

EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE

Wednesday 27 May 2009

Session 3

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2009.

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 RR
Donnelley.

CONTENTS

Wednesday 27 May 2009

	Col.
SCHOOLS (CONSULTATION) (SCOTLAND) BILL: STAGE 1	2417
SUBORDINATE LEGISLATION	2446
Period to Prepare and Adoption Allowances Scheme (Scotland) Order 2009 (SSI 2009/168)	2446
PETITION	2447
Autism Spectrum Disorder (PE1213)	2447

EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE

16th Meeting 2009, Session 3

CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

DEPUTY CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

COMMITTEE MEMBERS

*Claire Baker (Mid Scotland and Fife) (Lab)
*Aileen Campbell (South of Scotland) (SNP)
*Ken Macintosh (Eastwood) (Lab)
*Christina McKelvie (Central Scotland) (SNP)
*Elizabeth Smith (Mid Scotland and Fife) (Con)
Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Ted Brocklebank (Mid Scotland and Fife) (Con)
Bill Kidd (Glasgow) (SNP)
Hugh O'Donnell (Central Scotland) (LD)
Cathy Peattie (Falkirk East) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED:

Murdo Fraser (Mid Scotland and Fife) (Con)

THE FOLLOWING GAVE EVIDENCE:

Annette Bruton (Her Majesty's Inspectorate of Education)
Douglas Cairns (Her Majesty's Inspectorate of Education)
David Drever (Educational Institute of Scotland)
Ken Wimbor (Educational Institute of Scotland)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Nick Hawthorne

ASSISTANT CLERK

Emma Berry

LOCATION

Committee Room 2

Scottish Parliament

Education, Lifelong Learning and Culture Committee

Wednesday 27 May 2009

[THE CONVENER *opened the meeting at 10:00*]

Schools (Consultation) (Scotland) Bill: Stage 1

The Convener (Karen Whitefield): Good morning and welcome to the 16th meeting in 2009 of the Education, Lifelong Learning and Culture Committee. I remind all those present that mobile phones and BlackBerrys should be switched off for the duration of the meeting.

The first item on the agenda is our continued consideration of the Schools (Consultation) (Scotland) Bill. We have been joined by representatives of Her Majesty's Inspectorate of Education, and I am pleased to welcome Annette Bruton, chief inspector, and Douglas Cairns, assistant chief inspector. Thank you for joining us this morning and for your written submissions in advance of the meeting.

We move straight to questions, and I will start by asking about the educational benefits statement. I am sure that you are aware that so far there has been considerable support for the introduction of the measure. When the bill team came before the committee a few weeks ago, it suggested that it might consider introducing statutory guidance to accompany the educational benefits statement. Do you have a view on whether statutory guidance would be helpful?

Annette Bruton (Her Majesty's Inspectorate of Education): I thank the committee for inviting us to the meeting. We are pleased to give evidence on the bill.

It might be helpful if I first explain how we currently go about the business of determining whether there is an educational advantage. Until 2007, ministers asked for advice from HMIE on whether there was no detriment to pupils in moving schools when a closure or amalgamation, for example, was referred to them. From 2007, HMIE has been asked for advice on whether there is an educational advantage to young people in moving from one school to another.

Since 2007, we have carried out a number of procedures that we believe help us to give sound professional advice on the educational advantages—or not—for children in moving from one school to another when a school is closing or

when a site or catchment area is being changed. Those procedures include drawing on any recent reports that we have on the school; looking first hand at what is happening in the school; talking to children, parents and headteachers; talking to other affected schools that may not be closing or amalgamating but for which there might be some significant change; and considering the quality of learning, teaching provision, accommodation and so on in each of the schools with which we are concerned.

We currently have a set of arrangements that allow us, based on our normal inspection procedures, to give a view on whether or not there would be educational advantage in the case of each school. However, if guidance was provided, we would welcome it and take account of it in our current procedures, should they roll forward.

The Convener: The committee has heard from a range of other organisations, including some local authorities and the Scottish Parent Teacher Council, that have said that they would like to ensure that broader issues are covered in the educational benefits statement, particularly in relation to cost benefit analysis and school building condition, which you touched on. The bill team suggested that those things would, by their very nature, be included in the proposal paper. Is HMIE content with those matters being included in the proposal paper, or would you like to see more formal consideration?

Annette Bruton: We would certainly be competent to comment on educational benefits relating to aspects of schooling, but we would be less competent to comment on cost benefit analysis and anything that would require the consideration of an auditor.

We would be happy to comment on other aspects of educational benefits, such as the benefit to children in terms of their learning, the quality of teaching, the achievement and attainment of pupils, the quality of after-school clubs and so on. We cover most of those areas in our current advice to ministers.

Aileen Campbell (South of Scotland) (SNP): Schedule 2 of the bill extends the list of people and organisations to be consulted when a school closure is proposed to include pupils, staff, community councils and Bòrd na Gàidhlig. What are your views on that extension?

Annette Bruton: I will say a few words before handing over to my colleague, Douglas Cairns, who is involved with a lot of the detailed deployment of staff in such situations and gives advice to ministers in the current arrangement.

We currently consult a wide range of stakeholders as part of our work, although there is no obligation to do so at the moment.

Douglas Cairns (Her Majesty's Inspectorate of Education): Annette Bruton set out the kind of activities that we engage in, and it is helpful to think of them as triangulation. We undertake direct observation of lessons and assess the quality of teaching in the school or schools that are affected; we examine a wide range of documentation that is relevant to the quality of education in the schools that are affected, including plans for proposed new schools that have not been built; and we conduct interviews with a wide range of stakeholders, principally staff, parents and pupils. We do that so that we can focus on the appropriate agenda, which concerns the educational matters.

Broader matters, such as the impact on the community, might go beyond our remit, but listening to the views of community councils and others can nevertheless be helpful because some of their views can be related, perhaps indirectly, to the educational matters. We do that to a certain extent when we consider the consultation responses from members of the public who have no direct contact with schools.

For certain schools, we think that it would be entirely appropriate for the views of bodies such as Bòrd na Gàidhlig to be heard. We would welcome that.

Aileen Campbell: As you are doing all of that already, the proposal will not have a huge impact on future school closures. Is that correct?

Douglas Cairns: We currently read all of the consultations and summaries of them, including contributions from members of the public, which can be quite extensive. Requiring us to take account of formal—if I can put it that way—community views would not be a hindrance to us, and might actually be a help.

Aileen Campbell: Children in Scotland and Scotland's Commissioner for Children and Young People have called for good and effective consultation with pupils. Does HMIE have a view on how we could ensure that their views are heard adequately?

Douglas Cairns: We place great importance on talking to pupils, and our approach varies depending on the type of school that is in question. Increasingly, we are saying to education authorities that they should take account of the pupil voice, and we want to do that in our investigations.

Christina McKelvie (Central Scotland) (SNP): Section 6 extends the consultation period to six weeks, which should include 30 days of term time. Do you think that that is an adequate period?

