Education Committee

23rd Meeting, 2005

Wednesday 7 December 2005

The Committee will meet at 10.00 am in Committee Room 2

1. **Subordinate Legislation:** The Committee will consider the following negative instrument—

   the Registration of Independent Schools (Scotland) Regulations 2005 (SSI 2005/571)

2. **Scottish Schools (Parental Involvement) Bill:** The Committee will take evidence at Stage 1 from—

   **Panel 1**
   
   Alan Blackie, Director of Education and Children's Services, East Lothian Council, Association of Directors of Education
   
   Ewan Aitken, Education Spokesperson, COSLA
   
   Anna Fowlie, Team Leader, Education, Children and Young People Team, COSLA

   **Panel 2**
   
   Caroline Vass, President, Scottish School Boards Association
   
   George Hammersley, Company Secretary, Scottish School Boards Association
   
   Judith Gillespie, Development Manager, Scottish Parent Teacher Council

Eugene Windsor
Clerk to the Committee
Room T3.40, Committee Office
Ext. 0131 348 5204
The following papers are enclosed for the meeting:

**Agenda item 1**  
Clerk’s paper and copy of SSI 2005/571  
ED/S2/05/23/1

**Agenda item 2**  
Submission from ADES  
ED/S2/05/23/2  
Submission from COSLA  
ED/S2/05/23/3  
Submission from SSBA  
ED/S2/05/23/4  
Submission from SPTC  
ED/S2/05/23/5  
Supplementary submission from SPTC  
ED/S2/05/23/5a
EDUCATION COMMITTEE

Subordinate legislation

The Registration of Independent Schools (Scotland) Regulations 2005

1. These Regulations provide for the information which is to be provided to the Registrar of Independent Schools in relation to an application for registration of an independent school and for certain specified changes to be notified to the Registrar.

2. The Education Committee is the lead committee for this instrument and should report to the Parliament by 12 December 2005. The Minister responsible is Robert Brown, Deputy Minister for Education and Young People

3. A copy of the SSI, an explanatory note which is not part of the Regulations, and the Executive Note are attached.

4. A note on procedure for considering SSIs is attached overleaf. This is a negative instrument.

5. The Subordinate Legislation Committee considered the SSI at its meeting on 29 November and raised points of concern on the instrument on grounds within its remit in its 44th report on 29 November.

6. The relevant extracts from that report referring to that meeting are attached as annexe 1.

7. The Committee is invited to consider whether it wishes to make any recommendation in relation to the instrument. The instrument is not subject to amendment.

Eugene Windsor
Clerk
Education Committee
Procedural Note

Standing Orders

1. The procedures for dealing with Scottish Statutory Instruments (SSIs) are covered by Chapter 10 of Standing Orders. SSIs are laid by being lodged with the chamber clerks, and are published in the Business Bulletin. They are referred to the Subordinate Legislation Committee, the appropriate subject committee (the ‘lead committee’), and, where relevant, any other committee.

SSIs subject to annulment: ‘negative instruments’

2. Where an SSI is subject to annulment, it comes into force on a specified date and then remains in force unless it annulled by the Parliament. Any MSP may by motion propose to the lead committee that the committee recommend that nothing further is to be done under the instrument. Such motions are lodged with the chamber clerks.

3. The lead committee debates such a motion for no more than 90 minutes.

4. The lead committee reports to the Parliament, setting out its recommendations. If it recommends annulment, the Bureau will propose to the Parliament a motion that nothing further is to be done under the instrument.

5. All the above must take place within 40 days of the instrument being laid, excluding recesses of more than 4 days.

6. To date, no motion to annul SSI 2004/542 has been lodged with the chamber clerks.
The Registration of Independent Schools (Scotland) Regulations 2005, (SSI 2005/571)

1. The Committee noted that the Regulations do not appear to reflect the enabling power at section 98(3) of the Education (Scotland) Act 1980, obliging Ministers to prescribe information to be supplied to the Registrar by the proprietors of independent schools and the manner in which it is to be provided. In particular, the Committee asked the Executive to explain the vires of regulation 4.

2. The Executive has provided a full explanation of the background to the provision and has confirmed that section 98(3) is the enabling power for regulation 4.

3. The Committee remain doubtful as to whether regulation 4 is intra vires and draws the instrument to the attention of the lead Committee and Parliament on this ground.

4. The Committee also asked for an explanation of the omission of a provision reflecting subsection (c) of 98(3), as the requirements of this subsection appeared to the Committee to be mandatory.

5. The Executive has explained that it has anticipated the repeal of 98(3)(c) in terms of schedule 2 to the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004.

6. The Committee draws the Executive’s response on this point to the attention of the lead Committee and Parliament for information.

Correspondence with Scottish Executive and Scottish Executive response

The Registration of Independent Schools (Scotland) Regulations 2005, (SSI 2005/571)

On 22nd November 2005, the Subordinate Legislation Committee, having considered the above instrument, sought an explanation of the following matters-

“1. The Committee observes that the Regulations do not appear to reflect the enabling power at section 98(3) of the Education (Scotland) Act 1980, which obliges Ministers to prescribe information to be supplied to the Registrar by the proprietors of independent schools and the manner in
which it is to be provided. In particular the Committee would ask the Executive to provide an explanation of the vires of regulation 4.

2. The Committee also asks for an explanation of the omission of a provision reflecting subsection (c) of 98(3) as it appears to the Committee that the requirements of this sub-section are mandatory."

The Scottish Executive responds as follows:-

1. In response to the Committee’s observation, it may be helpful to set out briefly the scheme of these Regulations, which are made in exercise of powers conferred by section 98(3) and 98A(2) of the Education (Scotland) Act 1980, as those sections are amended by the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004. In doing so we would also refer to the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (Commencement No. 2 and Transitional Provisions) Order 2005 (SSI 2005/570) which, too, was considered by the Committee on 22nd November.

Section 98A is concerned with applications for registration by persons proposing to carry on an independent school, and 98A(2) requires those applications to be in such form and to include such information as Ministers, by regulations, prescribe.

