



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# EDUCATION AND CULTURE COMMITTEE

Tuesday 24 June 2014

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**Tuesday 24 June 2014**

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**EDUCATION AND CULTURE COMMITTEE**

**18<sup>th</sup> Meeting 2014, Session 4**

**CONVENER**

\*Stewart Maxwell (West Scotland) (SNP)

**DEPUTY CONVENER**

\*Neil Bibby (West Scotland) (Lab)

**COMMITTEE MEMBERS**

\*George Adam (Paisley) (SNP)

\*Clare Adamson (Central Scotland) (SNP)

\*Jayne Baxter (Mid Scotland and Fife) (Lab)

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

Gordon MacDonald (Edinburgh Pentlands) (SNP)

\*Liam McArthur (Orkney Islands) (LD)

\*Mary Scanlon (Highlands and Islands) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Susan Bolt (Scottish Government)

Aileen Campbell (Minister for Children and Young People)

Joan McAlpine (South Scotland) (SNP) (Committee Substitute)

Liz Smith (Mid Scotland and Fife) (Con)

**CLERK TO THE COMMITTEE**

Terry Shevlin

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## Education and Culture Committee

*Tuesday 24 June 2014*

[The Convener *opened the meeting at 11:48*]

### Subordinate Legislation

#### Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014 [Draft]

**The Convener (Stewart Maxwell):** Good morning. I welcome everybody to the 18th meeting in 2014 of the Education and Culture Committee. As always, I remind everybody that all electronic devices should be switched off because they interfere with the broadcasting system.

I point out that we are joined this morning by Liz Smith MSP—welcome, Liz—and that Joan McAlpine is substituting for Gordon MacDonald, who is unable to join us.

First, given the press reports this morning, I offer the Minister for Children and Young People the committee's congratulations.

**The Minister for Children and Young People (Aileen Campbell):** Thank you.

**The Convener:** That is on a personal level as well as a committee level. It is very nice news.

**Aileen Campbell:** Yes. Thank you very much.

**The Convener:** The first agenda item is to take evidence on the draft Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014.

I welcome to the committee Aileen Campbell, the Minister for Children and Young People, and her supporting officials from the Scottish Government. After we have taken evidence on the order, we will debate the motion, which is in the name of the minister. The officials are not permitted to contribute to the formal debate.

I invite the minister to make some opening remarks.

**Aileen Campbell:** I will take just a few minutes to outline the draft Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014, which is subject to the affirmative procedure.

The purpose of the instrument is to define the eligible pre-school children under section 47(2) of the Children and Young People (Scotland) Act

2014 who are entitled to the mandatory amount of early learning and childcare. Those children are defined as three and four-year-olds starting from the first term after their third birthday and two-year-olds with a parent in receipt of out-of-work benefits starting from the first term after their second birthday or the first term after their parents start receiving out-of-work benefits, as specified in the order.

The provision will come into force for three and four-year-olds from August 2014; and the provision for two-year-olds with a parent in receipt of qualifying benefits will come into legal force from 31 October 2014.

We have been working very closely with the Convention of Scottish Local Authorities, local authorities and all key delivery partners to ensure that our ambitious timescale for August is met. Our and COSLA's shared assessment of local authority progress is that every local authority has plans in place and is in a very strong position to deliver from August, reflecting considerable momentum and effort that will continue apace through the start of the autumn term.

We have laid an amended order to ensure that the introduction of this provision is more effective, with a period until 31 October 2014 to resolve any outstanding issues around the margins and to ensure that requests for places are met and that they are of high quality.

We and COSLA are absolutely clear that we fully expect the introduction of this provision from the start of the autumn term. We have made that commitment and we know that parents will have that expectation. Some local authorities have already informed their local populations to that effect. We have funded the provision on that basis and we will increase information and publicity over the next few weeks on the basis of an August start.

