are. What I am saying is a little anecdotal, but we know from experience that many looked-after children will go on to achieve things after they leave school. It is worth focusing on that a little bit more, and not using the arbitrary age of 16 as the time to measure the success or otherwise of how looked-after children are doing in the education system. What is an indicator of a

good outcome? The answer is not simply educational achievement.

Jacquie Roberts: In our submission, we say that sometimes a whole-system approach leads to good outcomes for children; I am thinking in particular of Clackmannanshire, Highland and West Lothian, and recently Perth and Kinross had an excellent report about good outcomes for children. It is worth considering a whole-system approach to vulnerable children—children on the child protection register, but also looked-after children. I apologise if I keep repeating myself, but we should be considering a whole-system approach.

10:45

Jean Urquhart: I will ask a practical question. Figures for non-attendance at school by looked-after children are really high. Would it be simplistic to equate that with a poor ability to achieve more than an average of one or two standard grades? I hear what you say about looking at different outcomes, but how do you prioritise children's needs? Is ensuring that children go to school a priority? How will the work that health, social work or education professionals in joined-up services need to do address that issue?

Fred McBride: I will talk first about attendance. According to the figures, the difference between the attendance of looked-after children and that of other groups of children is not huge. The school attendance rate for looked-after children is 87.8 per cent, in comparison with 93.2 per cent for other children, so a slight gap exists.

The major issue is exclusion. The exclusion rate for looked-after children is 365 per 1,000, compared with 45 exclusions per 1,000 among all other schoolchildren. That difference is massive in comparison with the difference in attendance levels.

I urge the committee not to dwell too much on attendance. I hear a lot that, if we could just get looked-after children to school, they would be fine. That is not the case and the figures do not bear that out. By and large, we are getting them to school. The problem is that they are being put out.

In *Holyrood* magazine last week, Her Majesty's chief inspector of prisons, Hugh Monro, reiterated the link between school exclusion, criminality and young people ending up in prison, which we know about. Children who are excluded from school are out on licence. They are out in our communities with permission, as opposed to children who might truant—in old money—from school. Truants tend to keep themselves under the radar, because they do not want to be caught. Kids who are excluded are out on licence. They hang around our shopping malls and get into significant problems. If

we are to major on anything, we should major on reducing school exclusions.

Jean Urquhart: I apologise—I am not familiar with the language. The figure that has shocked me in all the evidence relates to exclusion; perhaps I confused exclusion with non-attendance.

Fred McBride: You are absolutely right that attendance could be improved, too, but the pronounced difference between looked-after children and other schoolchildren is in exclusions.

Jacquie Roberts: Other children—particularly looked-after children at home—are part-time attenders. They need special attention, too, because “part time” can mean one session a week.

Fred McBride: I think that Carol Kirk will want to respond—we do not want to start having a go at one another's professions.

One resolution for exclusions involves very part-time arrangements. Children know that that is a bit of a con. They know that the underlying message of a very part-time arrangement is that they are not wanted. That does significant psychological damage. Children say, “If you don't want me, I don't want you, either,” and they begin to opt out.

The Convener: Carol Kirk has the opportunity to comment from the education perspective.

Carol Kirk: What has been said is right—exclusions are a huge issue. Across Scotland, people are working to minimise exclusions.

The challenge is significant for schools. Most schools do not exclude children lightly. An exclusion should be made only if a child would cause danger or significant disruption to other children or staff.

Some of our looked-after children have had very difficult experiences and find it difficult to settle into a normal school life. The issue comes down to having a line through the system that challenges that. I do not expect my headteachers to exclude a looked-after child unless they have spoken to me or to a head of service.

A couple of years ago, we empowered our children's units to behave like pushy parents. We gave them a list of hard questions to ask if a child from the unit was going to be excluded. They ask why the child is to be excluded and how the school will resolve the problem—the kind of questions that you or I would ask if our children were being excluded. We have also done a lot of work with schools on the notion of corporate parenting and the idea that the responsibility for looked-after children or vulnerable groups goes further. We are reducing exclusions, although the figures are not yet where I want them to be. There is an on-going challenge.

