Education Committee
1st Meeting, 2006

Wednesday 11 January 2006

The Committee will meet at 11.30 am in Committee Room 4

1. **Item in private:** The Committee will consider whether to take item 3 and all subsequent considerations of its draft report in private.

2. **Scottish Schools (Parental Involvement) Bill:** The Committee will take evidence at Stage 1 from—
   - Peter Peacock MSP, Minister for Education and Young People
   - Colin Reeves, Head of Schools Division, Education Department, Scottish Executive
   - Deirdre Watt, Bill Team Leader, Education Department, Scottish Executive

3. **Scottish Schools (Parental Involvement) Bill:** The Committee will consider its Stage 1 report.

Eugene Windsor
Clerk to the Committee
Room T3.40, Committee Office
Ext. 0131 348 5204

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The following papers are enclosed for the meeting:

**Agenda item 1**

Clerk’s note ED/S2/06/1/1
Finance Committee report on Financial Memorandum ED/S2/06/1/2
Subordinate Legislation Committee report on delegated powers ED/S2/06/1/3
Introduction

1. Today’s meeting concludes the Committee's oral evidence on the general principles of the Scottish Schools (Parental Involvement) Bill.

2. Reports have been received from the Finance Committee and Subordinate Legislation Committee and these are included in the papers for this meeting as ED/S2/06/1/2 and ED/S2/06/1/3 respectively.

Timetable

3. The Committee will consider a draft Stage 1 report at its meeting on 25 January 2006 with the final report being agreed at the meeting on 1 February 2006 with publication immediately afterwards. The Bureau has agreed that Stage 1 will be concluded by 23 February 2006.

Action

4. The Committee is invited to AGREE to consider the draft report in private.

Eugene Windsor
Clerk
Education Committee
Finance Committee

Report on the Financial Memorandum of the Scottish Schools (Parental Involvement) Bill

The Committee reports to the Education Committee as follows—

INTRODUCTION

1. Under Standing Orders, Rule 9.6, the lead committee in relation to a Bill must consider and report on the Bill’s Financial Memorandum at Stage 1. In doing so, it is obliged to take account of any views submitted to it by the Finance Committee.

2. This report sets out the views of the Finance Committee on the Financial Memorandum of the Scottish Schools (Parental Involvement) Bill, for which Education Committee has been designated by the Parliamentary Bureau as the lead committee at Stage 1.

3. At its meeting on 22 November 2005, the Committee took evidence from Scottish Executive officials. Oral evidence for this meeting can be viewed by clicking here. In addition, the committee received written submissions from Her Majesty’s Inspectorate of Education and from COSLA.

Objectives of the Bill

4. The purpose of the Bill is to replace School Boards which were established under the School Boards (Scotland) Act 1988, with parent forums at each school within each local authority, which will in turn elect a parent council for that school. The aim is to promote and support parental involvement in school education and to place statutory duties on Ministers to do so.

Costs of the Bill

5. The costs of the Bill will fall upon the Scottish Executive, local authorities and Her Majesty’s Inspectorate of Education (HMIE). These will total £1.2m per annum from 2006-07 onwards.

Costs upon the Scottish Executive

6. The Scottish Executive will be responsible for producing guidance to local authorities and parent councils as to what their roles will entail through the Bill. The Executive will provide support material to assist with the setting up of parent councils, and this will include guidance on consultations and running the parent
councils. The costs that will fall upon the Scottish Executive for producing guidance and generic support materials for local authorities and parent councils is £150,000 for 2006-07, and £50,000 for 2007-08.

Costs upon Local Authorities

7. Until the enactment of the Bill, local authorities will be responsible for continuing to provide support to school boards. In addition, they will also be required to provide for the creation of parent councils and forums. Once the Bill is enacted, school boards will be dissolved, and the local authorities will be responsible for providing funding to support the parent councils with their operation, administrative costs and training. This service is currently provided to school boards, and following the enactment of the Bill and the dissolution of the school boards, this funding will be redistributed to the parent councils.

