



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# EDUCATION AND CULTURE COMMITTEE

Tuesday 4 June 2013

Session 4

---

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - [www.scottish.parliament.uk](http://www.scottish.parliament.uk) or by contacting Public Information on 0131 348 5000

---

**Tuesday 4 June 2013**

**CONTENTS**

	<b>Col.</b>
<b>SUBORDINATE LEGISLATION.....</b>	<b>2587</b>
Children's Hearings (Scotland) Act 2011 (Compulsory Supervision Orders etc: Further Provision) Regulations 2013 (SSI 2013/149) .....	2587
Children's Hearings (Scotland) Act 2011 (Modification of Subordinate Legislation) Order 2013 (SSI 2013/147) .....	2587
Regulation of Care (Social Service Workers) (Scotland) Amendment Order 2013 (SSI 2013/141) .....	2587
Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013 [Draft] .....	2588
Children's Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013 [Draft] .....	2588
Secure Accommodation (Scotland) Regulations 2013 [Draft] .....	2588
Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 [Draft] .....	2588
Protection of Vulnerable Groups (Scotland) Act 2007 (Modification of Regulated Work with Children) (Children's Hearings) Order 2013 [Draft] .....	2588
Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2013 [Draft] .....	2588
<b>PETITIONS .....</b>	<b>2592</b>
Lesser-taught Languages and Cultures (University Teaching Funding) (PE1395) .....	2592
Proposed Children and Young People Bill (PE1440) .....	2595
<b>DECISION ON TAKING BUSINESS IN PRIVATE .....</b>	<b>2596</b>

---

**EDUCATION AND CULTURE COMMITTEE**

**18<sup>th</sup> Meeting 2013, Session 4**

**CONVENER**

\*Stewart Maxwell (West Scotland) (SNP)

**DEPUTY CONVENER**

\*Neil Findlay (Lothian) (Lab)

**COMMITTEE MEMBERS**

\*George Adam (Paisley) (SNP)

\*Clare Adamson (Central Scotland) (SNP)

\*Colin Beattie (Midlothian North and Musselburgh) (SNP)

\*Neil Bibby (West Scotland) (Lab)

\*Joan McAlpine (South Scotland) (SNP)

\*Liam McArthur (Orkney Islands) (LD)

Liz Smith (Mid Scotland and Fife) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Liz Blair (Scottish Government)

Aileen Campbell (Minister for Children and Young People)

Mary Scanlon (Highlands and Islands) (Con) (Committee Substitute)

**CLERK TO THE COMMITTEE**

Terry Shevlin

**LOCATION**

Committee Room 1



## Scottish Parliament

### Education and Culture Committee

*Tuesday 4 June 2013*

[The Convener opened the meeting at 10:02]

### Subordinate Legislation

#### **Children's Hearings (Scotland) Act 2011 (Compulsory Supervision Orders etc: Further Provision) Regulations 2013 (SSI 2013/149)**

**The Convener (Stewart Maxwell):** Good morning and welcome to the 18th meeting in 2013 of the Education and Culture Committee. I remind all present that all electronic devices should be switched off at all times. I welcome Mary Scanlon, who is substituting for Liz Smith. Good morning, Mary; it is good to see you here again.

The first item on the agenda is consideration of three Scottish statutory instruments that are subject to the negative procedure. The first instrument is SSI 2013/149. As members have no comments on the regulations, does the committee agree to make no recommendation on them to the Parliament?

**Members indicated agreement.**

#### **Children's Hearings (Scotland) Act 2011 (Modification of Subordinate Legislation) Order 2013 (SSI 2013/147)**

**The Convener:** The next instrument is SSI 2013/147. As members have no comments on the order, does the committee agree to make no recommendation on it to the Parliament?

**Members indicated agreement.**

#### **Regulation of Care (Social Service Workers) (Scotland) Amendment Order 2013 (SSI 2013/141)**

**The Convener:** The final instrument is SSI 2013/141. As members have no comments on the order, does the committee agree to make no recommendation on it to the Parliament?

**Members indicated agreement.**

**The Convener:** I will suspend the meeting briefly.

10:03

*Meeting suspended.*

10:05

*On resuming—*

#### **Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013 [Draft]**

#### **Children's Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013 [Draft]**

#### **Secure Accommodation (Scotland) Regulations 2013 [Draft]**

#### **Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 [Draft]**

#### **Protection of Vulnerable Groups (Scotland) Act 2007 (Modification of Regulated Work with Children) (Children's Hearings) Order 2013 [Draft]**

#### **Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2013 [Draft]**

**The Convener:** The next item is evidence on six related affirmative instruments. It provides an opportunity for members to ask questions of the minister and her officials or to seek clarification of any points on the instruments. The committee will then separately be invited to consider the motions to approve the instruments under agenda item 3, at which point officials are not allowed to participate.