Annette Bruton: That is probably a policy matter and a question that could be asked of the stakeholders who would be involved in the

consultation process. The time that is set out in the bill for HMIE to take account of the consultation and to carry out its part of the work is certainly adequate; it is for stakeholders to determine whether the length of the consultation period is sufficient. We welcome the requirement that the consultation must be during term time, because that is the only time when effective communication can take place with stakeholders, particularly parents and children.

Christina McKelvie: So HMIE will have enough time to put together the required report.

Annette Bruton: We will. That is partly because the formal process allows three weeks but in the main because the reports would be carried out by a district inspector in HMIE. District inspectors have links with particular local authorities and meet them regularly, so they will know what proposals are coming up and will be able to feed back to our planning process. We will know in advance when we have to make visits to schools and read all the documentation. We will plan for meeting the timescale and prioritise the work in that time. The bill makes provision for the timescale to be extended with the agreement of the local authority, but we anticipate that that will be used very rarely, as we believe that we can comply with the proposed period.

Christina McKelvie: One issue that has arisen as I have asked questions on the topic in the past few weeks is about how we notify parents. Has HMIE come across good practice of how to notify parents?

Annette Bruton: As part of one of our studies, we are considering the nature and effective methods of reporting to parents. We will report in public later this year on the best methods.

That issue is in the same domain as that of ensuring that everything that goes into the schoolbag gets into parents' hands—mine included, I must say. Schools are tackling that through a range of innovative measures. They now commonly use the text systems that have been set up for truancy alerts to say that something—perhaps an important consultation paper—has been sent home in the schoolbag. We should give as much support as possible to parents' representatives to ensure that they inform their constituency about major pieces of work. Information must also be posted on websites and, at times and when necessary, parents should be written to directly to inform them of the process. Schools and local authorities are trying to inform parents through a range of innovative measures so that they do not rely only on the schoolbag traffic.

The Convener: Section 7 will place a duty on local authorities to arrange a public meeting to

discuss a school closure proposal. That will give parents and other stakeholders an opportunity to find out information about the proposal and to give their views. HMIE will not be required to attend those meetings, although it will have to be notified of them. Would you prefer to attend those public meetings, or are you satisfied that a transcript is sufficient for your needs?

Annette Bruton: In most cases, it would probably be desirable for us to attend the meeting. Of the requests that HMIE receives to give advice or an opinion on such matters, about a third involve school closures. The rest relate mostly to amalgamations and to site changes, in which the school remains the same but reopens on another site, which is often just next door. A very small number of the requests relate to the discontinuance of a stage.

With school closures or amalgamations, there is likely to be a public debate, which will probably be complex. It would therefore be highly desirable for the inspector who carries out the work to go to the public meeting as an observer and to hear the debate at first hand. We would also wish to have a transcript or report of the meeting.

In other cases, such as when a boundary change is not contested or when a change of site for which the public have asked for some time is proposed, it is probably less essential for inspectors to attend public meetings. However, within the constraints on our resources and on the use of public money, we would consider it desirable to attend meetings.

10:15

The Convener: Given that, do the circumstances in which HMIE will be present at public meetings need to be clarified? The bill team told the committee clearly that it had not created an obligation on HMIE because if it did so and, for example, an inspector's car broke down on the way to a meeting, that meeting would have to be cancelled. We all accept that but, if you believe that attending public meetings would be advantageous for you—particularly when they relate to contentious matters such as amalgamation or closure—would it be better to set a standard, so that everyone knows what to expect? That would avoid allegations at the end of the process that HMIE has treated one case differently from others.

Annette Bruton: I understand that concern, but the bill does not need to contain such a provision. HMIE could set out in a public policy document how it intends to do its work and what its protocols will be. That could clarify the relevant circumstances and the reasons why we would undertake actions.

We need to be mindful of the cost to the public purse of attending public meetings, but attending them would be desirable, particularly when a proposal is likely to arouse strong public interest or different views among stakeholder groups.

The Convener: Are you confident that HMIE has sufficient resources to undertake such duties?

Annette Bruton: We are confident that we have the resources. We try to ensure that advice is given by a district inspector who knows the council well, but sometimes that person is undertaking another task. We have a streamlined process for planning resources. The financial memorandum that accompanies the bill sets out the additional resources that we need to do the more extensive work. If that is a priority, we will plan our resources for it.

Douglas Cairns will say a little about how we plan the use of our resources.

Douglas Cairns: I repeat that, in the first instance, it is useful for the local district inspector to undertake the investigation. When an extensive plan to close numerous schools is proposed, we bid from our contingency time to obtain teams to help the district inspector.

There is great value in the work done by the district inspector, because that person knows the area and the council. It is also a great help to that inspector to build up detailed knowledge of the council's work. We can take into account that detailed knowledge when we evaluate a proposal's educational benefits. We have often said that we know that some councils have built up experience and expertise from closing and amalgamating schools in ensuring a smooth transition for learners to their receiving schools. Having such knowledge is important.

We stand by the estimates that we have presented for the number of days that will be required to undertake the investigations. Of course, the number of days varies, but the average is as stated in our submission. As Annette Bruton says, we are confident that we can conduct the investigations.

Annette Bruton: We will take account of the procedures that we have used until now for advising ministers, but we will be required to ensure that we have covered all the work that we need to do, so training will be required to ensure consistency throughout the country among those who do the work. That will be well covered in the annual training that we provide for those who do such work.

Claire Baker (Mid Scotland and Fife) (Lab): The bill proposes a new duty on education authorities to investigate any allegations of inaccuracy. Do you have any views on the

operation of the corrections mechanism and whether it is the proper way to address any inaccuracies? The evidence that we have heard on it so far has been quite positive.

Annette Bruton: That provision would be helpful, certainly in continuing to establish public confidence in the process. The mechanism in the bill would be an effective way of addressing inaccuracies.

Claire Baker: Do you have experience of any problems under the current system?

Douglas Cairns: There was a dispute recently about the walking distance between home and school, but that was easily checked out by someone walking the route with a pedometer to measure it. Our colleagues sometimes get involved in the detail, not by measuring something in that way but by, for example, driving the routes to a school and getting a feel for an area so that they have a better understanding of the proposals. In that way, it becomes something real rather than simply a desk exercise.

Annette Bruton: That is another reason why it is helpful to involve the local district inspector. They know the context and are immediately alert to anything—based on what they already know about the local authority or area—that just does not seem right. If we had a doubt, we could, as we have done in the past, ask a council to check the accuracy of an aspect of their proposal. We consider that we have a part to play in that mechanism.

Claire Baker: In your experience, in most of the cases in which questions of accuracy have arisen, has the solution been based on fact? Has it been easy to indicate where the problem is and to resolve it? One issue that has been raised is whether parents, who tend to be the group that raises problems about accuracy, have enough information to challenge the information that the local authority has provided. I appreciate that, if agreement is not reached, the fact that there has been some kind of dispute will be published in the final report. In your experience, have the inaccuracies been fairly straightforward and easy to correct?