8. Local authorities will also have a duty to promote parental involvement, and this may include providing translation of information leaflets for parents whose first language is not English.

9. The Financial Memorandum states that it is not anticipated that the local authorities will have to incur significant costs towards developing options and model constitutions, as this will be provided for in guidance from the Scottish Executive. However, authorities will need to cover the cost of consultation with parents, and analysing responses.

10. It is anticipated, that as the parent councils will be expected to have more involvement with parents than school boards at present, there may be a greater requirement for administrative assistance. The Financial Memorandum is not prescriptive in what the local authorities will need to provide towards this administrative assistance, but it suggests that this could be a paid clerk or through voluntary work.

11. Local authorities will also be expected to provide accommodation and guidance for the meetings of the parent councils, and to prepare and publish the scheme for each school council. In addition, they will be expected to provide training for representatives from parent councils for interviewing head teachers and deputy head teachers at schools. However, some education authorities believe that savings will be made from the removal of the requirement to advertise these posts nationally.

12. They will also be expected to provide a complaints procedure for parents at schools, through consultation with parents specific to the duties of the Bill. While this may incur some additional short term costs, it is not anticipated that further costs will arise, as the complaints procedure should ensure that there is more clarity in the information provided.

13. Local authorities will also be required to provide information to parents at their request in relation to the education of their child at the school. While this is currently provided in most schools, the Bill will make this a statutory duty upon local education authorities. The Pupils Educational Records (Scotland) Regulations 2003 currently enable education authorities to charge parents for copies of their child’s educational record.
14. It is estimated that costs upon local authorities of providing support, administrative costs, promoting the establishment of parent councils will be £100,9000 in 2006-07, £112,3000 in 2007-08, and £126,6000 in 2008-09.

**Costs upon Her Majesty’s Inspectorate of Education**

15. Her Majesty’s Inspectorate of Education (HMIE) currently receives representations from parents in relation to inspections of schools. While the Financial Memorandum states that it is difficult to estimate additional costs from representations by parent councils, it is believed that some of the current parent representatives may be replaced by those of parent councils. Costs would be incurred by HMIE for investigating each representation it receives.

16. It is estimated that for an additional 10 representations per year from parent councils, the costs upon HMIE will be approximately £23000 per annum.

The costs are set out in the Financial Memorandum as follows.

**Table 1: Total Estimated Additional Costs of the Bill**

<table>
<thead>
<tr>
<th></th>
<th>2006-07 (Transition Year with School Boards still operational) (£000s)</th>
<th>2007-08 (First year of new system after commencement of Act) (£000s)</th>
<th>2008-09 (and subsequent years – steady state) (£000s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local authorities</td>
<td>1,009</td>
<td>1,123</td>
<td>1,266</td>
</tr>
<tr>
<td>Scottish Executive</td>
<td>150</td>
<td>50</td>
<td>N/A</td>
</tr>
<tr>
<td>HMIE</td>
<td>23</td>
<td>23</td>
<td>23</td>
</tr>
<tr>
<td>Total</td>
<td><strong>1,182</strong></td>
<td><strong>1,196</strong></td>
<td><strong>1,289</strong></td>
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</tbody>
</table>

**Summary of Evidence**

17. In their written submission, COSLA said that they had reservations regarding the cost of additional representations made to HMIE from parent councils. They highlighted that this could lead to additional costs, which could impact upon the costs of the Bill. HMIE however were content with the costs that were reflected in the financial memorandum.

18. In evidence Executive officials explained that HMIE had provided the estimate of representations. HMIE had informed the Executive that even if the number of representations made to them by parent councils were to be double this amount, they were content that they could absorb any additional costs from their budget.