I welcome to the committee Aileen Campbell, the Minister for Children and Young People; Tom McNamara, team leader, children's hearings team; Daniel Kleinberg, youth justice team leader; John McCutcheon, youth justice policy officer; Liz Blair, senior principal legal officer; and Graham McGlashan, principal legal officer. Our witnesses are all from the Scottish Government.

I invite the minister to make a brief opening statement about all the instruments.

**The Minister for Children and Young People (Aileen Campbell):** Thank you, convener. I will begin with the regulations concerning secure accommodation and movement restriction conditions.

The draft Secure Accommodation (Scotland) Regulations 2013 are concerned with the use of secure accommodation. In particular, they specify the circumstances in which children may be placed in secure accommodation and the

procedure to be followed if a relevant order or warrant does not include a secure accommodation authorisation. The regulations also make provision in relation to the detention in secure accommodation of children who are subject to orders made by sheriffs under section 44 of the Criminal Procedure (Scotland) Act 1995.

The draft Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013 make provision in relation to the decision-making process for the implementation of secure accommodation authorisations.

The draft Children's Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013 make provision in relation to the arrangements for monitoring compliance with a movement restriction condition included in a compulsory supervision order or interim compulsory supervision order.

The draft Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2013 is of a technical nature and makes two amendments to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013.

The committee also has before it a draft order that will modify the Protection of Vulnerable Groups (Scotland) Act 2007. The draft order lists the positions and roles created by the Children's Hearings (Scotland) Act 2011 that will become subject to the protection of vulnerable groups scheme.

The final instrument is the draft Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013, which amends primary legislation in two main ways. The order contains provisions that make consequential amendments to various pieces of primary legislation that are related to, or have some form of cross-reference to, children's hearings. Those amendments are made in consequence of the change from the Children (Scotland) Act 1995 to the 2011 act. The order also amends the 2011 act itself, making ancillary provision to give full effect to the act's provisions.

Having provided a brief summary of some of the very technical regulations that we are discussing today, I am happy to take questions.

**The Convener:** Thank you, minister. Do members wish to ask any technical questions or raise points of clarification?

There are no questions from members, but I will ask one question on the draft Secure Accommodation (Scotland) Regulations 2013. The Subordinate Legislation Committee made a point about the vires of the regulations. Can the minister

explain the Government's response to the Subordinate Legislation Committee's point?

**Aileen Campbell:** We believe that the regulations are compliant with what we intend to do. Liz, do you want to comment further?

**Liz Blair (Scottish Government):** The Subordinate Legislation Committee's point concerned the commencement of certain provisions. In referring the instrument to the Education and Culture Committee, the Subordinate Legislation Committee said that, if the Government were to commence those provisions and if that were properly done, the point that it raised would in effect fall away.

We have now made a commencement order commencing the provision that the Subordinate Legislation Committee was concerned about. The commencement order was laid before the Scottish Parliament on Friday and it will come into force before the draft regulations are made. The point therefore falls away.

**The Convener:** So the commencement order has now been laid and the amendment to section 75 of the Children (Scotland) Act 1995 will come into effect.

**Liz Blair:** That is right.

**The Convener:** Okay. That answers that question.

We move to item 3. Having received a briefing on the instruments, we must now consider formally the motions to approve them. We will do that separately for each instrument.

First, I invite the minister to move motion S4M-06807 on the Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013.

*Motion moved,*

That the Education and Culture Committee recommends that the Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013 [draft] be approved.—[*Aileen Campbell.*]

*Motion agreed to.*

**The Convener:** I invite the minister to move motion S4M-06806 on the Children's Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013.

*Motion moved,*

That the Education and Culture Committee recommends that the Children's Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013 [draft] be approved.—[*Aileen Campbell.*]

*Motion agreed to.*

**The Convener:** I invite the minister to move motion S4M-06809 on the Secure Accommodation (Scotland) Regulations 2013.

*Motion moved,*

That the Education and Culture Committee recommends that the Secure Accommodation (Scotland) Regulations 2013 [draft] be approved.—[*Aileen Campbell.*]

*Motion agreed to.*

**The Convener:** I invite the minister to move motion S4M-06810 on the Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013.

*Motion moved,*

That the Education and Culture Committee recommends that the Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 [draft] be approved.—[*Aileen Campbell.*]

*Motion agreed to.*

**The Convener:** I invite the minister to move motion S4M-06808 on the Protection of Vulnerable Groups (Scotland) Act 2007 (Modification of Regulated Work with Children) (Children's Hearings) Order 2013.

*Motion moved,*

That the Education and Culture Committee recommends that the Protection of Vulnerable Groups (Scotland) Act 2007 (Modification of Regulated Work with Children) (Children's Hearings) Order 2013 [draft] be approved.—[*Aileen Campbell.*]

*Motion agreed to.*

**The Convener:** Finally, I invite the minister to move motion S4M-06811 on the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2013.