There should not be part-time education. If a young person is excluded from school it is still the local authority's responsibility to provide them with an education. The education might not necessarily be in school but it should be much more than part time—the authority should be aiming for the 25 hours a week that other children get. That is very much the line that I take.

Monitoring is difficult. When we make our attainment visits, we challenge schools on the attainment of their looked-after children. I expect headteachers to be able to reel that off. A few years ago we started to consider how many young people are doing fewer than five standard grades in fourth year, which is a good measure of inclusion. I expect a headteacher to know the names of the young people in that category in their school. If there are too many for the headteacher to be able to name them and tell me their stories, that is too many. There has been a big improvement in that regard.

It is about having such an approach throughout the system. There is an issue about what we value in schools. The press coverage is always about how many highers are achieved in fifth year; we do not necessarily look at how many young people have a positive outcome on leaving school, such as college or an apprenticeship or other training place. As Jacquie Roberts said, we need to take a wider view of educational success for some of our vulnerable children.

That does not mean that we take our foot off the gas and accept that lesser achievement is okay. However, there has to be a recognition that some of the children that we are talking about have had very, very disrupted early lives. We talked about the most difficult looked-after children for schools to make contact with. Headteachers tell us that a significant challenge probably comes in the year before a child becomes looked after, when the child's life is often in crisis. Children who have been through such experiences have a lot of catching up to do. There is merit in tracking the outcomes over time. The issue for us is how we get them back on track, but it might be a slower track than it would have been if they had always been on track.

Liam McArthur (Orkney Islands) (LD): Thank you.

I was interested in Mr McBride's comments. You started by suggesting that there are areas in which the additional support for learning legislation and the guidance are rubbing up against each other, and when you were responding to Clare Adamson's question it almost seemed as though ASL is getting in the way of GIRFEC, although I am not sure that that is an accurate reflection of your views.

That strikes me as strange, because the 2009 act was in part a response to concerns that Her Majesty's Inspectorate of Education expressed in 2008; the GIRFEC process, which got under way in 2005, predates that. Why have we put something in the way of an approach that everyone had signed up to as the way that we should be going?

Fred McBride: I am not quite sure of the genesis of all this—I am trying to think back. One example of pieces of legislation rubbing up against one another is the introduction of tribunals, which Carol Kirk mentioned. Tribunals, of course, take families into quite an adversarial situation with services, particularly education services. They enable and empower parents to do things such as make placing requests, sometimes for residential care and education establishments, whether or not professionals and others think that that is in the best interests of the child—and whether or not the child thinks that it is in its own best interests. Carol's point was that, under the ASL legislation, the child's views and rights have somehow become secondary to what parents want. Parents are able to get what they want, in large part, through the use of the tribunal system, whereas the Children's Hearings (Scotland) Act 2011 has the child very much at the centre, with their views being listened to and being paramount. Carol may be able to think of other examples, but that is one area in which the focus of two acts appears to be quite different.

Liam McArthur: That is an interesting take and one that we can bear in mind as we proceed towards a children's services bill. Mr McBride talked about professional boundaries, which inevitably come into play in the way guidance and legislation impacts on the ground. One suggestion made to us by Children 1st, I think, is that some schools might be more focused on the policy of curriculum for excellence than on the requirements of the ASL acts. I do not think that anyone would suggest that curriculum for excellence is not about improving outcomes for all children, but it would be helpful to get your observations on whether there is, as you suggest, a rubbing up against each other of those priorities within the school environment.

Carol Kirk: I would say that curriculum for excellence and GIRFEC run absolutely hand-in-hand. Curriculum for excellence takes a broader view of education. A key aspect of it that helps our most vulnerable children is the emphasis on personalisation, which is ensuring that the education fits the child and is tailored to individual needs. Curriculum for excellence is about improving education for all children; if we were concentrating on that and getting it right for all children, the ASL acts would not be required. They are required because sometimes we do not get it

right, but whether they are the right way of dealing with that, I am not entirely sure.