19. The Committee asked whether the assumptions in the Financial Memorandum had been set at a minimum or maximum level of parental involvement. This was in relation to the fact that there may be a broad range of approaches and levels of activity in individual schools. Given that the Bill is not prescriptive in how parent councils should be formed, this could result in different approaches to the Bill in different schools across the country.
20. The Executive explained that the assumptions had been based on a figure from an assessment of the likely response to the Bill. Neither the Executive nor local authorities envisaged that there would be a much greater number of parents on a parent council more than are on the current school boards. The Executive also believed that there was unlikely to be a substantial alteration from the assumptions given in the Financial Memorandum.

21. The Executive confirmed the names of the four sample local authorities during their evidence which were used to develop the methodology for calculating the cost of the Bill. These were: East Renfrewshire, East Lothian, North Lanarkshire, and Highland. They chose these authorities as they cover both rural and urban areas and the east and west of Scotland. Both COSLA and the Association of Directors of Education Scotland had indicated to the Executive that they were content with the approach of using these four sample authorities to provide the assumptions of costs in the Financial Memorandum.

Conclusion

The Finance Committee considers the Financial Memorandum for the Scottish Schools (Parental Involvement) Bill to be adequate.
ANNEXE – WRITTEN SUBMISSIONS

SUBMISSION FROM HMIE

Consultation

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?
   
   Yes

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?
   
   Yes

3. Did you have sufficient time to contribute to the consultation exercise?
   
   Yes

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.
   
   Yes – HMIE costs are specifically discussed in paragraph 72 of the Financial Memorandum and we fully endorse the statements made there.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?
   
   The costs predicted (£23,000) are relatively minor and can be absorbed within the context of the existing HMIE budget.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
   
   Yes

Wider Issues

7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?
   
   Yes
8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

We do not anticipate further costs of this nature arising.
SUBMISSION FROM COSLA

Introduction

As the collective voice of Scottish local government, COSLA are delighted to have this opportunity to express our views on the Scottish Schools (Parental Involvement) Bill – Financial Memorandum. The Bill introduces a range of practical measures which we believe will improve the way that parents engage with schools and are involved in their children’s education.

COSLA are particularly pleased with the way that local government’s view has been considered in the formulation of this legislation. Furthermore, the high level of engagement between the Executive and COSLA has been instrumental in the development of these sensible policy proposals and practical financial projections.

We are confident that much of the associated costs of this legislation will be offset using existing resources in a different way. The overall additional costs should be relatively modest, and we are comfortable that the figures set out in the Financial Memorandum will provide adequate provision.

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

COSLA did take part in the consultation, both through the formal response process and through numerous informal discussions with officials from the Executive. No detailed comments were made on financial assumptions in our response, but there have been significant discussions on the financial aspects of the proposals.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes, we are satisfied that our views have been accurately reflected.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes, sufficient time was given.

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

Yes. COSLA undertook separate research into the likely financial implications. The results tally with those made in the Financial Memorandum.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?
The provision outlined in the Financial Memorandum would appear to be sufficient.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Although very difficult to gauge, we are comfortable that the margins of uncertainty should not ultimately result in impossible financial burdens for local authorities.

7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

Yes.

8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

We do not envisage significant future costs arising. However, we have reservations about the Bill’s provision for HMIe intervention at the behest of parents, and are concerned at the potential resultant added costs for the public purse. We therefore reserve the right to comment on this at a future date if it remains in the Bill, and when we have more information about the associated costs.
Report on Scottish Schools (Parental Involvement) Bill at Stage 1

The Committee reports to the lead committee as follows—

Introduction

1. At its meetings on 6 December and 13 December 2005, the Subordinate Legislation Committee considered the delegated powers provisions in the Scottish Schools (Parental Involvement) Bill at Stage 1. The Committee submits this report to the Education Committee, as the lead committee for the Bill, under Rule 9.6.2 of Standing Orders.

2. The Executive provided a memorandum on the delegated powers provisions in the Bill, which is reproduced at Annex 1.

3. The Committee’s correspondence to the Executive and the Executive’s response to points raised are reproduced at Annex 2.