We will continue to work very closely with all key delivery partners to support plans and progress towards implementation. In addition to the revenue and initial capital allocations, we have laid an order that is subject to the negative procedure to suspend temporarily requirements under the Schools (Consultation) (Scotland) Act 2010 on local authorities to consult on establishing new early learning and childcare provision, which will come into force on 28 June.

We have drafted, and engaged widely on, statutory guidance on the early learning and childcare provisions and on national guidance on the concept of early learning and childcare to support good practice in delivery. We have appointed a consultant to work one-to-one with local authorities and groups of local authorities to address key challenges that arise for local

authorities. We have provided an additional £3.5 million to expand and develop the early learning and childcare workforce, which will include training and continuous professional development for new and existing staff.

The stopping dates and transitional arrangements for starting primary school will continue as they currently operate. All children who turn five from the March before to the February after the autumn term are in-between the dates when they can start school, but those with a birthday in January or February will be entitled to an additional year of early learning and childcare if their parents choose to wait until the August after their fifth birthday. When parents choose to defer, local authorities have the discretionary power to provide an additional year of early learning and childcare that would be based on the assessment of wellbeing and need.

The order reflects our priority to ensure that the expansion of early learning and childcare to wider cohorts of children is manageable, sustainable and of high quality. The order focuses on the children who are most vulnerable in the first instance, with additional opportunities to remove barriers to work for parents or to create wider opportunities to engage with parents through employment or family support. The order also reflects the wide consensus and desire identified during the passage of the Children and Young People (Scotland) Bill to expand entitlement to more vulnerable two-year-olds than the most vulnerable specified in the act.

I hope that that covers the gist of what we are doing with this order. I am happy to take the questions that I am sure the committee will have.

**The Convener:** Thank you for that, minister. I invite members to indicate whether they have questions for the minister. Just for the record, I inform the committee that the Delegated Powers and Law Reform Committee met this morning to examine the order but had nothing to report to the Parliament on it. Mary Scanlon will begin the questioning.

**Mary Scanlon (Highlands and Islands) (Con):** How many of the cohort of 3,440 eligible two-year-olds will be guaranteed a place in August?

**Aileen Campbell:** The provision is set out for families who want to take up that entitlement for their children. We know from our joint engagement and assessment with local authorities that all local authorities have plans in place to cater for the children who are part of the expanded cohort and are working very hard to deliver from August.

**Mary Scanlon:** Maybe I can put it another way. You said in your opening statement that local authorities are

“in a very strong position to deliver”

and are looking to

“resolve any outstanding issues around the margins”.

How many local authorities will be delivering childcare for two-year-olds in August and how many will be waiting until November?

**Aileen Campbell:** As I said, we know from our joint assessment that all local authorities have plans in place to deliver the new provision for eligible two-year-olds in August. That was made clear in the joint statement that we released last week.

We have cause to believe that there may be issues around the margins. For example, a family could move into another local authority area, which would mean that there is a new two-year-old who would need to be covered. Local authorities might have to grapple with such unintended and unforeseen issues, and we want to ensure that there is maximum flexibility to allow local authorities to deliver for those two-year-olds and to support them in doing so. However, from the joint assessment, we know that all local authorities have plans in place for eligible two-year-olds.

**Mary Scanlon:** Perhaps I am not asking the question clearly, but I am not quite getting the clear reasons for postponing the implementation.

When the cabinet secretary appeared before the Finance Committee on 4 June, when asked how confident he was that the policy would commence in August, he said:

“I am entirely confident that we can do that”.—[*Official Report, Finance Committee*, 4 June 2014; c 4285.]

What has happened in two weeks? The cabinet secretary was “entirely confident” that he could deliver but, two weeks later, we find that implementation has been postponed for three months.

Does the change have anything to do with the cost of the policy? COSLA’s original estimate was that implementing the policy would cost £114 million and the Government’s was £41 million. The Government estimate went up to £61 million, but there is still a difference of about £50 million between the COSLA and Government estimates. Is that the reason for the delay?