Douglas Cairns: Yes. To return to the broader aspect, information about future rolls and populations is slightly outside the scientific area: it strays into the area of predictions. In my experience, councils and council planners do their best to be accurate and fair when they estimate things such as population and school rolls. It is in their interest to do so.

Annette Bruton: In our experience, the dispute is more often about different stakeholder groups holding different beliefs or values. Under the current system, we already flag up cases in which

we believe there are inaccuracies or factual information that needs to be checked.

With regard to your point about parents needing more information on which to base their views, we agree that it is better if more information can be provided to parents so that they can form a view. We would always take the view that the more good-quality information parents are provided with, the better the consultation process will be.

When we have been asked in the past to give advice on how effective a consultation process has been, we have not confined ourselves to saying whether it was carried out in the correct manner. We have talked about the quality of information that is provided to, and the communication with, parents and other stakeholders.

Elizabeth Smith (Mid Scotland and Fife) (Con): Good morning. In the evidence that the committee has received so far, there has been—you will be pleased to know—a very high regard for the work of HMIE, and the consultation process has generally been viewed as very successful.

Picking up on your point about the educational benefit, is it easy to measure that without paying much regard to the other factors, so that you can retain an independence of approach to that particular factor?

Annette Bruton: The educational benefits statement is quite wide, so we already take account of a wide range of factors within it. Of course, education for children and young people is an holistic matter, and it is not that straightforward to determine what should be put in and what should be left out.

Using the inspectorate's professional judgment is a way of trying to get an independent view of what really counts in each case. Our principal interest as an organisation is the education, welfare and care of children, and we already take account of a wide range of factors in that.

Elizabeth Smith: Do you envisage any conflict between educational benefit and other factors in areas—such as remote rural areas—where the latter are just as important as the educational factors and tend to be given a greater emphasis? Would it cause you any problems or concerns if you were under pressure to maintain the feasibility of a local area or community?

Annette Bruton: Those are difficult matters. If they were straightforward, they would not be as highly contested as they currently are. The educational benefit must take account of the after-school facilities that are available to the children, the school's ethos and values, and the links with the local community. HMIE's remit extends to examining community learning, development and

capacity building, so we have a professional interest in the way in which the wider community uses a school building. We certainly consider all that to be part of the educational benefit for children.

Elizabeth Smith: Would HMIE's existing resources be sufficient to consider those wider implications as well?

Annette Bruton: I believe so. In fact, on a number of occasions under the current arrangements, we have asked the community learning and development inspector who links with the relevant local authority to give advice to the inspector who is writing the report. Particularly where the school is central to the life of the community, we are sensitive to that and pull in as much professional advice as we possibly can.

Douglas Cairns might want to add something.

Douglas Cairns: No, I have nothing to add; I simply agree.

Elizabeth Smith: Given that HMIE is an executive adviser to the Government, some people have questioned whether it should take a quasi-independent look at a school situation and report to ministers. Is that a valid concern?

Annette Bruton: We do not think that there is a conflict of interest for us. We are set up to be an independent agency and, as I said a moment ago, our principal concern is for the education of children, young people and adult learners. If we are advocating for anyone, it is for all those learners. We carry out school inspections independently of our relationships with the council and ministers, and we have a good track record of demonstrating our independence in educational matters.

Elizabeth Smith: The bill would change the current call-in process. Would you have any concerns about HMIE's involvement, in effect at two stages?

Annette Bruton: No, I would not. It would be possible for us to ensure that we gave good advice that helped the public and council to come to a final proposal and, if necessary, gave advice to the Scottish ministers later if asked for that. We would ensure that we had internal protocols so that different people played the two roles but, even if the same person was involved, I would feel confident that we could provide such advice. It is very much part of our organisation's day-to-day operation.

Elizabeth Smith: The convener asked earlier about public meetings. Would you ensure in all possible circumstances that somebody was at a public meeting to take soundings?

Annette Bruton: We would certainly think it desirable to do so. In a recent case, a brand new school was being built in the playing park of the existing school and the existing school was to be made into the new playing park. The public welcomed that new school, as they had been asking for it for years. If, in such a case, it would cost several hundreds of pounds to fly an inspector to an evening meeting, we would have to consider the public pound. District inspectors have an intelligence network for picking up public feeling, but we would never prejudge what was going to come up. I reinforce the point that we would want to be at most public meetings but there would be circumstances in which our attendance would not be a good use of the public purse.

10:30

Aileen Campbell: Section 11 stipulates that there will be a three-week period between the education authority publishing its consultation report and implementing any proposals. Do you think that that is adequate?

Annette Bruton: Yes. I return to the point that I made earlier: the people who will be carrying out the work will not do it from a standing start, but will know a great deal about what is coming up. The district inspector will always see local committee papers and will know months in advance that a proposal is coming up. Therefore, the point at which the initial consultation takes place is when our inspectors would visit the school and meet parents and the community. All that would happen in the lead up to the point of finishing the first consultation and the public meeting. We would have to ensure that there was time during the three weeks for inspectors to pull together what they already knew. Our business would not start from the point at which we were sent the consultation papers or report, or from when we went to the consultation meeting. The period that has been set out is long enough.

In exceptional circumstances, such as if the person who was carrying out the work had to go into hospital or could not do the work for some other reason, we would probably negotiate a longer period with the council, as is provided for in the bill. However, that would be the exception rather than the rule.

Aileen Campbell: We have heard from the Association of Directors of Education in Scotland and the Scottish rural schools network that they see the three weeks as being a period in which to make further representations. Although the bill does not say explicitly that that is what it is for, the bill team indicated that it would allow people to see the consultation report and contact elected

members about the decision. What is your opinion on how other bodies view the three-week period?

Annette Bruton: We certainly picked up that people would want to use that period to make further representations. We would want to see any copies of correspondence or reports of oral evidence during that period in order to help us to make up our mind about our report. We will have to send in our report at some stage, at which point we will not be able to take account of any further correspondence or oral discussions. The implication for us is that we should end-load the process of finalising the report and sending it to the council during that period, in order to allow for further consultation, as appropriate.

Aileen Campbell: So, you are quite content with the time period, provided that you can get access to additional—

Annette Bruton: Yes—provided that we have time. The guidance sets out that any additional correspondence, consultation or representation should be copied to HMIE. The provision that allows us to negotiate a longer timescale with the council could be used in circumstances in which there is great public interest in bringing forward information or views. However, as a working rule of thumb, three weeks should be fine for us.

Kenneth Gibson (Cunninghame North) (SNP): Sections 12 to 14 of the bill require education authorities to have special regard to three factors before proceeding with closure of a rural school: whether a “viable alternative” is available,

“the likely effect on the ... community”

and “the likely effect” of “different travel arrangements” to an alternative school. ADES says that it is right that the bill requires consideration of those factors with regard to rural schools, because there might be no viable alternative to a school remaining open in the case of a small island, for example. However, other witnesses, such as the National Association for Small Schools, Professor Neil Kay, SRSN and the Association of Scottish Community Councils, have said that such factors should also apply to urban schools. What is HMIE’s view?