Delegated Powers Provisions

4. The Committee considered each of the delegated powers provisions in the Bill. The Committee approves without further comment: sections 14(3), 21(1) and 24(2).

Section 8(7) Functions of a Parent Council

5. The Committee noted that this provision conferred a power on Ministers to “alter” the functions conferred on a Parent Council by virtue of section 8(1) of the Bill. The Committee asked the Executive for further clarification as to the policy intention behind the width of this power. The Committee also asked the Executive if it had plans to include a formal requirement on the face of the Bill to consult Parent Councils before making an order amending their statutory functions.

6. The Executive explained that the power to alter the functions may be exercised in light of the experience of new Parent Councils as they are established and develop. It confirmed that the power allows the functions to be “added to” in response to future changes in education policy. The Committee agreed to accept this explanation, given that the power is subject to affirmative
resolution procedure, and draws the issue to the lead Committee for information.

7. The Committee was also content with the Executive’s undertaking to consult stakeholders in relation to an Order made under this section.

Section 19 general power to issue guidance

8. The Committee observed that this provision conferred on Ministers a wide power to issue guidance to local education authorities, Parent Councils and Combined Parent Councils, with regard to the exercise of any of their functions under the Bill. The Committee noted that this power as currently drafted is not subject to any Parliamentary scrutiny and asked the Executive for comments on whether this power ought to be subject to some form of Parliamentary scrutiny. The Committee was particularly concerned that such guidance could be issued to groups of parents who may have little experience of dealing with statutory guidance.

9. The Executive stated that it would be its intention to include key stakeholders in drawing up guidance to be issued under this section. The nature of any guidance is thought by the Executive to be a matter likely to be considered further as the Bill progresses.

10. The Committee considers that some form of Parliamentary scrutiny may be desirable in the circumstances. The Committee therefore brings this matter to the attention of the lead committee for its consideration.
ANNEX 1

MEMORANDUM ON DELEGATED POWERS

SCOTTISH SCHOOLS (PARENTAL INVOLVEMENT) BILL

Purpose

1. As required under Rule 9.4A, this Memorandum has been prepared by the Scottish Executive to accompany the Scottish Schools (Parental Involvement) Bill introduced in the Scottish Parliament on 28 September 2005. It details the provisions in the Scottish Schools (Parental Involvement) Bill that confer powers to make subordinate legislation. It describes the persons upon whom the powers are conferred, the form in which the powers are to be exercised, the Parliamentary procedure to which the powers are to be subject and why it is considered necessary to delegate the powers. It does not form part of the Bill and has not been endorsed by the Parliament.

Background to the Bill

2. The following paragraph outlines the main provisions of the Bill. Further information about the Bill’s provisions are offered in the Explanatory Notes, Policy Memorandum and Financial Memorandum.

3. This Bill has been introduced as part of the Scottish Executive’s commitment to review and reform the legislation governing school boards (the School Boards (Scotland) Act 1988 (the “1988 Act”) and associated Regulations), made in Educating for Excellence: Choice and Opportunity (The Executive’s Response to the National Debate on Education) (January 2003). The 1988 Act established statutory parental representation in public schools (schools under the management of education authorities). The Bill has a broader focus in that it also extends to parents’ involvement in their own child’s education. The Bill also has to be considered in the context of other education legislation. At present the main statutory provisions relating to education are to be found in the Education (Scotland) Act 1980 (the “1980 Act”) and in the Standards in Scotland’s Schools etc. Act 2000 (the “2000 Act”). In relation to the education provided in public schools, the Bill places a duty on Scottish Ministers to promote parents’ involvement in their child’s school education; builds on and strengthens the existing duties placed on education authorities by the 2000 Act with regard to parents’ involvement in their own child’s school education and in school education generally; repeals the 1988 Act and associated legislation and makes provision for new arrangements for parental representation in schools; places a duty on education authorities to give advice and information to parents on the education of their own child; and requires education authorities to have a complaints procedure covering how they carry out their functions under the Bill.
Delegated Powers

Section 8(7) Functions of a parent council

Power conferred on: The Scottish Ministers
Power exercisable by: Order made by statutory instrument
Parliamentary procedure: Affirmative resolution of the Scottish Parliament

4. Section 8(7) confers powers on the Scottish Ministers to add to or alter the functions of a Parent Council set out in the Bill.