Section 98(3) requires Scottish Ministers to make regulations in relation to [established] registered schools and for such regulations to prescribe the information to be provided to the Registrar and the manner in which it is to be furnished, requiring notification of changes in particulars, and dealing also with incidental matters. In that regard section 98(3)(a) is amended by the 2004 Act (in terms of Schedule 1, paragraph 1(2), introduced by section 8(1)) so that the reference to proprietors of “independent” schools is replaced by a reference to the proprietors of “registered” schools.

So far as the substantive provisions are concerned, regulation 3, dealing with applications for registration of independent schools, is drafted under reference to the powers conferred by section 98A(2).

Regulation 5, dealing with annual returns, is drafted under reference to the powers conferred by section 98(3).

Regulation 4, in relation to which in particular the Committee has requested an explanation as to vires, is concerned with the notification to the Registrar of changes to certain particulars, requiring them to be notified within a period of one month. Again, that regulation has been drafted under reference to the regulation making provision contained within section 98(3). Insofar as section 98(3) requires regulations to be made requiring notification to the Registrar of any changes in particulars and dealing with such incidental matters as Ministers deem expedient, and that being the subject matter of regulation 4, it is considered that both that regulation and the regulations as a whole are within vires.
2. In regard to the omission of a provision reflecting subsection (c) of 98(3) we have anticipated the repeal of section 98(3)(c) in terms of Schedule 2 to the 2004 Act, introduced by section 8(2) of that Act.

We hope that this explanation on the points raised is helpful to the Committee.
ASSOCIATION OF DIRECTORS OF EDUCATION IN SCOTLAND (ADES)

SCOTTISH SCHOOLS (PARENTAL INVOLVEMENT) BILL – STATEMENT OF EVIDENCE

1 GENERAL

1.1 ADES welcomes the enthusiasm being shown by the Scottish Executive to the encouragement of parental involvement in the education of children. The commitment to repeal existing School Boards legislation is also welcome and the need to replace this with alternative legislation is acknowledged.

1.2 ADES has a general concern that Local Authorities currently have to manage within an ever more complex framework of legislation; we would therefore urge the Parliament to ensure that any legislation is absolutely necessary and that it should avoid excessive levels of prescription. At a time when much is said about empowering Head Teachers and local schools, it is equally important to ensure that Councils and senior officers of these Councils are not unduly disempowered by the weight of legislation.

1.3 The general thrust of the Scottish Schools (Parental Involvement) Bill is, however, welcome.

2 INvolVEMENT, AMBITIONS, OBJECTIVES AND PERFORMANCE

2.1 Clauses 1 to 4 are generally acceptable, although the level of detail in Clause 2 is somewhat excessive.

3 PARENT FORUMS AND PARENT COUNCILS

3.1 ADES recognises the concerns raised, principally by existing School Boards, during the recent consultation exercise. In order to respond to these concerns, it is acknowledged that there would appear to be a need to set out in some detail requirements relating to the envisaged Parent Councils. However, some of the specific revisions contained within the Bill seem both perverse and unduly concerned with operational detail – e.g. Clause 6, Subclauses(1) to (6). It is not at all clear why there needs to be provision for the scheme for establishing a Parent Council to be prepared by a person other than the Education Authority: if the Education Authority has the duties set out in Clauses 1 and 2, then what is the rationale for disempowering that Education Authority in terms of preparing a scheme for establishing a Parent Council?
3.2 Much of the existing School Boards legislation was erroneously predicated on an assumption of conflict between parents and Head Teachers or between parents and an Education Authority. This new Bill offers an opportunity to build on the consensus which clearly exists and to avoid building in confrontations where none are present. In particular, references to “making representations” (e.g. in subsection (2) of Clause 8) seem to ADES to continue to make the same erroneous assumptions as were made in the 1988 legislation. On this same theme of avoiding language which assumes confrontation, Clause 9 – while welcome in terms of clarifying the rights and duties of a Head Teacher – does not, in the view of ADES, go far enough in underlining the need for the Head Teacher (and staff) to work in partnership with the Parent Council. In order to overcome these difficulties, it is suggested that the Bill should be amended to encourage the inclusion of the Head Teacher (and appropriate members of school staff) to serve on the Parent Council. Whilst recognising that this would require a number of changes to the Bill as it currently stands, it is important that this opportunity to further cement effective partnership working at school level is not lost.

4 DUTIES, REPORTS AND COMPLAINTS

4.1 Clause 11 is perfectly acceptable, although there is an argument for providing the same “rights” to a Director of Education as are granted to a Head Teacher – specifically the Director of Education (or senior nominated officer of the Education Authority) should have the right to attend any meeting of the Parent Council. As previously indicated, it would be preferable if this right could be enshrined within a more positive description of partnership working.

4.2 Clause 13 is acceptable, although the bureaucratic approach which can be inferred from its contents is at odds with the desire to empower Head Teachers and to support them in working in partnership with parents.

5 PROCEDURES FOR APPOINTMENT OF HEAD TEACHER

5.1 ADES believes that this is a vitally important issue.
5.2 Our current understanding, as a result of discussions with senior civil servants, is that guidance on this matter is likely to be prepared, and that would be welcome. The Bill as it stands has the capacity to be counter-productive if the current Clause 14 is taken literally: i.e. it would be possible for an Education Authority to devise new procedures only to find that Scottish Ministers then made regulations which made these new procedures illegal. The minor, but important, point is that regulations, other requirements, or guidance should be the first step in the process prior to any Local Authority procedures being devised.

5.3 Of even more importance is the need to ensure that Education Authorities are effectively empowered to appoint and deploy Head Teachers in ways designed to secure improvement in the performance of schools across the whole of an Education Authority.

5.4 The current School Boards legislation is excessively prescriptive in this area and its repeal is therefore most welcome. However, ADES acknowledges that the pivotal role of the Head Teacher in appointing staff (including the appointment of Depute Head Teachers) has been reinforced by current legislation, and this position should not be undermined. Whilst offering wholehearted support to the concept of the Head Teacher being the key person in making staff appointments to her/his school (albeit in partnership with others, including parents), ADES believes that it is at least as important that the Director of Education within any given Education Authority is given the key role in selecting Head Teachers (albeit in partnership with others, including parents).