Annette Bruton: We expect that in rural schools we would have to pay particular attention to those factors in making our report. However, they are factors that we would take account of in our advice on any school. Currently, if a school is amalgamating with another school, or is closing and being rebuilt a considerable distance from the existing school, HMIE would address those factors in our advice to Scottish ministers. I anticipate that in the future that will continue for all schools, as part of our normal advice.

Kenneth Gibson: Do you believe that there should be no differentiation between the approaches that are taken?

Annette Bruton: We would not comment on that, because it is a policy matter.

Kenneth Gibson: I had hoped that you would, but never mind.

The Convener: It was worth a try.

Kenneth Gibson: Last week, Comhairle nan Eilean Siar said that the impact of school closures on the community is being given priority over education. Its submission stated that that could, “In practice”, mean that pupils could

“be retained in an educationally detrimental situation, because of factors not relevant to their education.”

Is there any evidence for that? For example, is there evidence that people who are educated in small schools have worse attainment levels than children from larger schools and that their all-round development is worse? A number of people have said that that is the case, but we have received no evidence to support that view, which seems to be subjective rather than objective. I am interested in your expertise in that field.

Annette Bruton: It is quite difficult to do anything other than consider individual children on a case-by-case basis because of the small numbers that are involved. However, we have done a bit of analysis of how well small schools perform against HMIE indicators compared with larger schools. Douglas Cairns can give a breakdown of our findings.

Douglas Cairns: I can provide copies of our report to the committee.

There will be some figures flying about, for which I apologise. We considered a number of remote rural schools and accessible rural schools with rolls of 30 or fewer. It is important to reiterate what my colleague has just said: we must be careful when we consider overall attainment and achievement in such schools. However, we form an overview of the quality of education in schools through deciding about on-going engagement. There are three broad categories of school. The top category is very good schools, from which we disengage—we say that we will make no further visits to them. The category at the other end is schools that have important or major weaknesses, and from which we cannot disengage. We continue to inspect them and carry out follow-through inspections. The middle category is good schools, most of which we do not revisit.

Since 2003, we have identified 221 schools in the remote rural and accessible rural categories and have inspected 134, or about 60 per cent, which is a large sample. We considered the follow-

through decisions that were made about those schools compared with a national average that was established from 2005 to 2008. The timescales are therefore slightly different. The overall conclusion was that the proportion of small rural schools that fall into the weak category is almost exactly the same—around a fifth—as the national average. A slightly greater proportion—by around 7 per cent—than the national average, or around a third compared with a quarter, fall into the very good category. Roughly half the schools—46 per cent of small rural schools and 54 per cent of schools nationally—fall into the middle category. Therefore, there are slight differences at the top end but, by and large, the spectrum of quality across small rural primary schools seems to be much the same as the national average.

Kenneth Gibson: So, you believe that the size of the school makes no real difference to educational outcomes. Other issues, such as children being unable to participate in team games and other social interactions have, of course, been raised. Do you have any evidence that such things have any detrimental effect on children becoming rounded individuals or on their wider educational attainment levels?

Douglas Cairns: There is quite a wide-ranging definition of the quality of education. The personal and social development of individual learners is, of course, included in that. We would not claim that small and large schools follow a pattern, but we definitely take that development into account in every individual case.

We find that some small rural schools are doing remarkably well in providing a broad range of activities—they can be innovative and ingenious in overcoming hurdles. We sometimes find schools where that is not the case, and where a receiving school would provide better personal and social development. It is a case-by-case issue, rather than there being an overall pattern.

Kenneth Gibson: Do you find that small schools are more, less or equally likely to share experiences with similar schools? Do they interact more closely with other smaller schools? Do they follow broadly the same pattern as larger schools?

Douglas Cairns: That is a good question, and it relates to my previous answer. The small remote and rural schools that overcome the hurdles do so thanks to really good partnerships with other small rural schools, and also with larger schools. As for whether there is a pattern, we could not say that that is the case for all small rural schools. It depends on the individual case.

Kenneth Gibson: So there is no evidence that the size of a school—that of small rural schools, in particular—has any detrimental effect on education.

Douglas Cairns: We do not have any evidence to suggest that that is a pattern.

Ken Macintosh (Eastwood) (Lab): I believe that, under the previous system for the referral to ministers of closures, ministers normally asked HMIE for its advice. Under the new proposals for a call-in, what exactly would the role of HMIE be?

Annette Bruton: That is a subject on which the guidance notes are not full. We have yet to determine what the protocol would be. It would be our expectation that ministers would ask us for our professional advice on some or all aspects of the call-in, much as they do now with referrals.

Ken Macintosh: At the earlier stage, when you are involved in the consultation, you will comment on the educational benefits or otherwise of the closure. When a case is called in, do you also comment on the educational benefits? It strikes me that the proposal to call in a closure is modelled on planning procedure, which does not really question the local decision, but questions the process and considers whether it is found to be wanting.

Annette Bruton: With regard to the call-in proposal, I anticipate that ministers will decide case by case what advice, if any, they want from HMIE about a particular call-in, and they will ask for it. As Ken Macintosh suggests, if it is a matter of whether or not the protocol has been followed, ministers might not need advice from HMIE.

Ken Macintosh: The situation is a bit unclear at the moment. You will already have given educational advice early on in the process. Can you envisage circumstances in which you are asked for your educational advice and you advise that the school in question is very well run and should be kept open, but the local authority disagrees and you then change your advice—given that you are being asked to advise according to a different set of criteria?

Annette Bruton: I cannot imagine our changing our advice somehow, unless significantly new or different factors were brought into play at the point of the call-in.

Ken Macintosh: It is difficult to know what your role is going to be without knowing exactly what you are going to be asked to do.

I will give an example. In previous evidence, the Scottish Parent Teacher Council suggested that when Western Isles Council proposed to close some of its two-stage secondary schools, that was praised by HMIE, because it meant that excess capacity in the Western Isles was being reduced. However, when the individual proposals were made, HMIE ruled against them, on the ground that they were of no educational benefit.

Annette Bruton: That was a very particular case. Under the local authority inspection, which we carried out jointly with Audit Scotland, we were following up on an issue in which—in our view—the local authority had not, some years earlier, taken sufficient account of the excess capacity. The council needed to address the matter of the state of the estate, of its excess capacity and of the rebuilding of aspects of the estate. In the follow-through report, we praised the fact that the local authority's elected members and officers had taken account of the issue and were making plans to address it.

10:45

At the point of writing the report, the plans were not detailed. At that time, we could see that the local authority was at the point of tackling an issue that had been unresolved for a number of years. It was that aspect that we praised. In that report, we were not asked—nor were we able—to look at the detail of the plans. Subsequently, we were asked about three Western Isles schools under referral to ministers. In 2008, we said that there was educational benefit in discontinuing secondary 1 and S2 in one school and moving the children to the local high school. In that case, the local authority decided to defer the decision.

We looked at proposals to discontinue S1 and S2 in the two other schools. The new school plans were unavailable at the time because there was no set date for the new school build. We therefore saw no educational advantage, at that point in time, to move the children to the existing high school. We said that without prejudice to looking again at the plans.