**Aileen Campbell:** There is no delay. I think that I made that clear in my opening remarks, and it was certainly clear in the statement that COSLA and the Government issued last week. It states that we are confident about the ability to work with local authorities to ensure that we do what we can for two-year-olds from August, and that we are working towards an August implementation date.

The order is about separating that implementation date from the date for the legal

requirement to implement, because we want to work with local authorities in a supportive and positive way. That is why, since the announcement, we have been working to ensure that local authorities are supported on some of the issues in the margins that may arise.

There is no diminution in our ability or desire to implement the measure from August but, through the order, we are providing transitional flexibility for local authorities to cope with any issues around the margins that, as they have described to us, may arise.

**Mary Scanlon:** You say that issues “may arise”, which means that issues have not arisen. I am trying to—

**Aileen Campbell:** I gave the example of a family moving into a local authority area. The local authority might not have accounted for that, but it would be under a legal duty to provide for that child if we kept the August date. With the amending order, we will have a delayed legal enforcement date, which will provide local authorities with flexibility to allow them to cope with any unforeseen issues that may arise around the margins.

That is a direct result of our engaging with COSLA. The order reflects what COSLA told us that it requires to allow the measure to be delivered in a positive way for children across Scotland.

**Mary Scanlon:** Families move all the time, so I would have thought that that would have been built into the plan, but I will leave it there.

**Liam McArthur (Orkney Islands) (LD):** The minister has set out the reasons for the delay in the date of legal enforceability of the provision. To follow up on Mary Scanlon’s question, and to be clear, at this stage your expectation is that all two-year-olds who fall within the eligibility criteria in all local authorities across the country will be accommodated from August, and we are talking about cases of two-year-olds who perhaps move across local authority areas between now and then and who are therefore not accounted for at this stage.

**Aileen Campbell:** I use that as an example of something that might happen that could skew a local authority’s original planning.

Last week’s joint statement from COSLA and the Government showed that we are working hard to deliver the policy and want to work constructively with COSLA. However, we must bear in mind some of the marginal issues that COSLA has suggested could arise if the legal enforcement date was at the start of August, and that is why we have moved it to 31 October. Momentum continues apace to ensure that the

policy is delivered from August, but we are giving local authorities that transitional flexibility to allow them to cope with the marginal issues that might arise.

12:00

**Liam McArthur:** Are any local authorities saying that there are problems that cannot be resolved until the end of October—whether across their entire jurisdiction or only in certain areas—or is it simply an exercise in ensuring that legal claims will not be brought against councillors for issues that could arise during the transition period?

**Aileen Campbell:** Local authorities have worked incredibly hard, along with Government, to ensure that we are on track. We are now in a position in which all local authorities have in place plans to cater for children in the cohort that was announced in January, and we want to ensure that that hard work and those endeavours by local authorities are supported through the transition, when issues may arise around the margins.

That has been the basis of the conversations that we have had with COSLA about how to continue the supportive collaborative working to ensure that local authorities are best placed to deliver for children in Scotland. The expectation is that that will start from August and that there will be legal enforcement from October.

**Liam McArthur:** I appreciate that and I fully recognise that work that has been going on in local authority areas across the country. I know that Orkney has been presented with some challenges, so I do not underestimate the task for a second.

The slightly unfortunate thing about the example that you cited of a two-year-old moving into a local authority area is that, as Mary Scanlon said, that could happen year round. To get a better understanding of why the three-month transition is required now but will not be required beyond October, it would be helpful to have an indication of how such cases will be treated after 31 October, if local authorities—acting perfectly reasonably—are slightly slow to pick up the entitlement of a two-year-old who has moved into their area. If there are other examples that do not suggest that there could be an on-going problem after 31 October, it would be helpful to hear them.