Liam McArthur: Curriculum for excellence is still in the process of being rolled out through the secondary years, so it is perhaps too early to tell. From your experience at primary level, however, is any evidence emerging of it having that impact and allowing a degree of either catching up or raising aspirations and ambitions among looked-after children?

Carol Kirk: That would be very difficult to say. It enables schools to focus on particular interests that children might have and sometimes that is a way to engage children who are disengaged or out of sorts. It gives a great deal more flexibility. Arguably, primaries have always had greater flexibility than secondaries. We are now beginning to see, in S1 and S2, the possibility of having a more child-centred curriculum, with a range of subjects working round a point of interest for a group of children. It is a much better way of keeping young people engaged and if you keep them engaged, you will keep them learning and raise their aspirations. The jury is out on whether it works any better for looked-after children than for other children.

Liam McArthur: We have talked about GIRFEC and about additional support for learning, and I want to ask about an issue that has been raised with me in my constituency. The wraparound support for children and young people tends to meet a cliff edge when they enter adulthood. Could improvements be made to ensure that whatever we do to improve the educational outcomes of looked-after children is not undermined because we let go of any sense of responsibility or ownership when they enter adulthood?

11:00

Fred McBride: You raise a really important point. We are probably still quite weak on transition planning—the planning for children moving into adulthood. We do not start planning early enough and, as you say, people reach a cliff edge. The range for adult services is not the same as the range for children's services. For example, children will stop going to school, so straightaway there is time in five days a week that adult services cannot necessarily replace. The only answer that I can offer the committee is that we need to start planning at a much earlier stage, when children are 13 or 14, rather than waiting until they are 16 or 17, which I am afraid still happens too often.

We also need to manage parents' expectations. Whether parents like it or not, their children will become adults, and we need to manage their

expectations about what is reasonable and realistic. We are trying to consider whole-life, costed care plans. If a child is born with significant disabilities and complex needs, they are not likely to go away, so we have to consider what a whole lifetime of care and support will look like for that child. We have to make plans, including financial plans, from when the child is born, or from a very early age. You are absolutely right to raise this issue, because much improvement still needs to be made.

Jacquie Roberts: I endorse that. However, although I am very pleased with this inquiry, it is important that we do not force through competing priorities. Attention should be given to young people who are moving into adulthood, and to throughcare and aftercare. However, just as important are the services in the early years—especially those for both parents and children—because those services are one way of preventing more children from becoming looked-after children, and of preventing the sort of problems that we see when we consider the results.

Jenny Marra (North East Scotland) (Lab): Carol Kirk talked about positive outcomes. I realise that, for looked-after children, progression rates on to tertiary education are low, but can you give me an idea—perhaps as a percentage—of progression rates on to college or training places?

Carol Kirk: Not off the top of my head. However, activity agreements have certainly helped in moving our looked-after children on to positive destinations. We were a pilot authority for such agreements, and they have been rolled out. That has been a positive step for school leavers. Many of our looked-after children are not ready for a training place or an apprenticeship, or to move on to college, and the agreements have been effective in bridging the gap. That has been very useful.

When looked-after children are moving on to college or an apprenticeship, on-going support is key. The children often do not have a lot of resilience, and the standard supports for young people at that stage—such as those that are provided by Skills Development Scotland—are just not enough.

Through a bid to our community planning partnership, we run a secondary outreach service, which supports vulnerable children who are having difficulties in secondary school. The aim is to maintain their secondary school place or to provide alternative education if their education at secondary school has broken down completely. The children often build up very close relationships with their key workers. We provide some additional support to enable the key worker to occupy a fall-back position for the young person. A young person can often be put off going to college

when they turn up and find that their class has been moved somewhere else that day—they just give up. Alternatively, if they go into work one day and get a row from their boss, they go home.

In those situations, it is important to have someone to play the parental role and say, “Come on. Get back in there.” The key worker can mediate a bit, so that the young person can maintain a college placement or work placement. The young person needs additional support. The support that we provide to get young people into universities and colleges and to give them that bit of extra support to keep them there is a key aspect of working with looked-after children.