If the circumstances were to change—for example, if the new plans were to become available and we could see the build under which the curriculum for excellence plans were being taken forward—we would want to review the situation. In such cases, our advice to ministers is that at this time, we see no educational advantage. I hope that clarifies the matter. Those are examples of circumstances where things change over time and we would want to be asked to reconsider the new—current—situation.

Ken Macintosh: I agree. That example shows the complexity of such cases.

Concerns have been raised about the role of HMIE and whether it can fulfil the same role—or an impartial or uncompromised role—early and late on in the process. You said that you could not see your advice changing just before you went on to give an example of how circumstances can change.

Annette Bruton: I think I said that I could not see our advice changing unless the circumstances were to change—if

“new ... factors were brought into play.”

For example, a proposal to build a new school is an entirely different thing to actual plans and a date for a school opening. HMIE would be unable to give advice in one circumstance, but could in the other.

Ken Macintosh: Okay.

Last week or the week before last, we heard evidence from the Scottish rural schools network. In response to a question on HMIE reports and their educational benefits, the suggestion was made—perhaps anecdotally—that a very good HMIE report is almost a death wish for a school. We were given a list of rural schools that had had very good HMIE reports but had been closed, while a couple of schools were mentioned that had been given very poor reports, but had been saved from closure. Will you comment on that evidence?

Annette Bruton: There is certainly not a link in my mind. Before we would be able to answer the question, we would need to see which schools were given good reports and were subsequently closed. It is an interesting proposition, but it may not be based on a full analysis. I think that there is no link between a school getting a good HMIE report and being closed.

Ken Macintosh: I was not being facetious; I simply wanted to highlight the interesting remark that was made. It is very worrying if a very good school, which delivers a very good education and gets a very good HMIE report, can have that ignored if other factors outweigh all that. If HMIE judges a school to be performing very well, is it right that it should be proposed for closure? What weight would you give your report in that situation?

Annette Bruton: The new proposals in the bill will help to put HMIE advice more centrally in the public domain. Many parents are aware of HMIE reports, but do not have independent HMIE advice beyond the report on a proposal, either for closure, amalgamation or site change, when the consultation is under way. In current consultations, parents often cite HMIE reports. The evidence on that is variable across different processes, however.

I believe that our being able to give some independent advice in the consultation process would help parents, children and other stakeholders in all cases, but especially in cases where the school has been judged to be very effective.

Ken Macintosh: Quite strong evidence has been presented to the committee to demonstrate that rural schools provide a very good education.

In fact, it has been suggested that, on the whole, they provide a better education than larger schools in terms of attainment, adaptability of pupils, and a range of other factors.

We have also heard a lot of evidence—what might be called anecdotal or off-the-cuff evidence—to suggest that some schools, when they get too small, are bad for children. Such schools do not offer the big social experience. So far, that view has not been supported by empirical evidence or by reports, and there have been no studies of long-term effects. Does HMIE have a view on whether small schools are educationally better than larger schools?

Annette Bruton: We believe that the proportion of small schools that are high-performing is slightly better than the national average, although the difference is quite small. Our inspection evidence tells us that the proportion of small schools that are underperforming is the same as the national average.

As for attainment in individual children, it is a very difficult task to sort out all the factors, such as home and community, that can influence a child. If you compare very small schools with very large schools, you are not comparing like with like. Extensive research has not been done in Scotland that would allow you to say whether children are likely to do better if they are sent to a small school. Family choices, life choices and community factors all come into play. However, the quality of the schooling is roughly the same.

The Convener: I will ask a final question on the financial memorandum. The committee has received conflicting evidence on the memorandum. The Convention of Scottish Local Authorities and some local authorities are quite content with it, but at our committee meeting last week, Aberdeenshire Council expressed concerns that the figure in the financial memorandum may be insufficient to cover the full costs of the bill. Does HMIE have a view on the memorandum?

Annette Bruton: We can comment only on the part of the memorandum that refers to HM Inspectorate of Education, because that is the part on which we have undertaken some study. We believe that the figures in the financial memorandum would give us the capacity to carry out the work. I cannot comment on what would be involved for the wider work of local authorities.

There is one other point that I should perhaps have made at the beginning of the meeting. There are typing errors in our written submission. On the two occasions where we have mentioned “special educational needs”, it should have been “additional support needs”. I want to clarify that, in case this is the only chance I get to set the record straight.

The Convener: Thank you for that clarification, and thank you for your attendance today.

10:53

Meeting suspended.

11:00

On resuming—

The Convener: I reconvene this meeting of the Education, Lifelong Learning and Culture Committee.

David Drever (Educational Institute of Scotland): Could you speak up, please? I cannot hear you.

The Convener: We continue our consideration of the Schools (Consultation) (Scotland) Bill. I am delighted to be able to welcome representatives of the Educational Institute of Scotland. We have been joined by David Drever, the president of the EIS, and Ken Wimbor, the assistant secretary. Thank you for your attendance this morning. I am sure that, having diligently sat through the previous session, you have a good idea of the questions that you will be asked.

As you will be aware, the bill requires local authorities to prepare educational benefits statements. There has been discussion about whether such statements should have the support of statutory guidance. Does the EIS have a view on the issue?

David Drever: Thank you for giving us the opportunity to give evidence to the committee. It is always nice to speak after HMIE has been in. However, we will try not to let what we have to say be coloured by the evidence that it has given.

We welcome the preparation of educational benefits statements, which is an important way of allowing balanced and informed decisions to be reached on proposals for school closure, which are often difficult and contentious. We see such statements as a key aspect of the consultation process. We work on the basis that making the maximum information available to all stakeholders will enable decisions to be made in cases that are not easy to decide at any time.

The Convener: The EIS believes that the maximum information should be provided. Does it agree with the bill team that matters such as cost benefit analysis, transportation costs and wider issues should be included in the proposal, rather than in the educational benefits statement, or with others who have given evidence to the committee that those issues should be included in the educational benefits statement?

David Drever: I am hearing only bits of what you are saying, convener, but I will try to answer your question. You can come back to me on any points that I miss; if I do, it will not be deliberate.

The way in which you posed the question characterises the situation correctly. Decisions will be based on a range of issues. At the heart of any decision that needs to be made is the educational case. Other issues such as travel distances for youngsters, pupil population projections, rural sustainability and development, urban sustainability and regeneration, and unique local factors must also be considered. Financial factors are part of the debate, but cost benefit analysis will be contested at any time. There are also political considerations. It comes as no surprise that school closures—whether rural, as in the Western Isles, or urban, as in Glasgow—become political footballs and are subject to political divisions. How cost benefit analysis is carried out would be a contested issue.

The Convener: Despite not having heard the question in its entirety, you did not a bad job in answering it and covering all the points.

Aileen Campbell: You may have heard me ask about schedule 2 and the extension of the list of consultees. What are the EIS's views on that? In particular, what is your view on how best to engage with pupils on the potential closure of a school?

David Drever: How to engage with pupils, did you say?