**Aileen Campbell:** I used that as an illustrative example of an issue that may present itself to a local authority. There will be others, and you have identified issues that affect your own area and other rural authorities, where numbers might be skewed because of a family moving into an area. Sometimes those things require a bit of flexibility to allow local authorities to test and develop their

ability to cope with such circumstances. That is why we have that flex for local authorities.

I reiterate that local authorities, COSLA and the Government are committed to the policy being in place from August. The order is about delaying the legal enforcement by three additional months.

**Liam McArthur:** I do not know whether any of the officials wish to offer suggestions, but it seems that you are saying that the three-month period is as much to allow the policy to be road tested in practice as it is about trying to deal with circumstances that may arise. As Mary Scanlon said, the example that you have used will be a factor year round from here on in, so it does not necessarily suggest a logical rationale for delaying at this stage. However, with the best will in the world, there may be things that arise during the three-month period that cannot be anticipated now, so that period gives a degree of flexibility to amend the way in which the policy is applied in each local authority area.

**Aileen Campbell:** I shall ask Susan Bolt to comment, as she has been engaging with local authorities. It is also important to remember that an additional two-year-old could skew ratios for a local authority that will then need additional staff to cope with the new family moving into the area. There are real and practical difficulties at the margins, but Susan Bolt will be able to give you the examples that you require.

**Susan Bolt (Scottish Government):** We have worked closely and consistently with COSLA and with local authorities to work out what the challenges and barriers might be and to provide support to remove them. We have shared information with local authorities, so we have really good information on estimated numbers at ward level, and local authorities will have an idea about levels of free school meal entitlement.

One difficulty is the location of the child, because this system is a bit different from the primary school system, which is a compulsory system, meaning that local authorities know the numbers in their catchment areas. We are working through the issues in the system. Local authorities are working at a pace and they will be working hard over the next few months to overcome all the different issues that they need to deal with to enable implementation.

The issue is not just about children moving into an area, as it can also be about perhaps not knowing where the children are located, because it is a system of self-referral. Especially in rural areas, authorities might not be sure where a child is located or whether the parent would self-refer for a place, and there might be unknown locations. That is one of the complexities that all local authorities will face. The number of children

involved will be much smaller in the rural authorities, but children might appear in much more remote areas. It is about working through these issues with local authorities.

**Liam McArthur:** I appreciate that additional information. I think that I understand why there is a delay in the date of legal enforceability. I understand what you have described—the out-of-catchment-area issues, self-referral, and the specific issues in rural local authorities like my own—but none of that will change. To some extent, therefore, there will be questions about whether, even if you delay for three months now, there will be on-going problems with the legal requirement, because those factors will not change over time.

**Aileen Campbell:** There has been a joint agreement with local authorities, which are confident that this approach gives them the additional flexibility to cope with the issues around the margins and work through the ways in which they can cater for children who arrive who they had not previously accounted for—community childminders and all these different options are in place.

That is why Carol Kirk is working on a one-to-one basis with local authorities to help to provide them with some options and to work through the issues. Local government was comfortable with 31 October as a date for the legal enforcement to come into place. However, I repeat that there is no delay: it is just about moving the legal enforcement, because from August the entitlement will be open to two-year-olds across Scotland.

**The Convener:** I will follow the issue up for my own clarity. It seems to me that the difference between the initial period and subsequent years is that, if I am correct, what COSLA and local authorities are asking for is flexibility during the initial implementation phase—the set-up phase. Once we pass that phase and people apply, local authorities will roughly know the numbers, so beyond that the position will be, in effect, relatively stable and people who move around and so on will be treated in the usual fashion. However, in the initial phases of implementation there are a number of unknowns, which is why flexibility is required. Is my interpretation of what you are saying correct?

**Aileen Campbell:** Yes—absolutely. It is a demand-led system, so there has to be a degree of flexibility, which is what local authorities have requested. That is why we have worked with them to delay the legal enforcement. It is important to stress again that it is the legal enforcement that has been delayed and that does not affect the willingness to have the entitlement in place in August for two-year-olds who were announced as being in the cohort at the start of the year.