Jenny Marra: Can you give me an impression of the importance of the 2009 regulations in raising attainment, and of any barriers to implementing them?

Carol Kirk: That is quite a difficult question, because the focus of the legislation is to ensure that children get the additional support that they need to benefit from school education. In terms of raising attainment, perhaps the legislation does not focus on the young people’s aspirations. We need to think very carefully about what is needed for young people, particularly those of secondary age—is it legislation, or is it a coaching, mentoring and support role?

Young people have described the ASL legislation as something that is done to them. They do not consider themselves to be a part of it, whereas they have a voice in the planning for GIRFEC and are involved in it. That can be built into the ASL acts, but there are then two things running in parallel. The complexity of the ASL legislation and where it sits in relation to GIRFEC is not of particular benefit to looked-after children.

Jenny Marra: Should the regulations be amended in some way?

The Convener: To ensure that we are talking about the same thing, I clarify that we are talking about the Looked After Children (Scotland) Regulations 2009.

Carol Kirk: Sorry. I thought that we were discussing the Education (Additional Support for Learning) (Scotland) Act 2009.

The Convener: I thought that there was a bit of a misunderstanding.

Jenny Marra: Sorry, I did not clarify that.

Carol Kirk: Again, it is very hard to say that the focus in the regulations is on raising attainment, although the regulations have made authorities look much more closely at what they have in place to support young people’s attainment.

The fact that the regulations place greater emphasis on education in care planning is

beneficial. However, the focus on learning and education in care planning probably needs to be there much earlier. We tend to have that focus for school-age children in care planning, but we do not look closely at, for example, the language development of very young children who come into care.

Increasingly, very young children are coming into care. Language development at age four is a very good indicator of what a child will get out of the school system. There is nothing to prevent it from being a focus, but it has not been a particular focus in care planning for very young children to concentrate on language and learning as well as their care and nurture.

Jenny Marra: Thank you.

The Convener: I want to clarify something. The Looked After Children (Scotland) Regulations 2009 state that the child’s plan includes

“Details of any services to be provided to meet the care, education and health needs of the child.”

Last week, we heard evidence that some education authorities integrated their plans into the care plan, but in other areas—I quote—

“education departments barely manage ... to contribute to discussion”.—[*Official Report, Education and Culture Committee*, 1 November 2011; c 373.]

Is that your experience? If so, why do some authorities barely contribute to discussions?

Carol Kirk: If that is the case, it is very sad. Education is a key part of the development of young people and looked-after young people in particular. I have worked in four local authorities, and my experience of them is certainly not what you describe.

The key to making things work is a good integrated assessment framework. Where authorities do not fully grasp the opportunities of that framework, the education bit will always sit off to the side and that is not helpful. I agree that there are probably inconsistencies in approach and that it therefore needs a greater focus.

The Convener: Is there a role for COSLA in ensuring that we do not have—I hate this phrase—a postcode lottery?

Robert Nicol: I would be interested to read the evidence from last week, because I am not sure who said that. We need to be careful about anecdotal evidence, but where there are systematic issues there is a role for COSLA, as there is for the Scottish Government and all partners, to consider the framework of policy at the national level and how it is implemented locally.

The issue of a postcode lottery comes down to what the system is. My view, and that of COSLA, is that ultimately the integration of services can

work effectively only at the local level. With that, there will always be a degree of variation in order to adapt to local circumstances and take into account the democratic views of locally elected members.

There is a role for us when there are systematic issues and, as we have highlighted in our submission, when there is a national debate about certain aspects of policy and how they are translated into the local level, but that role is through getting political agreement and not through imposition.

The Convener: Ms Roberts, you wanted to contribute.

Jacquie Roberts: I was going to say that, in the multi-agency inspections that we plan to carry out from April next year, we will look at the individual cases and files of vulnerable children, including looked-after children, and we will be able to assess whether there is actually a multi-agency approach and agreed plan. We have been able to do that in child protection inspections, and it has been a way to drive up chief officer commitment and ensure that if, for example, some secondary school heads are not quite so signed up to the idea of a multi-agency plan, the chief officers sign up to the plan and ensure that it happens in their authority.