5.5 Education Authorities now have, rightly, a very clear duty to secure improvement in the quality of school education, enshrined in the Standards in Scotland’s Schools, etc. Act 2000. In order to be able to discharge this duty effectively, Education Authorities must be empowered to appoint and deploy school leaders (particularly Head Teachers) without having their hands unduly tied. At present, the legislation and current contractual provision which has resulted from that legislation, means that no Education Authority is in a position to transfer a Head Teacher or a Depute Head Teacher compulsorily from one school to another, no matter how pressing the need for such a transfer may be. The opportunity presented by the current Bill should enable a more flexible approach to be taken by Education Authorities in the deployment of Head Teachers within the Authority. It is important for the Scottish Parliament to be aware of the potential for this new legislation to reinforce the current unsatisfactory situation if no care is taken to avoid that position. ADES would welcome support from the Parliament in being able to move to a position whereby Head Teachers (and, if possible, Deputes) were clearly and unequivocally appointed to a post within an Education Authority which could be located at any one of a number of specified schools.
5.6 Although several of the above points are not strictly relevant to the contents of the Bill as it currently stands, ADES would urge the Education Committee to take account of its comments should there be any proposals to amend Clause 14 as it currently stands.

6 SUMMARY

6.1 ADES is generally supportive of the objectives and thrust of this Bill.

6.2 We are anxious about the possibility of legislation becoming excessively burdensome and overly prescriptive but we acknowledge that this particular Bill is necessary in all the current circumstances.

6.3 In general terms, we would urge the Parliament to ensure that the terms of this Bill are as general as possible and that the legislation does not fall into the trap of attempting to set out operational details which are best left to Education Authorities and schools.

6.4 ADES believes that parents have a key role to play in driving up standards in our schools and we want to build on the good work which already exists across the country. We do not believe that effective school-parent partnerships are strengthened by bureaucratic procedures and we therefore have some anxieties about the way in which the language of the Bill seems to suggest that parents and Head Teachers (and Education Authorities) will be forced to work together in an unduly formal manner.

6.5 We believe that the appointment and deployment of Head Teachers is an issue of great importance and that it is one which would benefit from maximum empowerment being given to Education Authorities.

November 2005
Scottish Schools (Parental Involvement) Bill

COSLA – Written Evidence for Scottish Parliament Communities Committee
November 2005

1. Introduction

The Convention of Scottish Local Authorities (COSLA) welcomes the opportunity to contribute to the Education Committee’s Stage 1 evidence gathering.

This briefing paper has been prepared by COSLA in advance of the meeting of the Scottish Parliament Education Committee on 7th December, where this written response will be complemented by evidence that will be presented to the Committee by COSLA’s Education Spokesperson, Councillor Rev Ewan Aitken (City of Edinburgh) supported by Ms Anna Fowlie, Team Leader – Children & Young People at COSLA.

This paper sets out some of the key issues, which COSLA believes require further scrutiny in the examination of this Bill by the Scottish Parliament.

Overall, COSLA welcomes the bulk of changes introduced by the legislation. We have concerns about some provisions that we believe to be unnecessary, and have detailed these below. However, it is fair to say that most of the proposals are sensible, practical, and will effectively contribute to meeting the Bill’s overarching objectives. Particular concerns we have are: Section 8 (3) & (4) – the provision for Parent Councils to make representations to Her Majesty’s inspectors; and, Section 14 – the procedures for appointment of head teacher or deputy and participation of a Parent Council.

We would like to take this formal opportunity to applaud the Scottish Executive’s Education Department on the manner in which this Bill has been developed. We feel that the consultation process has been excellent, and has afforded COSLA and our members a full opportunity to express our views.

2. Summary of key issues

Resource issues

The resource issues appear to have been adequately met, as addressed in our response to the Finance Committee on the Financial Memorandum, although we have reservations about the possible implications of Section 8 (3) and (4).

Policy issues

As already stated, COSLA is happy with the majority of the Bill’s provisions. For the purposes of brevity, we have ignored those aspects we agree with and focused our response entirely on those parts we believe could benefit from further examination.

Section 6 – COSLA has some reservations at the level of detailed prescription on the scheme for establishment of a Parent Council, but appreciates that there needs to be a minimum standard for the way schemes are established.
across the country. Indeed, we would like to highlight the potential dangers of widely varying models of constitution across the country, and ask that a basic guidance model be issued to all local authorities, but that it be clear that local authorities have the final say on how this is interpreted locally.

Subsection 2(b) appears to be superfluous, and we can think of no occasion where any other party than the local authority would prepare the scheme.

Section 7

We would seek to delete the reference to co-opted members. A key function of the Parent Council is to represent the views of parents who are currently members of the Parent Forum of that school. As we can see from the current situation with some school boards, the provision to allow co-opted members can work against inclusion and gives considerable power to people who no longer have a live interest in the school.

If the above suggestion is not taken on board, we would expect at least to have a requirement in the legislation that the chair of the Parent Council be a current member of the Parent Forum – i.e. must have at least one child currently being educated within the school.

Section 8

It was always our understanding that the improvement of parental involvement would extend beyond solely 'educational' matters as currently suggested in the Bill. We would like to see recognition of the wider contribution parental involvement can make to local communities. Therefore, under subsection 1(b), we would like to add:

(iii) to relevant local strategic partnerships, e.g. Community Planning, Community Learning and Development, Community Safety, Sports Groups, etc. to ensure that parental involvement extends to those aspects of local strategic planning that are co-dependent with schools in that area.

We would like to see 2 further examples under subsection 1(c):

- elected members of the local authority. – It remains unclear in the Bill what role elected members will have in parental involvement. This link will be crucial, and is covered further in section 11.
- local strategic partnerships. – For the reason explained above.

For subsection 2, we would suggest the wording “engage with -”, which would more accurately reflect the true parental involvement in key school issues. The use of “make representations” suggests a distance between the two parties, and is not in the spirit of this legislation.