**The Convener:** The delay is just to deal with the unknowns at the start.

**Aileen Campbell:** Absolutely. I refer to my opening statement, in which I said that it is about issues around the margins and practical issues that may arise.

**Neil Bibby (West Scotland) (Lab):** One of the concerns raised by local authorities is the length of time that is required for the Care Inspectorate to undertake the necessary checks and inspections of any new facilities or extensions. Will it be able to undertake all the necessary checks before the deadline without diluting them?

**Aileen Campbell:** Absolutely. For us, the driver is to ensure that what is provided for these children in their crucial early years is of high quality. From the Government's point of view—and, indeed, from the point of view of our agencies such as the Scottish Social Services Council and the Care Inspectorate—we want to work together to enable local authorities to deliver the high-quality provision that we all expect for our youngest children, and we are working to ensure that local authorities face no impediment in providing for the two-year-olds for whom we want to cater.

**Neil Bibby:** And you can confirm that there will be no shortcuts in the checks and that the standard checks will apply.

**Aileen Campbell:** Absolutely. Again, this is all being driven by quality.

**Neil Bibby:** With regard to new facilities and extensions to existing ones, concerns have been raised about planning permission and lack of confirmed capital revenue for individual local authorities. As authorities have only one or two planning cycles prior to 31 October, can you assure us that all planning requirements will be met by that date?

**Aileen Campbell:** Some of that will be at local authorities' discretion, but we have been working with individual local authorities to identify any issues that might arise. If any planning issue emerges, they should ensure that we or Carol Kirk know about it.

Susan Bolt might want to add something.

**Susan Bolt:** From discussions that we have had with local authorities in the past week or two—and, indeed, from discussions that Carol Kirk has had over the past month—it is clear that most local authorities are already in discussion with their planning departments about what needs to be done over the summer. That is the best time for doing that, given that the buildings are empty.

**Neil Bibby:** Can you reassure us that this will not be an issue come 31 October?

**Aileen Campbell:** Our discussions are focusing on some of the finances for this work as well as on the finances over the next two years to cater for the additional tranche of children who are coming on stream next year. Although there are immediate and short-term issues that councils will have to resolve, we know from our work with them that every one of them has a plan for the children who will be entitled to this new provision. Of course, they will have to deal and contend with other issues over the two years to ensure that 27 per cent of two-year-olds are on stream by August of next year.

**Neil Bibby:** If, as you have suggested, there is expansion this year and expansion is planned for next year, is there not in a financial sense—as well as in a practical sense, what with the provision of new or extended facilities—a need for local authorities to have the capital funds required to pay for the current expansion? At the moment, they are not going to get that money until 2015-16. If you are planning an expansion this year and next, should local authorities not have the money now to allow them properly to plan for and implement the expansion over the two-year period instead of their having to deal with a piecemeal approach in which they get a bit of the money now and a bit of the money next year?

**Aileen Campbell:** We are engaging with COSLA on the capital costs. We have already made significant investment—more than a quarter of a billion pounds—in this provision, but there are still discussions to be had on the capital costs. We are working with COSLA, have taken on board some of the points that they have raised, have come to a robust position on the £61 million as the figure for the capital costs and are working hard with local authorities on agreeing that money and getting things going. However, we should recognise that negotiations on the capital costs have not stopped work on the ground to ensure that we are in a position to deliver this from August.

**Neil Bibby:** There have been some teething problems and difficulty with the eligibility criteria and working out who is eligible. How will providers be expected to differentiate between families receiving the contributory jobseekers allowance that is given for the first six months, regardless of family income, and the income-based jobseekers allowance, which is long term and based on household income?