*Motion moved,*

That the Education and Culture Committee recommends that the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2013 [draft] be approved.—[*Aileen Campbell.*]

*Motion agreed to.*

**The Convener:** The committee's report to the Parliament on the instruments will confirm the outcome of the debate. I thank the minister and her officials for attending this morning's committee meeting.

10:12

*Meeting suspended.*

10:13

*On resuming—*

## Petitions

### Lesser-taught Languages and Cultures (University Teaching Funding) (PE1395)

**The Convener:** The next item is consideration of two petitions. First, we will take PE1395, by Jan Čulík, on the provision of targeted funding for lesser-taught languages and cultures at Scottish universities. Do members have any comments to make on the issues raised by the petition?

**Liam McArthur (Orkney Islands) (LD):** The Public Petitions Committee has done a fairly thorough piece of work on the petition, and a number of the areas that I would have wanted this committee to cover have already been pursued. It could be argued that the petitioner has been successful in securing a change in the provision both at the University of Glasgow and across Scotland. It may fall short of what he seeks, but that is not something that the committee is in a position to pursue, so I am not sure that there is much more that we can do with the petition.

**Mary Scanlon (Highlands and Islands) (Con):** I think that the petitioner has achieved quite a degree of success. Paragraph 11 in the annex to the clerk's paper states that the University of Glasgow has decided, as a result of the Public Petitions Committee's involvement, to reinstate the full honours programme in Slavonic studies, which is a point of success. The fact that the European and External Relations Committee is looking quite thoroughly into language use and the availability of language teaching is another marker of success. I therefore favour option 3 in the annex to the paper.

**Clare Adamson (Central Scotland) (SNP):** I am a member of the European and External Relations Committee, which has been looking into the one-plus-two model of language teaching. Community languages have been a great theme of that process, so I am glad that the petitioner has been able to secure the commitment from the University of Glasgow. However, I would not like to close the petition. I would prefer to wait until the autumn to see how the term sets up with the new, reinstated programme in place.

**Neil Bibby (West Scotland) (Lab):** I am familiar with the petition because I was a member of the Public Petitions Committee when it was first discussed.

Eastern European and Slavonic studies are important educationally and economically to people in Scotland. Polish is one of the most commonly spoken languages in Scotland. We do a

lot of trade with eastern Europe, and there is the potential to do more. The petition calls for targeted funding for small courses and rare areas of study, such as Slavonic languages. I know that similar targeted funding is available in England, so it is a reasonable request.

Although there appears to be some movement at the University of Glasgow, the petition aims to ensure that such a reduction does not happen again and that a strategic view of those subjects is taken by the Scottish Further and Higher Education Funding Council. I favour keeping the petition open, and I think that we should contact the Scottish funding council, Universities Scotland and, if necessary, the Scottish Government to determine what the strategic view is for those subjects. If we believe that those subjects should be taught and protected at Scottish universities, we must ensure that that happens.

**George Adam (Paisley) (SNP):** I agree with Clare Adamson that we should keep the petition open, because, as Neil Bibby mentioned, Polish is probably one of the most widely spoken languages in Scotland besides English. I know that in England it is the second most widely spoken language, but I do not yet know the results from the census in Scotland.

We should keep the petition open. If we wanted to get further information, it would probably be best to get it from the SFC. That may be difficult because the Public Petitions Committee has already asked for information on numerous occasions. However, if we are going to ask for further information, I suggest that we ask for it from the SFC.

**Neil Findlay (Lothian) (Lab):** I support both Clare Adamson and Neil Bibby in saying that we should keep the petition open. There is a balance between the academic freedom and autonomy of the institutions and the need to provide courses that meet the needs of the economy and of society. I also ask the committee to pass on our congratulations to the petitioner, because he has been dogged in pursuing the matter and has achieved a level of success, which is to his great credit.

We should keep the petition open. I note the funding council's view that there is no reason to intervene, but perhaps the committee could write to the Scottish Government to seek its view on longer-term strategic provision of courses for such languages.

**The Convener:** I reiterate the comments that other members have made about the petition's success so far. I know that not all the petition's aims have been achieved, but it has been very successful and congratulations are due to the petitioner on that basis. The reversal of the

decision by the University of Glasgow is a particular success, which is to be welcomed.

I note that, as paragraph 10 of the clerk's paper points out, the SFC has made its view on the issue very clear. There is a difficult balance to be struck between allowing the academic freedom of institutions and our desire to ensure the maximum opportunity for such courses to be available for study in Scotland. There is a balance to be struck.

I agree that it would be slightly premature to close the petition at this stage. Although the university has stated that it will reinstate the courses, it would be reasonable to keep the petition open at least until we see how that goes in the autumn. I have no problem with writing to the SFC, although I think that we will receive the same reply as the Public Petitions Committee received. I am not sure whether members wish to do that, but I see no particular problems with doing so.