We have significant concerns about the inclusion of Her Majesty’s inspectors in subsections 3 and 4. The very essence of parental involvement and partnership working would be undermined by this facility. Furthermore, we believe that this could encourage inappropriate use of inspectors, where Parent Councils are dissatisfied with the outcome of any decisions taken by the school or local authority. We feel this would drag inspectors into situations which are best resolved locally, putting them into the role of arbitrator which is not appropriate. It could also place a significant resource burden on them, interfering with their ability to plan programmes of inspection, but could impact even more on schools/local
authorities who already devote a considerable amount of time to dealing with inspections. Every council will have complaints procedures in place and if those procedures are not being followed properly that will be picked up through the normal inspection process with no need for an additional ad hoc provision such as is proposed here.

Section 11 – We suggest that provision be made for a Director of Education, or suitable local authority nominee, to have the right to attend Parent Council meetings. Furthermore, we would like to see provision for elected members to have a similar right, perhaps as a representative of the local authority or Education Committee. Although this may become more difficult with the advent of multi-member wards following the introduction of PR in 2007, there needs to be a recognition of elected members’ key decision-making role in local Education matters.

Section 13 – This seems reasonable, although we have slight reservations at the level of prescription. There should be a degree of flexibility which allows the Parent Council to agree with the Headteacher what is required to be reported, and for that to change as circumstances change.

Section 14 – This is a key aspect of this legislation. Whilst we welcome the repeal of the current school boards legislation, we believe there is an opportunity to formally adopt a more flexible and responsive approach, which allows local authorities to appoint/deploy heads and deputy heads without undue delay. We will of course be commenting on the more detailed consultation on headteacher appointments which has recently been published. Local authorities will of course be happy to involve parents in the recruitment of headteachers and will draw up their own recruitment and selection procedures accordingly. It must be remembered however that headteachers are employed by the local authority and it is the authority – not the parent council or the Minister – who is accountable under employment law and who will take the final decision on both the individual appointment and the procedure by which that will be arrived at.

COSLA would like to see the removal of the Ministerial power to impose requirements or changes to the appointment process. We can see no justification for this, and no examples where such changes could be justified. We are satisfied that any future changes to employment law would be enacted as a matter of course, and therefore fail to see why the Minister would retain the right to change procedures to appoint local authority employees.

3. Conclusion

We are satisfied at the way this legislation has been developed, and our satisfaction with most of the provisions in the Bill is a reflection of this. We do have some reservations, which we believe require further examination. Most notably, we would like to see the removal of references to Her Majesty’s inspectors, and have concerns about the proposed procedures for the appointment of a head teacher.

For further information please contact:

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Scottish Schools (Parental Involvement) Bill: COSLA’s Written Evidence 3
SUBMISSION FROM SSBA

The Scottish School Board Association, as the elected National Body, representing parents in Education, through School Boards, offers this evidence on behalf of its members and as a critical friend in the Scottish Education process.

Q1 WHETHER WE APPROVE OR DISAPPROVE OF THE PRINCIPLES OF THE BILL

1.1 The principles of the Bill as stated are laudable. We support the Minister and the Executive’s vision to achieve stronger, more inclusive and effective parental involvement in children’s education and so lead to improvement in our schools. The research is clear that where parents are involved, children do better. Unfortunately, the Bill does not address the principles. The Bill concerns parental representation and seems to confuse parental (group) representation with parental (individual) involvement.

1.2 There seems to be little in the Bill itself which will directly lead to improvement in parental involvement. No strategies are given to help deliver this. Members have clearly stated that they object to the principle of the abolition of School Boards. Replacing Boards with Councils will not help parental involvement, nor indeed, remove the barriers to involvement. We believe that the parents who will come forward to be involved in Parent Councils will, in most cases, be the same parents who are presently involved in School Boards. Whilst we welcome the flexibility in the election process and the number of parents able to be involved in Councils, this in itself, will not lead to improved parental involvement in their children’s learning. Further research to help in this process is required.

Q2 THE ADVANTAGES AND DISADVANTAGES OF THE PROPOSED SYSTEM OF PARENTAL INVOLVEMENT AS OPPOSED TO THE CURRENT SYSTEM

2.1 The advantages of the Bill are:

a) All parents will be automatic members of the Forum. We hope that this will ensure a greater sense of ownership of and belonging to the Parent Council and encourage 2-way communication between the Forum and the Parent Council.

b) A more flexible election process.

This may encourage parents who disliked producing the election statement to come forward for election to the Parent Council.

c) A greater flexibility in number of members able to be elected to a Parent Council.

This will eradicate the need to reject Council members due to restriction on places available, though obviously minimum and maximum numbers will have to be addressed in constitutions.

d) The onus on the head teacher to not only report on the previous year’s performance but to set out the vision and ambition for the school and to send a summary copy of this to all parents.

e) The renewed focus on Local Councils to develop a Parental Involvement Strategy.

Although most Local Authorities have this in place already, we hope that this may re-enforce the message and lead to renewed efforts in this area

2.2 Disadvantages of the Bill

a) Composition of Parent Councils

A major strength of the current school board system is the partnership working scenario with a range of educational stakeholders working together. To achieve the best for the school, parents need to engage with many stakeholders. All groups are more effective when relationships have been built on trust. We do not believe that the Bill offers this. Parents should always be in the majority, but the present school board system ensures a balanced view and is beneficial to all. Teachers, working at the front line, are an integral part of the process. So too are local councillors as a link to Local Authorities co-opted members and pupils. The proposed new arrangements are a retrograde step which may lead to less, not more, meaningful involvement for parents in schools. It is directly contrary to the partnership ethos of Scottish education.
b) Lack of structure
Although this is being mooted as meaning more flexibility it will inevitably lead to challenges. We need to have an agreed structure which will be acceptable to both parents and teaching professionals. The Bill states that representation can be made on any matter of interest or concern to parents or the Parent Council. This may lead to totally inappropriate representations about personal issues involving teachers and may lead to conflict with the head teacher who has a duty of care to his/her member of staff and is an officer of the Local Council. Total clarification of acceptable boundaries should be addressed in the Bill.) SSBA has existing expertise in the guidance and support of parent bodies and is able to provide and give advice on a model constitution. The issue of accountability needs to be addressed too. (See 4.1)

c) Clarity of language
Although the desire was to move away from a prescriptive and restrictive system of parental representation, the over-reliance on flexibility has lost us the opportunity to have legislation which is clear as well as flexible. (See 4.2)

d) Conflict of interest
Unlike the 1988 Act, this Bill contains no mention of disclosure of any conflict of interest.