**Susan Bolt:** The same situation already applies to free school meals entitlement, the criteria for which do not include contributory benefits. Given that local authorities are already dealing with how they assess the qualifying benefits for free school meals, one presumes that they will use the same system to work out eligibility for this provision. We

can also do a bit more work with the Department for Work and Pensions on advising local authorities on how they can check evidence of the qualifying criteria. We will continue to work on that but, as I have said, local authorities already do this as a matter of course with free school meals, which involve some of the same benefits.

12:15

**Neil Bibby:** There are obviously some complexities here. On the administration of the process, you said that checks already take place for free school meals, but we are talking about two-year-olds, who are obviously a different set of children—this involves more children. What resource support will local authorities get to administer the process? Will the Scottish Government be providing extra funds to help with that?

**Susan Bolt:** The revenue allocations always included an element of central support costs. Some local authorities have employed new managers to deal with all the issues in their entirety—I know of one who is a family support worker. It is a matter for local authorities how they want to deal with that on an administrative basis. The revenue covers that.

We are in close enough communication with all the key agencies to ask what further support or advice is needed, and we are in a position to give that, too.

**Jayne Baxter (Mid Scotland and Fife) (Lab):** Are you saying that families who present as being eligible in August will get a place? It sounds as if the October deferment concerns oversights—families who have relocated or whose whereabouts we are not too sure of. Is every other child going to get a place in August?

**Aileen Campbell:** It is about delaying the legal enforcement. The legal enforcement comes in on 31 October, but efforts are continuing apace to ensure that we are in a position to deliver for two-year-olds from August. The statement last week shows that every local authority has plans in place to deliver.

**Jayne Baxter:** In August?

**Aileen Campbell:** From August, yes.

**Jayne Baxter:** So there will not be circumstances in which eligible families present themselves in August and are told to come back for the deadline in October.

**Aileen Campbell:** I return to the position that we are delaying the legal enforcement. If local authorities have within their gift the numbers that we have worked through, taking on board the issues from the DWP and others, and if they have

plans in place, it is a matter of ensuring that we are able to deliver for the two-year-olds for whom we want to deliver from August. The delay is for the legal enforcement. It is a matter of providing authorities with the transitional flexibility to deal with any issues that may arise.

**Susan Bolt:** Having spoken to local authority representatives, I do not envisage any authority turning away children. If there was an odd, exceptional case where an authority was having difficulty making a placement, I cannot see it turning the child away and asking them to come back on 31 October. The authority will work very actively with the parent to identify an appropriate place.

**Jayne Baxter:** A number of authorities are struggling to accommodate the children who are currently eligible, and there are additional children coming into the system. Based on my experience of knowing people who are in those situations, I can envisage that families will be asked to come back closer to the trigger point for the legal requirement. Will they get a place in August?

**Aileen Campbell:** No local authority has suggested that it is not doing all that it can or that it is not working hard to ensure that children will be cared for from August. That goes back to the point about helping local authorities with the transitional flexibility that they say they need by delaying the legal enforcement. There is no delay in the policy intention, however. Indeed, local authorities and COSLA have said that they are working as hard as they can to deliver on the policy in a manageable way while ensuring quality.

**Jayne Baxter:** I very much hope that that translates into places for eligible children in August, and I look forward to seeing how that turns out.

**Aileen Campbell:** Carol Kirk is working with local authorities to troubleshoot and to ensure that there are innovative ways to approach the policy. We have community childminders, and there are other ways in which local authorities are using their local resources to cater for the two-year-olds for whom we want to deliver.

Local authorities have the bit between their teeth. They want to deliver the policy, and they agree that it is right. They want to do all they can for two-year-olds who have come on stream from January. The issue is about the delay in the legal enforcement, as opposed to any delay in the policy intention.

**Jayne Baxter:** Convener, I would like to ask for an early report on the policy's implementation. I know that it has not happened yet, but we could build it into our programme in order to find out how the policy turns out.