**Liam McArthur:** I think that Clare Adamson is right that, given the timing, there is a strong case for keeping the petition open until the autumn. Perhaps rather than keeping the petition open indefinitely, it is worth putting down a marker with the Scottish funding council at this stage by noting the success of the petition and that we would have concerns if there were to be a rowing back on provision in this area. That might enable us to revisit the issue in future, if need be, without necessarily requiring the petition to remain open indefinitely.

**The Convener:** That seems entirely reasonable.

**Neil Bibby:** The petition calls for targeted funding from the Scottish funding council to protect such courses. Although it appears that some of the courses will restart, no targeted funding is being provided by the Scottish funding council. I think that we need to note that.

**The Convener:** As a number of members have said, we cannot guarantee the provision of certain courses and not of others. There is a real difficulty about how much we intervene or interfere in the rights of institutions to provide courses that are relevant and that are wanted by students. That is a difficult balancing act. I would be hesitant to intervene by saying that there should be ring fencing around particular courses that should not be touched and which would then have guarantees that are not available for other courses. That is not our role.

I think that the petition has been successful, and I would be happy to keep it open. I would also be happy to write to the funding council along the lines that Liam McArthur suggested.

**Liam McArthur:** As a former member of the Public Petitions Committee, Neil Bibby will be



more familiar with the issues, but I think that the petition raised serious concerns not just about the University of Glasgow's original decision but the way in which that decision was taken. In any letter that we might write to the Scottish funding council, we should perhaps reinforce the point that lessons need to be learned and that we will not only keep an eye on the issue but expect that any process leading to a future review would need to be a good deal more transparent and open than was the case previously.

**Neil Findlay:** My other suggestion was that we should write to the Scottish Government to seek its longer-term strategic view on how we provide access to such courses.

**The Convener:** There are three suggestions. First, we will keep the petition open until the autumn but not indefinitely, with a finite date assuming that the courses restart in the way that the university has stated. Secondly, we will write to the SFC along the lines that Liam McArthur has suggested. Thirdly, we will write to the Scottish Government minister responsible for languages to ask about the Government's position on a strategic view of languages education in Scotland. Are members content with that?

*Members indicated agreement.*

**The Convener:** Okay, we will do all three of those things.

### **Proposed Children and Young People Bill (PE1440)**

**The Convener:** PE1440, by Sharon McCluskie, on behalf of Play Scotland, calls on the Scottish Parliament to urge the Scottish Government to include a statutory duty for play in the Children and Young People (Scotland) Bill. Do members have any comments?

**Liam McArthur:** It struck me that this petition is pretty much bread and butter for the evidence that we will be taking on the Children and Young People (Scotland) Bill. I assume, therefore, that we can simply fold it into our evidence taking, which will start on 25 June with the bill team.

**Joan McAlpine (South Scotland) (SNP):** That suggestion makes sense; as Liam McArthur has said, the issue in the petition is part and parcel of what the bill is about. I am quite happy for the petitioners to submit written evidence for our scrutiny of the bill.

**Neil Bibby:** Obviously we want to encourage children to play, given the importance of play to their education, health and wellbeing. There are a number of good initiatives across the country such as the street stuff project in Renfrewshire, but cost will be a major issue for local authorities, and any legislative basis—which the petition is calling for—

would require appropriate funding. I understand that the Scottish Government is developing a play strategy, which is certainly a step forward, but I agree with the suggestion that we consider the petition as part of our approach to the Children and Young People (Scotland) Bill.

**The Convener:** That makes perfect sense. We have already issued a call for evidence on the bill—I am sure that the petitioner will be aware of that—but I suggest that we write to the petitioner, saying that we would very much welcome written evidence on this issue so that we can include it in our consideration of the bill after the summer recess. Given that we will take it forward as part of our scrutiny of the bill, I suggest that it is perfectly reasonable to close the petition at this point.

*Members indicated agreement.*

### **Decision on Taking Business in Private**

10:26

**The Convener:** Our final item is to decide whether to take discussions on our work programme and our approach to taking oral evidence on the Children and Young People (Scotland) Bill in private at future meetings. Are members agreed?

*Members indicated agreement.*

**The Convener:** Before I close the meeting, I point out that the committee will now receive a private briefing from young people going through the care system for our inquiry into decision making on care. A note of the briefing will be published on our website in the not-too-distant future.

*Meeting closed at 10:27.*



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

---

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by APS Group Scotland.

All documents are available on  
the Scottish Parliament website at:

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

For details of documents available to  
order in hard copy format, please contact:  
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

e-format first available  
ISBN 978-1-78351-231-7

Revised e-format available  
ISBN 978-1-78351-245-4

---

Printed in Scotland by APS Group Scotland

---