Q3 WHETHER THE SCOTTISH EXECUTIVE CONSULTED EFFECTIVELY ON THE BILL BEFORE IT WAS INTRODUCED TO PARLIAMENT

3.1 Many parents feel that the consultation process was badly handled. The SSBA received many complaints from school boards that they had been unable to obtain a copy of the consultation document from their school. Some of the documents were late in arriving in schools; others seem to have lain in schools with the head teacher and the School Board being unaware of their presence.

3.2 The parents’ leaflet which accompanied the consultation document was of very limited use. Some schools did not receive these leaflets at all, with head teachers and School Boards being unaware even that they should have had them. The actual content of the leaflet seems to have been of little help to the parents who did receive them. It gave little information. The main complaint was that it gave no information about the Civic Forum meetings venues, merely a telephone number to call for information. Advertising of these meetings was poor, with only a few days advance notice being given.

3.3 Parents who did attend these meetings reported that the Scottish Executive members. They also showed a lack of understanding of how modern School Boards worked. This was a matter for much regret as it indicated that those responsible for drafting and approving the Bill – officials and politicians – had failed in their duty to understand how, in practice, school boards now fulfilled their legal obligations. There was general unease from parents that Alan Armstrong, who had been seconded from HMIE to work on the draft Bill, returned to HMIE before the meetings and was replaced by a member of the Executive who clearly was not at all familiar with the content of the draft Bill at the time of the Civic Forum meetings.

3.4 Many parents were also unhappy with the form of questions contained in the consultation document, complaining that they contained leading statements. Many of the questions about ‘new’ duties for Education Authorities seemed to indicate a lack of knowledge that these ‘duties’ were already being carried out by Education Authorities. This level of awareness was surprising to parents and we would hope that this will be rectified by the Ministers responsible for Education.

3.5 The so-called ‘George Street’ research caused much consternation amongst parents. Parents were also at a loss to understand where the mandate claimed by the Scottish Executive to repeal the 1988 Act had come from. The ‘evidence’ cited in the consultation document seems to have come from a very small minority of parents and others who seem to have little knowledge of the current operations of School Boards. The research quoted in the Scottish Executive consultation paper engaged only about 200 ‘silent majority’ parents from disadvantaged groups. Little cognizance seems to have been taken of the ‘silent majority’ mainstream parents. The George Street research did not recommend the abolition of school boards; it merely recommended an overhaul of their
structures. Its main recommendation to improve parental involvement was an education and information campaign. Professor Walter Humes, speaking at the 2005 SSBA Conference and subsequently has commented on the potential weaknesses of this type of ‘evidence informed’ research, namely

- Questions being framed in such a way as to produce biased findings.
- Low return rates leading to erroneous conclusions.
- Varied motivations which can affect the value that can be placed on comments.
- What should count as evidence?

3.6 Parents were puzzled that it was felt necessary to have an addendum to the consultation process in the form of the MORI poll. We were told that this was undertaken because most of the responses were coming from people who already had significant levels of involvement, particularly those serving on School Boards, but did the Executive really not envisage that it would be parents who were already involved who would have most to say about any change to involvement? All parents had already had ample opportunity to take part in the consultation process if they wished.

We are told that 63% of those surveyed said they were more likely to become involved when the new Parent Forums were put in place, yet curiously one of the key statistics was that 79% of parents felt that the balance of opportunities to be involved in the life of their child’s school was about right. It is probable that people who took part in this poll were not fully versed in all aspects of the Bill and were unable to comprehend the differences between the systems-so we are unable to understand how this prediction was able to be made. They did not say how the new Forums will help them become more involved when they already feel that they have plenty of opportunities for involvement.

**Q4 CONCERNS ABOUT PARTICULAR ELEMENTS OF THE BILL AND SUGGESTIONS AS TO HOW IT MIGHT BE IMPROVED**

4.1 Structure of the Bill.
The Bill has no mention of agendas or minutes. In order to ensure communication and accountability to the parent forum, there must be greater structure.

4.2 Language of the Bill
Section 5.2 states that a ‘parent forum may be represented by a Parent Council. The onus is on Parent Councils to work to raise standards of education in schools, through the National Priorities, local authority objectives, school development plans and section 2 of ‘How Good is our School?’ To ensure that the standard is obtained nationally Education Authorities should have a duty to promote a Parent Council in every school. The Act should therefore say that a ‘parent forum must be represented by a Parent Council.’ The objective is a national excellent system.
The Bill also contains terms like ‘have regard to,’ and ‘make representations to’ and words such as involvement which are inadequately explained. These are very much open to different interpretations by different Local Authorities. SSBA has constantly asked that the legislation should be so transparent that parents and Authorities alike should be quite clear on their rights and responsibilities, with no room for different interpretations.

4.3 Financing of Parent Councils
The funding for Parent Councils has very much been left to Local Authorities. At the moment there is a great variance in funding from Local Authorities. This leads to varying provision in service from Boards to the parent body. If this funding was set nationally, a national level of expectation in areas such as communication and accountability could be applied.

**5. ANY SPECIFIC ISSUES NOT ADEQUATELY ADDRESSED IN THE BILL**

5.1 SSBA suggested that a system of dedicated e-mail addresses should be set up for Parent Councils. This would enable quicker, better and more cost effective communication between Boards, the National Parents body, Local Authorities and the Executive and would be an aid to greater parental involvement.