The Convener: Thank you—that is very helpful. We move on to questions from Liz Smith.

Liz Smith (Mid Scotland and Fife) (Con): Thank you, convener. I apologise for being slightly late this morning—it was because of traffic problems.

When this committee's predecessor debated and scrutinised thoroughly the Education (Additional Support for Learning) (Scotland) Bill, the minister rightly put it to us that there is a subtle difference between the code of practice and legislation—Mr Nicol will remember some heated debates on that point. Last week, we were told that not enough of the professionals who are involved in looking after children as part of a joint approach are aware of what the code of practice says or of the skills that are required by some of their colleagues. Will you comment on that and on whether we need to do something to improve understanding of the code of practice in local authorities?

Carol Kirk: It comes down to training and development. Again, I can cite only my own authority: all our training around that has been multi-agency training. The issue with that is where it sits with GIRFEC, not with the code of practice. The code of practice is reasonably sound and if someone is dealing only with the code of practice and only with the ASL act, it is fine. Where it may not be quite as helpful is where it rubs up against

the care planning for a looked-after child. A lot of work has been done on the code of practice across all local authorities and nationally, through the various networks of support officers, in order to ensure that people are up to speed with it.

11:15

Liz Smith: It was put to us last week by Claire Burns, I think, that she was specifically concerned that not all the professionals who are involved in the plan for a child are aware of what the others are doing. What would improve that process?

Carol Kirk: That takes us right back to the beginning. It can be improved by very good local relationships between the various services around the child. If there has been a good joint assessment, with joint recommendations, everybody knows what role the other people have in that child's care and welfare. If they get that right, lack of awareness is not an issue.

Claire Baker: I want to ask about support for parents and carers. We know that there are in the region of 9,000 looked-after children who are looked after at home, by either a parent or a carer. So far, real issues have been identified with educational attainment but it would be helpful if we recognised some of the positive reasons why those decisions are made—when children are looked after at home, family relationships are maintained, they are with their siblings, and they are in their own community. We need to balance the experience of those children and recognise that there are complex reasons why they are classified as looked after at home. The majority are not at risk or in crisis, but the concern is that unless they get proper support around them, that is where the situation could lead.

This morning we are looking at education and social work services and my first question is about the capacity for schools to deliver more support for children who are looked after at home. We have reports that the number of home-school link support staff in schools has fallen from 147 in 2007 to 113 in 2010. Who are the key people who provide that support? Is it home-school link support officers and should we be concerned at that reduction in their number, or can other staff provide the support?

The financial pressures that we are all working under cannot be ignored. Should we have more home-school link support officers? Should we have more social workers working with these young people? Can the improvements that we want to see actually be delivered in the current financial circumstances?

Carol Kirk: First, I have not heard those figures about the home-school link workers. The reduction is probably connected with the title—the workers

may well have different titles in different authorities. The figure of 113 looks particularly low. We certainly have one such worker in each cluster, or 10 in total, which would mean that I have more or less 10 per cent of all the home-school link support staff in Scotland. I do not think that that is correct.

Other schools have done things differently, and the attendance officer may have been given a parent support role. Parent support workers may be linked to local communities, too. We use our community learning and development teams to do a lot of support work with groups of parents. There are different ways of providing the support; we just need to ensure that it happens.

One issue in very constrained times is how we look at staffing. Something that has contributed to the pressure on other professionals is the need to maintain teacher numbers, because teachers are an expensive resource in a school. Headteachers, particularly if they have a lot of looked-after children in the school, might find it more beneficial to have an additional youth worker, home-school link worker or other person who can blur the edges between home and school in a way that teachers cannot do. The different skill mix in a school contributes to the school's ability to deal with the most vulnerable children and support parents.

You are right to say that it is about engaging with parents at the earliest stages. Nurseries have traditionally been good at doing that. Community nurseries, in particular, provide good support to vulnerable parents. It is about ensuring that all our early years establishments can do that, by providing parenting classes, support, focus groups and so on.