Aileen Campbell: Yes, because they are part of the extended list of consultees. I am looking for your views on the extension of the list and how best to engage with pupils on any school closures.

David Drever: We have generally welcomed the extension of the consultation process and the widening of the list of consultees. Our practical, daily experience of youngsters in schools, as pupils and students, would lead us to say that consultation with students and pupils would need to be carefully conducted, because they are a relatively vulnerable group. I say that not to deny them their democratic, participatory rights, but with the realisation that the information that is provided to them and the way in which they are engaged in the consultation process would need to be thought out carefully. Clearly, we would need to think about the different age groups of youngsters in the consultation process and how the process could be managed to allow young people to express their views on the complex issues of the question, while protecting their vulnerabilities.

Christina McKelvie: We are moving on apace this morning. On the length of the consultation period, you will have heard the earlier question on the six-week consultation that includes 30 days of

term time. I note from your written evidence that you support the 30-days proposal. How did the EIS come to that conclusion? Do you think that the proposed consultation period is adequate?

Ken Wimbor (Educational Institute of Scotland): Yes; it is important that the consultation period is extended and that it is required to include at least part of a school term. There have been examples of what could be described as not good practice whereby the consultation period avoided school term dates, which meant that the consultation was not as full as it could have been. On that basis, we were in no doubt that the extension of the consultation period and its inclusion of a school term period was essential.

Christina McKelvie: Section 6 also has provisions on how to notify parents of a consultation. Does the EIS have a position on good practice in engaging parents and notifying them?

Ken Wimbor: You heard from HMIE earlier that there is a range of practices across the country in that regard. Clearly, it is about using what is most effective in the school and the local environment to get information from the local authority and the school to the home. To an extent, that is a matter for local decision making. However, it is certainly a matter of first identifying good practice and then employing it.

Christina McKelvie: Do you believe that such good practice should be incorporated in guidance?

Ken Wimbor: It might be helpful if there were some steer on how consultation communication should be done. It might not need to be specific, but it might be helpful if there were a steer in statutory guidance.

The Convener: Section 7 relates to the requirement for local authorities to hold public meetings on proposed school closures. We heard earlier from HMIE that it would like flexibility regarding whether it should attend public meetings when there was less contention about a local authority's proposals, but that it thinks that it would be beneficial for it to attend a public meeting on a proposed school closure or amalgamation. Does the EIS have a view on whether HMIE should be present at public meetings as an observer?

David Drever: Given that HMIE will be tasked with gathering information from all sources, it might well be relevant for it to be represented at such meetings. However, the role that HMIE will play is more contentious. In our written submission, we suggest several caveats in relation to HMIE's involvement in public meetings.

The Convener: Is it sufficient simply to require HMIE to be notified of a public meeting, or should

the bill be altered so that it is clear about HMIE's role in those meetings?

David Drever: We do not have a particularly strong view on that.

The Convener: Do you have a view on the role of staff in the public meetings? When a change is proposed, that is difficult for the children who are affected, their families and the wider community, but it is also a difficult time for teaching staff, particularly the head of the school. Should staff have a role at the public meetings or should they have no role and no requirement to be present?

David Drever: If the aim of the public meeting is to inform the public about the situation and the proposed plans and to take the public's views, it is important that the staff view is heard. We feel that staff should be consulted and should be able to attend the public meeting.

The Convener: Would you expect there to be a separate meeting for staff, in addition to staff being able to give their views on the proposals at the public meeting?

David Drever: We think that both should happen.

The Convener: That is quite a change. Normally, in those circumstances, the staff would not give personal views, as that might place them in a difficult position.

David Drever: I understand that. It would not be valuable or constructive to have staff attending to give their personal views, but the experience is that people at a public meeting would want to know what the staff's feelings were. Staff members who were at the public meeting would be representing the staff, not coming along with personal axes to grind. The staff would probably have come to a view on the proposals—or they would have had an opportunity to do so—and they might have been consulted. That is the view that would be made available at the public meeting.

Claire Baker: I asked earlier about section 5, which sets out how inaccuracies in the proposal paper are to be dealt with. What are your views on that provision? The convener raised issues to do with staff, which I want to focus on. What position will staff be placed in as a result of the provision on addressing inaccuracies? As we have heard, the list of consultees has been extended to include staff. At last week's meeting, concerns were expressed about the expectations that parents might have of teaching staff, particularly in relation to challenging inaccuracies. The convener referred to the expectations on staff at public meetings, and those will be particularly high when parents and the local authority disagree over the best way in which to proceed. How might the provisions

impact on staff? What support or guidance would be given to staff during the process?

Ken Wimbor: To answer the first part of your question, we support the facility to allow for the correction of errors in the process. That is important and we echo what has been said on that previously.

The staff's attitude will be an important consideration in the consultation process. As you say, they have been included in the list of consultees. However, that is not to say that staff would, for example, dominate the public meeting. The views of staff are simply one element in the equation in the overall consultation process, although any conditions-of-service issues would need to be taken account of in parallel with that. We think that staff should have a role in that context rather than in the single public meeting that will be required under the bill.

11:15

Claire Baker: Although staff are employees of the local authority, they might still be subject to expectation and pressure from parents during the decision-making process. What is the role of staff within that? I have concerns that they might be subject to conflicting pressures. Do you feel that staff are confident enough to put forward their views?

Ken Wimbor: You are right that staff might be subject to conflicting pressures. Bearing in mind that we are talking about a relatively early stage of the consultation process, we should remember that the views of staff on the closure proposal might not be homogeneous or fully developed. Other issues about the school and about the provision of education in surrounding schools might need to be considered. On that basis, I think that the role of staff cannot be cast too wide, because their role will vary according to local circumstance and according to the kind of consultation in which they have been involved at an earlier stage.

Elizabeth Smith: The written submission from the EIS mentions two principal concerns about the role of HMIE. The first is that HMIE might be a bit too involved in the process. The second is that HMIE might have a conflict of interest. Can you expand on the detail of those concerns?

David Drever: On the issue of HMIE's involvement, I think that it was perhaps apparent from the responses earlier this morning that HMIE sees a limit to the extent to which it can contribute. Obviously, we welcome the fact that HMIE will be required to report on the educational aspects of proposals, but our concern is about defining that in a way that limits HMIE's involvement to the relevant areas. For example, the cost benefit

analysis might be an important aspect of the considerations, but we do not think that HMIE should have a locus in that. The need to define “educational aspects” in a way that sets those parameters is an issue for further scrutiny and firming up to ensure that the educational factors do not spill over into other factors that are not educational. We need to define “educational aspects” in a way that limits the possibility of overspill into other areas in which we think it would be inappropriate for HMIE to be involved.

Elizabeth Smith: I will return in a minute to the second concern, which is a slightly different issue, but let me first pursue that point about HMIE’s involvement. We have an interesting dilemma, in that HMIE said this morning that it feels very competent to comment on educational aspects but not on other factors, yet it has also been said that it is difficult to separate those issues. Do “educational aspects” perhaps need to be defined in the bill?