5.2 The issue of Forums becoming agents of the Local Authority was mooted in the first draft of the Bill. This would then mean that all Forum members taking part in approved school activities and not just the Parent Council would be able to be insured by the Authority. SSBA was assured that
discussions on this were well advanced, but the whole issue has now been removed from the Bill. It is of much consternation to PTAs that Boards are insured by the Local Authorities but PTAs are not, and that they have to use their funds to buy insurance through a private company. School Boards as agents of the Authority were able to operate independently, so we see no challenges with the whole Forum being agents of the Authority.

5.3 Appointment of senior staff
The Bill merely states that Local Authorities will inform parents and the Executive about their arrangements for appointments and that there will be continued parental involvement. There should be more detail about this in the Bill. Although the SSBA is having discussions with Teachers’ Division of the Executive about this and best practice would seem to indicate that parents should be involved at the earliest stage in the process, so that Authorities and parents can agree on the qualities required for their school appointment, we have not been assured that parents will continue to enjoy equal representation in interview panels, as at present. Despite the stated aims of opening the way for the comprehensive modernisation of senior appointment posts, the Bill, in itself does not do that.

5.4 SSBA has suggested that in order to encourage true parental involvement and partnership working, there should be parent representation on Local Authority Education Committees. This is already set up and working well in some areas and could be easily emulated throughout the country.

5.5 Members not acting in the best interests of the Forum
A clause should be inserted to enable boards to remove members not acting in the best interest of the Forum.

5.6 The opportunity has been lost to address the issue of a National parents Body and to consult on this issue within the body of the draft Bill. Research carried out by SCC on parents’ views about the proposals found that parents themselves identified the need for Parent Forums and Councils to have independent support. A national Parent Forum would be able to monitor the implementation of the Act and ensure that parents’ rights were being upheld. If there is a gap in time between the implementation of the Parental Involvement Bill and the setting up of a national body there will be no independent body to support Forums and Councils through the transition and beyond. If SSBA has been forced to disband, due to cessation of membership fees a valuable training resource will be lost. SSBA is already well set up to offer training to parental bodies. There will be little work involved in tailoring our training to suit the new Councils. The expertise of this organisation which evolved because of the will of parents to have representation and support at national level will be lost. The Scottish Executive has stated in its financial memorandum to the Bill that ‘the Bill has no direct cost impact on other bodies. On the contrary, it will have profound implications for the future of SSBA.'
Scottish Schools (Parental Involvement) Bill: written evidence for the Education Committee

Scottish Parent Teacher Council (SPTC) welcomes the Scottish Schools (Parental Involvement) Bill. We are totally supportive of the principles incorporated in the Bill that is now being considered by the Scottish Parliament. We welcome the proposals to facilitate parental involvement through parent-friendly bodies and also those changes from the draft Bill that respond to concerns raised during the consultation.

1) We welcome the identification of the whole parent body as the Parent Forum, because this makes it clear that all parents – not just committees – have a role to play in schools, and have a right to be consulted.

2) We also welcome the clarification that the business of the Forum will operate through a smaller, properly constituted committee – the Parents’ Council – but that all parents will be actively involved through their membership of the Parents’ Forum. Whilst we always understood that a two-tier structure like this would be the operational system for the Forums, many were worried that the original proposals seemed too vague and unstructured. This change to a two-tier system on the face of the Bill addresses these worries.

3) We welcome the fact that the headteacher’s involvement is now clearly spelt out. Again, we always understood that the Forums would need to work in partnership with headteachers, but the clarification of the headteacher’s role on the face of the Bill answers those critics who felt that the headteacher was being sidelined and the Forums could end up being pointless talking shops.

4) We welcome the fact that there is now a duty on Scottish Ministers, as well as on education authorities, to promote parental involvement. This clearly signals both that parents do have an important role to play in schools, and that the importance of this role is recognised at the highest level.

5) However, we are very pleased that the main principle of the original proposals – that the new Forums and Councils belong to the parents at the school, will be designed and operated by them, taking account of the different circumstances that exist at different schools - has been retained.

6) We do have a reservation that there is no clear requirement on the Parent Council to prioritise issues brought to it by the Parent Forum. It is very important that the Parent
Forums retain “ownership” of the Parent Councils and that the Parent Councils, for their part hold themselves accountable to the Parent Forum. There should therefore be scope for the Parent Forums to require the Parent Councils to take up issues on their behalf; not as is presently laid out in Section 8 1(e)(iv) for the Parent Councils to determine which of the issues that are of concern to the Parent Forum they will consider.

7) Constitutions
One of the issues that caused concern during the consultation was the fact that the Parent Forums would determine the constitutions of the Parent Councils. There seemed to be a belief that this task was too difficult for “ordinary” parents to perform. We would like to point out that parents have been writing constitutions for PTAs quite successfully and competently for over fifty years. Moreover, they have been sufficiently competent to change PTA constitutions when this proved necessary in response to changing circumstances. This is an area where SPTC has considerable expertise as many PTAs come to us for advice. We make it clear that a constitution is not some lengthy legalistic document akin to the American Constitution that they have to comply with; rather it is a written description of the organisation that they want to have. A constitution can be written simply by detailing the following aspects of the organisation:

a) its name;
b) aims and objectives,
c) who the members are;
d) if there is a committee, then how many people are on the committee and
e) how they are elected;
f) how office-bearers are nominated and appointed;
g) voting procedures;
h) the need for an annual audit;
i) how often the committee should report to the members;
j) arrangements for calling general meetings;
k) how the constitution can be changed;
l) winding-up procedures.

Moreover – and very importantly - the constitution should be written in terms that are clear, straightforward and easily understood by everyone. A legalistic document that no one can interpret is of no use to anyone.

An education authority has a duty to prepare a scheme for the establishment of a Parent Council in each of their schools. In fulfilling this duty an education authority must not only have regard to the views of the parents as detailed in Section 6 (1), they must also have regard to the principles of simplicity, clarity and easy comprehension detailed above.