Justification for taking this power

5. The 1988 Act, which part of this Bill replaces, set out the functions and duties of a school board in detail. The main role of the new Parent Councils to be introduced by this Bill is in communicating with and representing parents and in doing so to support those managing the school. This power allows Ministers to amend the functions of Parent Councils without requiring primary legislation where a change is deemed appropriate. For example, once Parent Councils are established it may become apparent that existing functions should be altered, or new ones added. Any such additions or alterations would be brought about by means of statutory instrument subject to affirmative resolution procedure. As is normally the case with powers which allow amendment of primary legislation, affirmative procedure is considered appropriate in relation to adding to or altering the functions of parent councils currently listed in the Bill because of the greater opportunity for scrutiny and debate by the Parliament afforded by this procedure.

Section 14(3)(a) Procedures for appointment of headteacher or deputy and participation of a Parent Council

Power conferred on: The Scottish Ministers
Power exercisable by: Regulations
Parliamentary procedure: Negative resolution of the Scottish Parliament

6. Section 14(3)(a) confers on Scottish Ministers the power to make regulations imposing requirements which the process involved in relation to headteacher and deputy headteacher appointments must satisfy.

Justification for taking this power

7. Section 14 replaces the current prescriptive appointment procedures for headteachers and deputy headteachers set out within Schedule 2 to the 1988 Act.

8. Instead of prescribing a new system centrally for senior management appointments, the Bill requires each education authority, in terms of section 14, to inform Ministers and Parent Councils about their procedures for filling such posts, and to involve the Parent Council (where one exists) in the appointment process. While provision has therefore been made for what is a more flexible appointment procedure, section 14(3) will enable Scottish Ministers to make provision by way of regulations setting out the specific requirements which those processes must satisfy.
It is considered that negative resolution procedure is appropriate on the basis of the procedural nature of the subject matter.

9. Power is also conferred on Ministers enabling them, by notice, to require education authorities to change their appointment process to the extent set out in the notice. The power is considered necessary to allow action to be taken at short notice, where this is considered necessary in relation to that appointment process.

Section 21(1) Transitional provisions etc.

<table>
<thead>
<tr>
<th>Power conferred on:</th>
<th>The Scottish Ministers</th>
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</thead>
<tbody>
<tr>
<td>Power exercisable by:</td>
<td>Order made by statutory instrument</td>
</tr>
<tr>
<td>Parliamentary procedure:</td>
<td>Negative resolution (but affirmative in relation to amendment or repeal of another enactment)</td>
</tr>
</tbody>
</table>

10. Section 21(1) confers powers on Scottish Ministers by order to make incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes, or in consequence, of the Bill. The power would be appropriate to allow Ministers to make changes to other legislation as a consequence of the Bill that are not apparent at the moment. In terms of section 22(3)(b) a statutory instrument containing an order under section 21(1), where the effect of that order would be to amend or repeal primary legislation, requires to be made by affirmative procedure. It is considered that an order which makes such an amendment or repeal should be subject to full scrutiny and debate by the Parliament and therefore made by affirmative procedure. In respect of other orders or regulations (aside from any made under section 8(7) as referred to earlier in this Memorandum) it is not considered necessary or desirable to require a higher level of Parliamentary involvement than that afforded by negative procedure, as provided for under section 22(2).