**The Convener:** I am sure that we will have that discussion—it is part of our work programme—but I get the point.

**Jayne Baxter:** Thanks.

**Liz Smith (Mid Scotland and Fife) (Con):** Can we be absolutely clear about this, minister? In an earlier answer to Mary Scanlon, Susan Bolt said that she is confident that the Scottish Government and COSLA have good data on the numbers involved. It is very clear that there is a cohort of 3,440. Given the policy intention—I understand your point about the legal requirement—you must have some estimate of the numbers who will be provided with a place in August. What mathematical modelling has been done for that?

**Aileen Campbell:** We have been working hard with local authorities to identify the numbers. We have got the 3,400, which will be the—

**Liz Smith:** How many of those—

**Aileen Campbell:** This is also a self-referral and demand-led approach, so there will be a degree of flexibility—

**Liz Smith:** Can I just ask about the numbers? This is a flagship policy for the Scottish Government for which there is considerable political support and considerable support among parents. How many places will be guaranteed in August?

**Aileen Campbell:** We have provision for 3,400 children who will come on stream. There are also the additional looked-after two-year-olds who come within the remit of the act. Around 4,000 two-year-olds will be catered for under the act.

**Liz Smith:** I understand that, minister, but how many of the 3,440 places—

**Aileen Campbell:** Every local authority has plans in place.

**Clare Adamson (Central Scotland) (SNP):** I appreciate what you said about COSLA and the Government being committed to manageable, sustainable and high-quality delivery. There will be a significant amount of capital change to accommodate capacity and, because of the nature of education, that change will take place during the summer holidays. Do we have any idea of how prepared local authorities are and how confident they are that that capital work can be completed on time?

**Aileen Campbell:** We are in continual dialogue with local authorities about the capital costs and we have come to a robust and fair position on the provision of £61 million. We will continue that dialogue with local authorities but every local authority has plans in place to do what it can during the next two months until the policy comes into force and to ensure that it is in a position to

deliver. Different local authorities will have different issues with which they will have to contend, but we are engaging with individual local authorities at Government level and through the recent appointment of Carol Kirk to ensure that we can help and support local authorities when they need it.

**George Adam (Paisley) (SNP):** Is it the case that we are working with local authority colleagues to ensure that August is still the start date?

**Aileen Campbell:** Absolutely.

**George Adam:** The order is just about the legal requirements and is the result of work done in coalition with our colleagues in COSLA.

**Aileen Campbell:** That is exactly why there has been a delay in the legal enforcement. However, there is no delay in the momentum to ensure that the policy is in place from August. That is what local authorities want. They believe in this policy as well. Our discussions with COSLA have shown us that local authorities want to do what they can for these children. That was the ethos behind last week's statement, which showed local government's support for the policy.

**The Convener:** Thank you.

**Liz Smith:** I have one more question.

**The Convener:** Okay, but it is a final question.

**Liz Smith:** At what stage did the Scottish Government recognise that there would have to be an amended Scottish statutory instrument and that the legal requirement would have to be changed from August to October?

**Aileen Campbell:** Again, we have been in continual dialogue from January since the announcement of the policy. We have been working hard to find ways in which we can resolve some of the issues and additional challenges that local authorities have said they might face. Although the committees have not had much time to cope with the situation, and we are grateful that they have done so, the current situation is a result of the continual positive dialogue that we have had with local authorities about some of the challenges that they have said they might face in the margins. We want to make sure that we have in place a policy that is delivering for children and young people across the country.

**Liz Smith:** At what stage did the cabinet secretary decide that there had to be a change to the proposed legislation?

**Aileen Campbell:** We indicated that to the committee by letter.

**The Convener:** The committee received a letter from the cabinet secretary last week.

**Liz Smith:** Thank you.

**The Convener:** Item 2 is the formal debate on the instrument. I invite the minister to move the motion.

*Motion moved,*

That the Education and Culture Committee recommends that the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014 [draft] be approved.—[*Aileen Campbell.*]

*Motion agreed to.*

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

*Meeting closed at 12:26.*

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

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