8) Headteacher Appointments
Another major area of concern that arose during the consultation was the apparent diminution of the parental role in the appointment of headteachers and senior staff. We always understood that this was because there would be a separate consultation on the new processes for appointing headteachers and senior staff. We welcome the fact that this consultation is now ongoing. We also welcome the suggestion that parents should be more meaningfully involved at the person specification stage but feel it is very important that the final appointment stage should be rigorous and professional, with parent’s views
contribute, but not determining, the outcome.

9) **Right to Approach HMIe**
Conversely, we are puzzled at the appearance of Section 8 (3) in the Bill that is being presented to Parliament when this matter was not raised during the consultation phase. We are not aware of any widespread demand by parents to have a right to appeal to HMIe. Indeed, in the few cases where parents have been pleased to see an HMIe visit following a breakdown in relations with the school, the parents have often been disappointed when HMIe gave the school a good report. We feel it would be more helpful if all education authorities were required to set up a general conciliation service to resolve differences between parents and schools.

10) **Burdens that limit volunteering**
Beyond the general principles and broad proposals of the legislation, there are some detailed matters that do have to be sorted out if the aim of involving more parents is to be realised.

**Public Liability**
For example we understand from our work with PTAs the complexities arising from the need for public liability insurance. It is very important that anyone who volunteers to become involved at their child’s school is not left liable for any insurance claim against either the Parent Forum or the Parent Council.

**Employment Law**
Also, it has been drawn to our attention that if the new Parent Councils employ clerks to look after their affairs, they may find themselves having to deal with employment issues such as National Insurance and holiday entitlement. This burden must be removed from parents.

**Disclosure Checks**
It is also vitally important that the meaning of “child care” as laid out in Schedule II of the Protection of Children (Scotland) Act is clarified so that parents know exactly where they stand and who is responsible for undertaking disclosure checks should these be deemed to be necessary.

When parents volunteer their time to help their child’s school, they do so from an abundance of goodwill using their own marginal and scarce free time. They do not expect their efforts to be bogged down in endless red tape.

11) **National Parent Body**
Finally, the issue of a national parents’ body has to be addressed. Such bodies do not come into existence without effort. SPTC has grown organically since the idea was first put into practice some 57 years ago, whilst the Scottish School Board Association owes much to the efforts of the Director of Education in Dumfries and Galloway in the early 1990s. We recognise that a national body is both important and necessary. We do not think that it should be prescribed by legislation, but we do think that, even at this stage, considerable thought should be given to its format and to how it can be set up and funded.

Scottish Parent Teacher Council
29th November 2005
Report on SPTC's Survey on Parent Forums

Process
In April 2005 we sent the attached survey to all our member schools, as well as making it more widely available on our website. We asked members to discuss the proposals for parent forums either within the PTA committee or more widely. As usual, it was encouraging that several schools did send the survey out to all parents, although many reported that they only received a small number back. Several people supplemented their response with comments and it is clear from these that the survey stimulated some very thoughtful discussion.

Response
We asked respondents to give us the actual numbers of those voting in the survey. Unfortunately, some schools returned their forms with just “unanimous” or a tick. We counted “unanimous” as 10 votes (This applied to six schools. One of these returned a “unanimous” response from the PTA in support of the proposals and a “unanimous” response from the school board opposing the proposals. Both were entered as 10 votes). Ticks on their own were counted as 1 vote. Using these conventions, we received 1,207 votes from 141 schools (118 primaries; 20 secondaries; 1 primary/secondary; 1 special and 1 not identified) across 30 local authorities (the exceptions were Clackmannanshire and the Western Isles).

Respondents were asked to vote for the proposals, to reject the proposals or to indicate that they could not decide.

Option 1 - for the proposal, attracted 42.1% of the votes.
Option 2 – rejecting the proposals, 32.8 % of the votes.
Option 3 – the undecided, accounted for 25.1% of the votes.

Comments
As always, the comments put some flesh on the numbers. These covered a range of areas starting with the lack of information that parents had received and the general lack of interest amongst parents as a whole. The biggest group of comments concerned the perceived vagueness of the proposals. Both supporters and opponents of the forums based their decisions on their existing experience of how well boards and PTAs worked in their schools. However, many of these comments, whether for or against the forums, were qualified. For example, many who opposed the proposals went on to argue that some changes to the existing school board legislation was necessary. Some respondents proposed some quite specific amendments, for example that headteachers should have a clear role.
1) There were quite a few comments about the lack of information that had been received – this was usually accompanied by a high don’t know vote.
   - Because we have had so little info to date on this subject, the committee agreed to respond with a “don’t know” vote at present. (The only info we have received is the info detailed in the March 2005 Backchat newsletter. No leaflets have been issued to parents)

2) Several reported on the lack of interest amongst the parents as a whole (a number of schools reported sending the survey out to all members and only getting a small number returned.).
   - Newsletter with info and survey question was sent out to the whole school (240 children); only 11 responses came back

3) Many expressed general concerns about the perceived vagueness of the proposals.
   - It’s a great idea in theory but how are you going to avoid the problem of having one or two bossy parents telling everyone else what to do and just running it themselves how they want it done?
   - Who’s going to head parent forums? Is this not another strain on our already stretched teachers?
   - Too big a forum could be more difficult to manage, being less constructive
   - To ask parents to come up with a constitution seems onerous and lacking in continuity
   - One school suggested that a trial period is needed before benefits can be known

4) For some, their decision was based on their present experience.

   Glenurquhart High opposed change because their current experience was very positive.
   - Our current school board is very active and played a huge role in securing a new school for Glenurquhart, opened almost 3 years ago. The PTA are actively involved in fundraising and helping with many activities for the youngsters. The new proposals seem chaotic, with each school being able to “do its own thing” and I’m sure this would be a major headache for Education Authorities

   Several others came up with the theme If it’s not broke, why fix it?

   However, in Aberdeen, we heard of a negative experience leading to a desire for change.
   - Anything rather than the lethargy that exists at present – as always left to the few. Sad to say nothing happens between the school and parents unless money is required

   And another parent reported on the current lack of enthusiasm for boards at her school.
   - I have had my name down for the school board for 2 years but we haven’t been able to drum up enough parental interest to convene the board

   One PTA phoned to report that they were not being “allowed” to discuss the proposals as the their Headteacher said that they were just a fundraising body.