Probably the most effective support for parents comes from other parents, particularly if it is done in a non-stigmatising way. From what we know about services, if we design a focus group for the parents of looked-after children who are at home, they will not come. If the group is open to all parents and all parents are encouraged to come along, there is a much greater chance of success.

We are talking about a key area, but it is resource intensive and we need to find ways of staffing schools to enable the approach to happen.

Claire Baker: Mr McBride said that a social worker would visit maybe once a week or once a fortnight, so there is not the intensity of social work support that families need. Is there capacity to improve the level of social work support?

Fred McBride: I agree with Carol Kirk that we need to consider the skill mix. What we are talking about does not necessarily need more qualified social workers and caseworkers. Perhaps we need to strike a better balance between case-responsible workers, professional social workers

and what we might call paraprofessionals, who can provide much more hands-on support to parents and families.

I take your point. We are wrestling with whether we have the balance right between professionally qualified staff and paraprofessionals who can provide direct support in helping parents to get into a routine with their children and so on. We used to have a lot of those staff—they used to be called family helpers—but over the years we seem to have moved away from the approach, for reasons that I do not know. Maybe we need to have another look at the balance. That is a fair point.

There is a role for the voluntary sector, of course. Although the responsible caseholder for the child might visit only once a week, some of the children are involved in services that the voluntary sector provides on a more intense level, such as group work or family work. Other people are involved; it is not just about the visit by the social worker. However, we need to be careful about that, because families tell us that they do not like it when too many professionals are involved.

There is a balancing act between providing the right level and intensity of support and involving too many professionals in families' lives. That is what the concept of the named person and lead professional in the GIRFEC policy framework is all about. It is about having a key person, who can co-ordinate the activities of other people, if it is necessary to involve other people.

Jacquie Roberts: The key answer to Claire Baker's question is effective work with parents as partners, to help them to do their best for their kids and to help the kids to achieve their potential. Parents should be part of the care plan and should work with the lead professional and others. If they need help to do that, they get help as part of the care plan. Parents need to feel ownership of the care plan; it must not feel as though it is something that is being done to them. That is a crucial part of what happens. As Carol Kirk said, the approach works well in early years services. We need to extend it to older children.

Claire Baker: The committee is considering the budget. A £50 million change fund for early years and early intervention is proposed—that is £50 million over the parliamentary session, which is five years. The Government is looking at additional resourcing from local authorities, the national health service and other partners. Is the resourcing appropriate, given the changes that we need to make? Have there been discussions with local authorities and the NHS about the increased funding?

The Convener: I must ask the witnesses to be brief.

Robert Nicol: I will be as brief as I can be. Discussions are going on. There will be a meeting this afternoon of a new early years taskforce, one of the roles of which will be to consider the change fund.

You are right to say that there is funding from local government and the Scottish Government. The national Government is also contributing. From our point of view, the funding can be used only to try to lever out a bigger level of resource in the public sector—that is what it has to try to do. There must be recognition, particularly at local level, of the effort that is already being put into elements of preventative spend.

It is early days on that and no decisions have been made on how the fund will work locally or the types of things in which the money will be invested.

The Convener: Thank you. There are many issues that we have not covered, but time has run away with us and I must bring the discussion to an end. I thank the witnesses again for coming—if you want to add anything to what you have said, please write to the clerks and we will be most grateful to receive your thoughts. We have had a useful discussion.

11:26

Meeting suspended.

11:28

On resuming—

Subordinate Legislation

Planning (Listed Buildings) (Amount of Fixed Penalty) (Scotland) Regulations 2011 [draft]

The Convener: For item 3, I welcome Fiona Hyslop MSP, who is the Cabinet Secretary for Culture and External Affairs; Emma Thompson, from the Scottish Government legal directorate; and Ann MacSween, from Historic Scotland's heritage management directorate. I invite the cabinet secretary to make a brief opening statement.