David Drever: We would like that to happen. Difficult though it might be, a definition needs to be teased out and worked on. Educational aspects need to be set out within pretty clear parameters.

Elizabeth Smith: The second criticism was about a possible conflict of interest on the part of HMIE, which is responsible to Government ministers and might therefore be unable to act totally independently. Can you expand a little on that concern?

David Drever: Well, to repeat the phrase that you used, we feel that there could be a potential conflict of interests. If HMIE is to give advice to ministers in the first instance—it looks like HMIE will have a fairly large role in information gathering and report writing in the early part of the process—we think that it might well be inappropriate for HMIE to be involved in the call-in procedure at a later stage. We think that there is an area there in which there might well be a conflict of interest between its early role and its later role.

Elizabeth Smith: Would you restrict that role? Do you feel that HMIE is involved in too many parts of the proposed process?

David Drever: The logic would be that there would need to be a restriction somewhere, to avoid that happening.

Elizabeth Smith: Do you have any suggestions about where that restriction should be?

David Drever: In the later stages, probably.

Ken Wimbor: Earlier, you heard that the bill is a little bit silent on the role of HMIE in the call-in process. It might be helpful if that could be clarified, either in statutory guidance or elsewhere.

Aileen Campbell: On section 11 of the bill, your submission states that the EIS fully supports the

“production of a formal consultation report, following the conclusion of the consultation period, and the requirement to circulate the consultation report to all interested parties and to introduce time for further consideration.”

Are you content with that period for further consideration being three weeks, as is proposed?

Ken Wimbor: The people who were involved in producing the original response to the consultation and that submission were supportive of that period of time.

Aileen Campbell: ADES and SRSN have told us that they would like those three weeks to be used as a time in which further representations could be made. It is not explicit in the bill that that is what that period is for. What do you think those three weeks should be used for?

Ken Wimbor: Are you referring to the period after the publication of the consultation report?

Aileen Campbell: Yes.

Ken Wimbor: It is important for everyone who is involved in the consultation process to be able to respond further once they have seen the consultation report. From a staff perspective and that of the wider group that will be part of the consultation process, we felt that that facility was important, and we welcomed its inclusion.

Kenneth Gibson: Sections 12 to 14 of the bill require education authorities to have “special regard” to three factors before proceeding to propose the closure of a rural school: “viable alternatives”; community impact; and travel arrangements. However, the EIS submission says that it would be “invidious” that authorities that have rural and non-rural schools would be required to take two different approaches to school closures.

Do you believe that there is any case for taking a different approach to rural schools or do you think that a common approach should always be taken?

David Drever: We believe that the factors that affect rural schools are important and we do not deny any of them. We advocate an approach that involves considering cases on a school-by-school basis. There are times when factors that affect only rural schools will be taken into account if such an approach is taken. However, we do not believe that there should be a separation between how rural schools are treated and how urban and non-rural schools are treated. Indeed, we think that the issues that are likely to concern rural schools are similar to, if different from, the issues that affect urban schools.

Ken Wimbor: With regard to the recent programme of school closures in Glasgow, although the specific concerns in those cases might have been different to those that might arise in rural areas, the overall issues around travel and community viability were similar. That emphasises the point that David Drever was making. Although there are different aspects, the factors that are included in the bill could apply across the country.

Kenneth Gibson: That is an important point. A lot of the factors that you mentioned were at the forefront of the arguments that were being made in Glasgow.

What does the EIS feel about the overall educational experience that children have in small schools? To an extent, those are the schools that the bill is most concerned with.

David Drever: We would not set one type of school against another. Because of the nature of Scotland's geography, we have schools of every size. I teach in Orkney, where we have some exceedingly small rural schools as well as some fairly large schools. The data that you got from HMIE this morning were interesting, as they tell us nothing decisive about the quality of education in different sorts of schools. Schools are various sizes for various reasons. The issues that are outlined in our submission and in the proposals are to do with the educational viability of the school. Some of the factors that Ken Wimbor just mentioned are important in that regard.

Kenneth Gibson: Basically, you take the view that the size of the school is not the determining factor in terms of educational attainment or the educational experience of the children or the overall outcome that the school generates, and that other factors are more important. Is that correct?

David Drever: In general, we would say that that would be the case.

Kenneth Gibson: You say, "in general" as if there is a caveat somewhere. Could you expand on that?

David Drever: It might be that the educational viability of a school is threatened by the fact that its school roll is falling, for example. The situations that we are discussing are complex. It is important that each case is considered on a school-by-school basis. I do not want to say unequivocally that we would take the view that you outlined, because there will be situations in which a small rural school might become educationally unviable.

Kenneth Gibson: How would you define "educationally unviable"? What would be the determinants of that? Would it be a school having only one teacher and two pupils, the fact that the school cannot attract a teacher, problems with the

fabric of the school or something else? The school might be on a wee island, and the nearest alternative school might be 20 miles away. Could you pin down what an educationally unviable school might look like?

David Drever: I can understand why you want to pin that down, but I will resist the temptation to do that. In doing so, I am not avoiding the question; I am dealing with the fact that, in every case, there will be a coming together of a range of factors that reach a critical point, and those factors will be different in every case.

Kenneth Gibson: You can understand that I am trying to grapple with the ultimate educational criteria in rural schools—or, indeed, any schools, but the section that we are discussing focuses on rural schools. There will always be issues to do with travel arrangements, viable alternatives and community impact but, ultimately, the educational criteria are what make the difference.

David Drever: Educational viability means the quality of educational provision that is able to be sustained. I am sorry that that is such a general term.

Kenneth Gibson: Okay, I do not want to try to tease it out any further, unless Mr Wimbor has anything to add.

Ken Wimbor: Like David Drever, I will resist the temptation. There are many important criteria. We would place the educational aspects at the top of our list, but we fully accept that there are others.

Kenneth Gibson: We have heard that many small rural schools, many urban schools and many schools that are in communities that are halfway between the two perform well. However, according to HMIE, a stubborn one fifth of schools do not. In educational terms, can you pin down why that might be? That might be the \$64,000 question, but are there common factors in those schools?

11:30

Ken Wimbor: I must resist the temptation to enter into that wide debate, which would take us beyond the issues that we are considering in relation to closure.

Kenneth Gibson: Sure—I understand that. Perhaps the question was unfair.

Aileen Campbell: I have brief supplementary questions to follow Kenny Gibson's points. Do you have any information on how your members feel that they achieve fulfilment in teaching in small rural schools rather than larger schools? Does the union note that?

David Drever: I am not sure how easy the question is to answer. Are you asking how

rewarding our members find teaching in rural schools to be?

Aileen Campbell: Yes. I am curious to find out whether the views of teachers in rural schools differ from those of their colleagues in larger schools. Do you collect information on that or have anecdotal evidence?

David Drever: The answer is probably that teachers in different types of school find teaching equally rewarding, but for different reasons. The rewards and challenges of working in a very small school differ from those in larger schools. In the broadest sense, the resources that are required of teachers are different. Teaching in small schools is challenging but rewarding.