   However, one school, whilst enjoying a good experience with the current system, also recognised that not all schools were so fortunate.
   - We realise that not all schools have both a PA and school board and so for them this could be a positive step. A move away from the perceived “formality” of a school board may encourage new members to come forward
5) Many of the comments both in support and opposition to the proposals were qualified.

On the plus side there was:

- I think it’s a good idea but if it becomes too formal like SBs then nobody will join and you’ve lost both groups. At this moment they have clear rules; professionals tend to join SBs and are interested in budgets etc – it’s more formal – whereas PTAs are less formal and are more into the social side. I’m not sure how it will come together

Whilst on the negative side there was:

- We as a board are very happy with the way things are run at present and have major concerns that we will lose control of what we have at present; there are, we agree, some areas that need looking at i.e. how long members are on the committee for (a maximum of four years is sufficient) and would suggest a member, after 2 years, may opt for another 2 years but must vacate their position after 4 years – this will allow fresh blood into the Board. The number of members per school should also be allowed to be increased if desired. Comments in support of the proposals

- The school board and PTA met and there was unanimous agreement that the School Boards Act needs amending but absolutely not replacing

6) Some respondents made some quite specific suggestions.

- the headteacher should attend the meeting; it should be part of their duties

7) Finally, one school reported that the very process of the consultation had had a positive effect.

- In our school the School Board and PTA committees operate completely separately - the Chairs of each came together to discuss this issue, but otherwise there is little input from the wider parent body to the School Board. As a result of the PTA discussions it was decided that a PTA member would attend all future School Board meetings, and this has already produced benefits, both for the School Board, who were seeking views on the School Development Plan, and for the PTA, whose views are now being fed into the Development Plan process. So this debate came at a very good time. The PTA and the Board have now decided to have 2 joint meetings in the year, which will hopefully continue this useful cross-fertilisation.

The PTA, as a whole, felt that School Boards and PTAs attracted different kinds of people, with different agendas. Needless to say we felt more attracted to the informal, pragmatic way that the PTA worked, but were pleased that we might have greater input to strategic and policy issues.

There was no feeling that the changes in legislation would lead to a radically different way of working, though everyone felt that the election process was pointless. In particular PTA members all had experience of potential Board members avoiding elections e.g. by making sure that the number of candidates matched the number of vacancies exactly. This, and the various ways that Boards were known to have recruited and co-opted in their own image, were not necessarily seen as a bad thing by PTA members. But it did mean that the PTA didn't view the School Board as any more democratic or representative than it was itself. There was no desire for the PTA to
take on the tasks of the School Board, such as interviewing or monitoring the school budget, though we were very happy to be involved in the School Development Plan process.

Conclusion
The result of this survey shows majority support for the proposed parent forums whilst the comments make it clear that even those who want the current school boards to continue recognise that changes need to be made. What these respondents are not recognising is that the proposed legislation offers them the opportunity simply to make the changes that they see as desirable.

The substantial “don’t know” vote and accompanying comments indicate that there has been a shocking lack of consultation with the wider parent community. Whilst it may give us a certain satisfaction to learn that we are the sole source of information, in general terms this is not acceptable. This failure to communicate beyond school boards highlights how disenfranchised many parents and PTAs have become.

Once again, there is evidence that parents are nervous of change and inherently conservative when it comes to educational structures. The majority base their experience on what happens in their school and cannot imagine either that things work differently in different schools or that they could work differently in the future. The calls for a “uniform system” do not allow for the fact that there is already wide variation in school boards and more particularly in PTA formats. In some respects, the proposals in this legislation merely catch up with reality rather than impose something new and strange.

Scottish Parent Teacher Council
June 2005
CONSULTATION ON PARENT FORUMS

Parent Forums to replace school boards

Until 7th June, the Scottish Executive is consulting on a draft bill to abolish school boards and replace them with parent forums. The changes will affect all parents, not just school boards and PTA committees, as they are designed to help more parents get involved in the life of the school and have more opportunities to raise issues that are of interest to them.

The forums will have all the powers of existing boards in terms of getting information, making representations on behalf of parents and being involved in the appointment of headteachers and deputes. They may also, if they wish, carry out the social and fundraising functions normally associated with PTAs.

The big difference is that the forums will be designed by the parents in each school, and parents in different schools will be able to make different decisions. This is in contrast to the current school board system where membership, terms of office and election processes are all determined by legislation and only vary between schools according to school roll. This means a 600 pupil primary school has exactly the same board format as a 600 pupil secondary school.

With the new bodies, parents will be free to choose to have more parents on the forum; to have one or two representatives from each year group; to have one-year terms of office with the option of reappointment. They might choose to operate with a single large committee to carry out traditional school board and PTA activities or continue with the current two, quite separate, committees. The big plus is that it will be for parents to decide. Moreover, parents will be able to change the arrangements if they decide in the future that something different would suit them better.

The local authority will contact parents about setting up a parent forum. The authority may offer a range of different options. The parents can choose to adopt one of these or design their own body. Because the forums will be different in different schools, it will be necessary to write a constitution. However, as with PTAs, this will be a written description of the actual organisation; there will not be one constitution that all the new forums will have to comply with.

Every parent should receive a leaflet outlining the proposals and telling them how they can participate. All schools will have copies of the full consultation, Making the difference – improving parents involvement in schools which is also available from the Scottish Executive (0131 244 4485) or on the Parentzone website www.parentzonescotland.gov.uk

Meanwhile, we would like to know what you think in order to shape our response. We would be grateful if you would discuss this with parents at your school - either your committee or a wider group - and ask each person to vote “yes”, “no” or “don’t know” to the question. There is no need to try to reach an agreement. Put the total for each option in the appropriate box and return the survey to us by 31st May. Please add any comments overleaf.

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<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>Don't Know</th>
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<td>Do you agree with the proposal to replace school boards with parent forums?</td>
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Please give name of school______________________________________________________