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): Thank you. The regulations set out the incremental scale of fines that can be applied under the new fixed-penalty provisions that were introduced by the Historic Environment (Amendment) (Scotland) Act 2011. Before I address any queries that committee members may have about the fixed-penalty regulations, I want to say a few words about the 2011 act, to provide some background and context for the regulations.

The committee may be aware that the Historic Environment (Amendment) (Scotland) Act 2011, which received royal assent on 23 February 2011, is a tightly focused and technical amending piece of legislation that will enhance the ability of the regulatory authorities to manage the historic environment in a sustainable way, for the enjoyment and benefit of future generations. The act also contributes to the Scottish Government's wider streamlining and simplification agenda, by harmonising elements of historic environment legislation with the planning regime, and by increasing the efficiency and effectiveness of deterrence.

11:30

Section 24 of the 2011 act introduces a new power into the listed buildings legislation, to enable planning authorities to issue fixed-penalty notices as an alternative to prosecution, in cases in which a person is in breach of a listed building enforcement notice. The new power parallels the power that was introduced into the planning regime by section 25 of the Planning etc (Scotland) Act 2006. However, the provision in the 2011 act also allows for the amount of the fixed penalty to escalate in the event of the breach of the enforcement notice continuing. That escalation of the penalty is a difference from the planning legislation.

A draft of the fixed-penalty regulations was subject to public consultation earlier in the year, and I would like to thank the organisations that responded for their helpful comments. All consultees who commented on the fixed-penalty regulations agreed with the principles underpinning the new powers.

I would like to clarify the Scottish Government's approach to the drafting of the fixed-penalty regulations. Because it was considered unlikely that numerous subsequent fixed-penalty notices would be issued, Scottish ministers took the view that there would be little need for numerous levels of small increments. We therefore adopted the principle of prescribing only three amounts in the regulations. In setting the level of fines for the fixed-penalty regulations, the Scottish Government was keen to continue the policy of harmonising the listed buildings process with the planning regime. The initial sum of £2,000 therefore parallels exactly the fixed-penalty fine that can be applied for breaches of planning enforcement notices. Scottish ministers also believe that setting an upper limit of £5,000 is reasonable and proportionate in relation to the primary offence—in this case, a breach of a listed building enforcement notice, which, of course, can attract a fine of up to £20,000. The new listed building fixed-penalty regime offers a quick, practical and viable alternative to prosecution. It will give local authorities an additional tool for dealing with people who break the law; it will also safeguard listed buildings.

If the Parliament is minded to approve the regulations, detailed guidance on the listed building fixed-penalty process will be available on the website of Historic Scotland from 1 December 2011. I welcome the opportunity to answer any questions that committee members may have on the regulations.

The Convener: Thank you. Do any members have questions or points of clarification that they wish to put to the cabinet secretary or her officials?

Liz Smith: I welcome the legislation, but I would like to ask one question. You said that, generally, the people who responded to the consultation were unanimous in their support for the principle behind the regulations. Are they also unanimous in accepting the figures that you have set as the penalties?

Fiona Hyslop: East Ayrshire Council said that £2,000 is adequate, as did Perth and Kinross Council. In general, councils were comfortable with the figures. One or two consultees would have liked the amounts to be higher, but we have tried to keep the amounts reasonable. That is why the levels are £2,000, £3,500 and £5,000. Of course, if people do not abide by the penalty

notice and do the necessary works, they can still be liable to prosecution, in which case there is an upper limit of £20,000. In general, consultees were comfortable with the amounts, although one or two would have preferred them to be higher.

The Convener: As there appear to be no further questions, we will move to item 4. I invite the cabinet secretary to speak to and move motion S4M-01097.

Fiona Hyslop: I was hoping just to move it, if that is okay.

The Convener: That is perfectly acceptable.

Motion moved,

That the Education and Culture Committee recommends that the Planning (Listed Buildings) (Amount of Fixed Penalty) (Scotland) Regulations 2011 [draft] be approved.—[Fiona Hyslop.]

Motion agreed to.

The Convener: I thank the cabinet secretary for her time. As the committee has agreed to take the next two items in private, I now close the meeting to the public.

11:35

Meeting continued in private until 12:56.

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