Section 24(2) Short title and commencement

<table>
<thead>
<tr>
<th>Power conferred on:</th>
<th>The Scottish Ministers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Power exercisable by:</td>
<td>Order made by statutory instrument</td>
</tr>
<tr>
<td>Parliamentary procedure:</td>
<td>No parliamentary procedure</td>
</tr>
</tbody>
</table>

11. Section 24(2) gives the Scottish Ministers power to commence provisions of the Act by order. Provision is made for different days being appointed for different provisions, for different areas, for different purposes or for different cases or classes of case. This would allow a phased approach to commencement for example by reference to education authority areas, or for different provisions in the Bill. No commencement date is specified in the Bill as Ministers are yet to determine when it would be appropriate to bring the substantive provisions of the Bill into force. As is normal with commencement orders, no form of parliamentary procedure is required.
ANNEX 2

Scottish Schools (Parental Involvement) Bill at Stage 1
Letter from the Clerk to the Subordinate Legislation Committee to the Scottish Executive

The Subordinate Legislation Committee today considered the above bill and asks the Executive for explanation of the following matters.

Section 8(7) – functions of a Parent Council

The Committee noted that this section confers on Ministers a power to add to or “alter” functions of a Parent Council. The Committee asks the Executive for clarification of its policy intention with regard to the width of the power to “alter” the Council’s statutory functions.

The Committee also considered that Parent Councils should perhaps be formally consulted on any amendment to their statutory functions before any order is made. The Executive is asked to comment.

Section 19 – general power to issue guidance

The Committee considered that while this power is not contained in the delegated powers memorandum, as it does not confer power to make subordinate legislation, it is a wide delegated power and therefore falls within the Committee’s remit. The Committee considered that the issuing of Guidance under this provision ought to be subject to some form of Parliamentary scrutiny, or at the least laid before Parliament. The Committee felt this to be of particular importance given that the bodies to which the Guidance may be directed include not only the more usual local education authorities, but also Parent Councils. The Executive is asked to comment.

Response from the Scottish Executive to the Clerk to the Subordinate Legislation Committee

Thank you for your letter of 6 December, concerning the Subordinate Legislation Committee’s consideration of the Scottish Schools (Parental Involvement) Bill. I trust the following response will prove helpful in clarifying the points you have raised.

Section 8(7) – functions of a Parent Council

This section provides Ministers with a power to add to, or to alter, the functions of a Parent Council. We note that the Committee asks for clarification of the Executive’s policy intention with regard to the width of the power to “alter” the Council's statutory functions.

The Council's statutory functions focus on promoting partnership between parents and the school and on the Council’s responsibility to the Parent Forum and its role as the Forum’s representative voice. This power allows Ministers to alter these functions, if necessary, in the light of the experience of the new Councils themselves.
as they are established and develop. It also allows for a Parent Council’s functions to be added to, in response to any future changes in education policies. It may be helpful also to draw the Committee’s attention to section 22(3) of the Bill which requires any statutory instrument being made under section 8(7), amending Parent Councils’ functions, to be laid in draft before, and approved by resolution of, the Parliament.

The Committee asks if Parent Councils should be formally consulted on any amendment to their statutory functions before any order is made.

The Executive is committed to working closely with stakeholders in the education sector. We would, as a matter of course and good practice, consult with stakeholders in accordance with the Scottish Executive’s Good Practice Guidance on Consultation.

**Section 19 – general power to issue guidance**

We note that the Committee considers that the issuing of guidance under this provision ought to be subject to some form of Parliamentary scrutiny, or at least laid before Parliament.

We note the Committee’s view that this would be important because the guidance would be directed not only to local authorities, but also to Parent Councils. It may be helpful for the Committee to know that it would be the Executive’s intention, in line with the Good Practice Guidance on Consultation, to involve key stakeholders, in drawing up any guidance under section 19 of the Bill. The nature of any guidance is an issue which we would expect would be considered further in the light of discussions as the Bill progresses through Parliament.