It is interesting that many more applications are often made for posts in small rural schools than for posts in schools in towns and cities. That might reflect an attraction of small rural schools, which are challenging but rewarding to teach in.

Aileen Campbell: Does the number of teachers who apply for a post at a rural school or who have applied in the past affect your opinion on that school's viability?

David Drever: I am not sure what the answer is. I know that a concern of a number of authorities is that they have difficulty in recruiting promoted staff to rural schools.

Murdo Fraser (Mid Scotland and Fife) (Con): You say that many staff are attracted to working in rural schools, but are teachers in small rural schools isolated? Do they lack interaction with their peer group? Have you identified that as a problem?

David Drever: The answer to that lies in the quality of leadership in a school and in a local authority. The task of school leaders and authorities is to ensure that, wherever staff teach, they do not feel isolated. That can be achieved in a range of ways nowadays. As the committee heard from HMIE, many rural schools work hard at twinning with other schools and make much of that. That shows that those schools see the value in that. Staff are alert to the issue, but it also relates to how schools are led and managed.

Murdo Fraser: I will ask about the socialisation of pupils. Two weeks ago, we heard conflicting evidence about the pupil experience in small rural schools. Some suggested that pupils in a very small group did not have a proper opportunity for socialisation, whereas others suggested that that was not the case and that there was no evidence that socialisation was a problem. Does the EIS have a view on that?

David Drever: We tend not to take a view on the issue, but we probably accord with the information that HMIE provided about the quality

of educational provision. HMIE talks about that in the broadest sense—it talks about achievement as well as attainment. Well-managed rural schools, including remote rural schools, can provide youngsters with the range of opportunity and experience, including social interaction.

Ken Macintosh: Earlier, I suggested that the new call-in procedure might be modelled on that for planning—in other words, it should be used where the process has broken down, instead of being an opportunity to overturn a properly made local decision. Is that your understanding of how call-in will work? Will it be an examination of whether the process was appropriately handled, rather than a rerun of the decision?

Ken Wimbor: As you said, generally the call-in procedure is restricted to planning issues. We have not had much experience of it in the kind of situation that we are discussing. It strikes us that, in a sense, the procedural aspects of call-in are a legal question. It is about whether the local authority has properly taken account of the content of the bill, once it is enacted, and has complied with all its requirements.

Section 17(2)(b), which states that Scottish ministers may issue a call-in notice where an authority has failed

“to take proper account of a material consideration relevant to its decision”,

is key. The provision may open up the process to consideration of slightly more general issues that are relevant to the authority's decision. It is different from section 17(2)(a), which clearly relates to process, and it may raise concerns about the political nature of the call-in procedure.

Ken Macintosh: On that note, would you welcome an explanation of what is meant by “a material consideration”?

Ken Wimbor: Yes. There is the possibility of misunderstanding of the criteria for a successful call-in request. Clarification of the issue would not be unhelpful.

Ken Macintosh: In your written submission and in reply to questions from Elizabeth Smith, you commented on the potential for HMIE's role to be compromised. Section 8 places a duty on HMIE

“to prepare a report on the educational aspects”

of a proposal early in the consultation and lists the factors that it should take into account. Should the factors that affect HMIE's role in the call-in procedure be exactly the same as those listed in section 8, or should they vary from that list? If so, what should the criteria be?

Ken Wimbor: If the first part of the call-in procedure relates to process, the role of HMIE cannot be restricted, as it is difficult for HMIE to

give ministers advice in relation to compliance with the bill. It is not good enough simply to transfer the provisions of section 8 to the call-in stage—that would not work.

Ken Macintosh: I was intrigued to hear you say that the second stage, which relates to HMIE's advice to ministers, rather than its role early in the consultation process, should be changed. Why is that the case? One of HMIE's key purposes is to advise ministers. Who would advise ministers on call-in, if not HMIE?

Ken Wimbor: Precisely. The criteria for call-in in section 17(2) relate partly to matters that are clearly relevant to the work of HMIE; it is section 17(2)(a) that creates the problem. I agree with David Drever that further advice and guidance on the role of HMIE in the call-in process may be required.

The Convener: My final question relates to the financial memorandum. The committee has received differing views on whether sufficient money has been identified to pay for the implementation of the bill. Does the union have a view on the financial memorandum? Are you content with the costs that it gives and that local authorities will have sufficient funds to implement the bill?

Ken Wimbor: We do not have a view one way or the other on whether the financial memorandum adequately covers the implementation of the bill's provisions. It would not be fair for me to speculate, as the EIS has not taken a view on the issue.

The Convener: Thank you for your attendance at today's meeting and for answering our questions. When preparing our stage 1 report, we will reflect on the evidence that you have given, along with that of all the others who have given evidence to us on these matters.

The meeting will be suspended briefly, to allow our witnesses to leave.

11:40

Meeting suspended.

11:42

On resuming—

Subordinate Legislation

Period to Prepare and Adoption Allowances Scheme (Scotland) Order 2009 (SSI 2009/168)

The Convener: Item 2 is consideration of a negative Scottish statutory instrument relating to the implementation of the Adoption and Children Act (Scotland) 2007. It is one of a series of SSIs relating to the 2007 act that will come to the committee over the coming months. Committee members will be aware that no motion to annul the order has been lodged.

The Subordinate Legislation Committee considered the order at its meeting of 19 May. Its report draws the Parliament's attention to two drafting points, which are set out in paragraph 8 of the committee paper. It is worth making the point that a drafting error has been made in the SSI. Given that we will receive a series of instruments relating to the 2007 act over the next few months, it would be helpful if parliamentary draftspeople and Scottish Government officials made greater efforts to ensure that the information that they supply is accurate.

Does the committee agree that it has no recommendation to make on the order?

Members *indicated agreement.*

Petition

Autism Spectrum Disorder (PE1213)

11:44

The Convener: Item 3 is consideration of a petition. Now that the Education (Additional Support for Learning) (Scotland) Bill has been passed, petition PE1213 has been brought back to the committee. Members will see that the clerks have prepared a paper in which it is recommended that the committee write to the Minister for Children and Early Years on the issue and that the letter be copied to the convener of the Equal Opportunities Committee, so that they are aware of the petitioner's concerns and can take the matter into account in their scrutiny work.

Ken Macintosh: I am happy for us to follow up on the petition by writing to the minister. Could we ask him in our letter not just to comment on the petition and on the position in relation to the ASL legislation, the Disability Discrimination Act 1995 and so on, but, specifically, whether the Government intends to review current assessment, diagnosis and appeal procedures for autism?

Aileen Campbell: Do we write to the petitioner at this point to let her know what we are doing, or do we wait until we get a reply?

The Convener: The petitioner will be notified of the action that we have taken, to keep them informed. Does the committee agree to write to the minister in the terms that are recommended in the paper, with the additional points that Mr Macintosh made, and to copy the letter to the Equal Opportunities Committee? We will notify the petitioner of our action and get back to them once the committee has considered any responses that it receives.

Members indicated agreement.

Meeting closed at 11:46.

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, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 9 June 2009

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

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.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by RR Donnelley and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's 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
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers