The Committee will meet in private for Item 1 at 1.30 pm in Committee Room 3 and then meet in public for Item 2 onwards at 2.00 pm in Committee Room 2.

1. **Budget Process (in private):** The Committee will consider questions to the Minister.

2. **Budget Process:** The Committee will take evidence from the Minister for Children and Education, Mr Sam Galbraith, on the Education Department’s expenditure plans.

3. **Public Petitions:** The Committee will consider the following petitions—

   - PE 171 by Mrs Michelle Terry on local council’s policies on closure or retention of rural schools in Scotland.
   - PE 175 by Mr Neil Mackay on Argyll and Bute Council’s School Closure Programme.
   - PE 153 by Risnidh Mag Aoidh on behalf of the Alba Branch of the Celtic League on access to Gaelic as a second language.
   - PE 164 by Ms Sybelle Alexander requesting the introduction of state financed kindergartens.
   - PE 184 by Federation of Child Poverty Action Groups in Scotland to extend the entitlement to free school meals to all families receiving tax credits and to introduce nutritional standards in schools.
   - PE 160 Mr Ian Allan calling for Health and Safety training to be introduced into the school curriculum.
4. **Children’s Commissioner:** The Committee will discuss a memorandum from the Scottish Executive on the case for a Children’s Commissioner.

5. **Danish Symposium:** The Committee will consider an invitation from the Danish Cultural Institute to attend a symposium “Space for Children” in Edinburgh.

6. **Update on Committee business:** The Committee will be updated on business in its current work programme.

Gillian Baxendine
Clerk to the Committee
Room 2.7 Committee Chambers
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Email gillian.baxendine@scottish.parliament.uk

The following papers are attached for this meeting—

Scottish Executive response on the budget process (to be circulated) (Agenda item 1) ED/00/18/1

Note by the Clerk on the Petitions (Agenda item 3) ED/00/18/2

PE 171 Mrs Michelle Terry (and extract of Official Report) ED/00/18/3

PE 175 Mr Neil Mackay (and extract of Official Report) ED/00/18/4

PE 153 Risnìdh Mag Aoidh (and extract of Official Report) ED/00/18/5

PE 164 Ms Sybelle Alexander (and extract of Official Report) ED/00/18/6

PE 184 Federation of Child Poverty Action Groups ED/00/18/7

PE 160 Mr Ian Allan (and extract of Official Report) ED/00/18/8

Scottish Executive’s memorandum on Children’s Commissioner (Ageda item 4) ED/00/18/9

Note by Clerk on invitation from Danish Cultural Institute to “Space for Children” symposium (Agenda item 5) ED/00/18/10
EDUCATION CULTURE AND SPORT COMMITTEE

NEW PETITIONS

1. The Committee has received 6 new petitions, copies of which are enclosed. This note summarises the petitions and suggests how the committee might respond.

PE 171: proposed closure of Glenrinnes Primary School
PE175: proposed closure of Toward Primary School

2. PE171, from Mrs Michelle Terry on behalf of the parents and children of Glenrinnes Primary School, calls for the Parliament to investigate local council policies on the closure or retention of rural schools throughout Scotland and for the proposed closure of Glenrinnes Primary School to be deferred until the Parliament’s findings are complete. The petitioners are concerned that Moray Council did not carry out effective consultation in relation to its closure proposals.

3. PE175, from Mr Neil Kay on behalf of the School Board of Toward Primary School calls for the Scottish Parliament to investigate Argyll and Bute Council’s School Closure Programme using the proposed closure of Toward Primary School as an indicative case. The Public Petitions Committee sought a response from Argyll and Bute Council which has now been received and is also attached. The Council has agreed the PPC’s request not to make a decision on the closure until the Education Culture and Sport Committee has had a chance to consider the petition, but have also indicated that the Council would hope to return to consider the proposed closure in early June.

4. Extracts are also attached from the PPC OR discussion (which Margaret Ewing attended for PE171 and the petitioner for PE175).

5. The Committee has already appointed Jamie Stone to report on the general issue of rural school closures. Following consideration of the earlier petition on Boharm School, the Committee asked the Clerk to write to education authorities drawing attention to the Committee’s work in this area; but decided that it would not be appropriate to ask authorities to postpone specific closure decisions while the Committee’s more general inquiry took place.

6. It is suggested that the Committee:
   - considers these petitions again in light of the information from Jamie Stone’s report on rural schools;
   - confirms to the petitioners its continued interest in considering whether the procedures for handling rural school closures are adequate;
   - but indicates to the petitioners and the education authorities concerned that the Committee does not think it appropriate to its role to become involved in individual school closure decisions.
PE153: Risn?idh Mag Aoidh on behalf of the Alba Branch of The Celtic League

7. PE153 calls for the Parliament to
   - introduce legislation to require local authorities to provide access to Gaelic as a second language where reasonable demand exists;
   - legislate for the provision of suitable courses to allow teachers to gain proficiency in the teaching of Gaelic as a second language;
   - introduce legislation to set up an independent body to monitor local authority Gaelic education development programmes;
   - to include these proposals in the Standards in Scotland’s Schools etc. Bill.

The petition, while recognising the importance of Gaelic Medium Education, urges the Parliament to recognise the many parents who want their children to have access to Gaelic as a second language. The OR of the discussion at the PPC is also attached.

8. The Committee has heard evidence on gaelic education in the context of Stage 2 of the Bill. As a result, the Executive intend to bring forward an amendment at Stage 3.

9. It is suggested that:
   - the Committee draws the petitioners’ attention to the discussions during the passage of the Bill and assures them that Committee members will consider the points in their petition when debating the Executive’s amendment.
   - the Committee may also wish to draw the petition to the Executive’s attention in advance of any amendment being lodged.

PE164: introduction of state financed kindergartens

10. PE164, from Sibylle Alexander, calls for the introduction of state financed kindergartens for children between the ages of four and six and for the official school age to be raised to six. The OR of the PPC discussion, which the petitioner attended, is also attached.

11. The Committee has made no current plans to look at either of these issues and already has a fairly full work programme. It seems likely, however, that the Committee will want to look at pre-school education at some stage during this session.

12. It is suggested that the Committee indicates to the petitioner that it is not able to undertake a debate or inquiry on the issue at this stage but will bear it in mind in developing future year’s work programmes.

PE184: Federation of Child Poverty Action Groups

13. PE184, from the Federation of Child Poverty Action Groups, calls for an extension of the entitlement to free schools meals to all families receiving the Working Families and the Disabled Persons Tax Credits. The OR of the PPC meeting (which the petitioner attended) is not yet available.
14. The petition proposes an amendment to the Education (Scotland) Act 1980, using the vehicle of the Standards in Scotland’s Schools etc. Bill (here referred to by its previous, consultation title).

15. It is suggested that the Committee consults the Health and Community Care, and Social Inclusion, Housing and Voluntary Sector, Committees as suggested by the PPC.

**PE160: Health and Safety training**

16. PE160, from Ian Allan, calls for Health and Safety training to be included as part of the Personal and Social Development curriculum in schools. The PPC has already written to the petitioner, informing him that Cathy Jamieson MSP has already lodged a motion on the issues raised in the petition. The PPC has also written to the Minister for Children and Education to seek his views. The petition is therefore passed to the Education Culture and Sport Committee to note only and take no further action unless it wishes.

17. The Committee is asked to note the petition.

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Gillian Baxendine  
Clerk to the Committee  
16 May 2000
The Convener: Can we move on to petition PE171? Margaret Ewing has been very patient, and I welcome her to the committee. This is becoming a very long meeting. Thank you for being here, Margaret.

The petition is from Mrs Michele Terry, on behalf of the parents and children of Glenrinnes Primary School, about its proposed closure.

I do not think that Mrs Terry is here—is it just you, Margaret?

Mrs Margaret Ewing (Moray) (SNP): Yes. Glenrinnes is a long way from Edinburgh. The parents would have liked to come; they hope to appear at another committee, because they want the matter to be deferred until the Parliament’s findings on local council policies on the closure and retention of rural schools have been decided.

Glenrinnes Primary School is in one of the most remote areas of my constituency, which is probably better known to many people as the Braes of Glenlivet. At present, there are seven youngsters at the school. The school is very effective, and we anticipate growth in the number of youngsters who attend it.

We feel that the petition fits in with the concept of ensuring that our rural communities are given the fullest attention by the Scottish Parliament. I thank the members of the committee who turned up on 29 March to meet the parents and children. We should refer the petition to the Education, Culture and Sport Committee, the Local Government Committee and the Rural Affairs Committee, as it relates to all of them.

The parents in Glenrinnes are looking for a clear statement of the Scottish Parliament’s policy on the retention of rural schools. I am sure that many members could make vocal points about schools in their areas. I rely on members of the Public Petitions Committee to make the final recommendation, but I feel that the petition relates to so many issues that it should not be dismissed as a small petition from a small community. It raises a significant political issue for us all.

The Convener: We have already discussed today a similar petition against the closure of Toward Primary School, and we debated previously a petition against the closure of Boharm Primary School. We referred those petitions to the Education, Culture and Sport Committee for further consideration, and I assume that we will do the same with the petition that we are discussing now. Margaret Ewing suggests that we also refer it to the Rural Affairs Committee. However, the Education, Culture and Sport Committee is conducting an inquiry into schools in rural communities, so this petition is of particular interest to that committee. Obviously, the Education, Culture and Sport Committee will consult the Rural Affairs Committee and the Local Government Committee. Do we agree to refer the petition to the Education, Culture and Sport Committee?

Christine Grahame: I notice that the school was built on a plot of land that was gifted for a fee of £50. Was the land gifted for a specific purpose?
Mrs Ewing: It was purchased for £50 for the use of the community; I have no idea what it might be worth now. It should be emphasised that we are talking about not just the school, but the only general asset in the area. There is no post office, no pub and no village shop. The school is the focal point of the whole community. We need to keep that in mind.

Christine Grahame: If the land was gifted for the good of the community, that point could also be made.

John Scott: That made no difference in the case of the Carrick Street Halls. Did we agree to copy the petition on Toward Primary School to the Rural Affairs Committee?

The Convener: I cannot remember, but if we did, we will do the same with this petition. Is that agreed?

Members indicated agreement.
The Convener: I ask Mr Neil Kay, who wishes to speak to PE175, to come forward.

Neil Kay (Toward Primary School): Thank you.

We are petitioning against the school closure programme that Argyll and Bute Council is pursuing. We argue that the consultative process unfairly biases the arguments in favour of school closure, which is likely to prejudice the chances of interested parties receiving a fair hearing. The council ignores recent educational research that indicates that such school closures might have adverse educational effects. It neglects the social and economic consequences that school closures might have for communities and does not recognise that the uncertainty created by the continuing programme of school closures might create a form of planning blight for many rural schools and communities beyond those affected directly.

The council misrepresents relevant information. For example, it has cited General Register Office for Scotland predictions and Accounts Commission for Scotland recommendations in support of its closure programme, when no such predictions or recommendations were issued. It also practises a policy of divide and rule, which is designed to pit community against community and school against school. It warns schools that are not threatened with closure that if the closures do not go ahead, their budgets will be cut, and announces, each time, that it is issuing more closure proposals that it intends to enforce. That approach is designed to encourage threatened schools and communities to expend their energies competing against one another, rather than against the closure programme itself. Much bitterness remains in Argyll and Bute, left over from the previous round of closures.

We need an inquiry and an investigation that are independent of the council. We do not believe that the council is capable of reviewing objectively its programme without outside intervention. The director of education was apprised of almost all the arguments contained in the petition, but stated publicly that he is not inclined to advise the council to stop his closure programme on the basis of what he has heard.

We hope that Parliament will inquire into Argyll and Bute Council's school closure programme and then take appropriate steps to protect the public interest. We also respectfully request the Public Petitions Committee to instruct the council to defer further decisions on its school closure programme until Parliament has had an opportunity to review and consider the issue. We cite as precedent the committee's consideration of the petition on the siting of a medium secure unit at Stobhill hospital. Finally, we note the statement made by Mr Campbell Cameron—the chairman of the council's education committee—in The Herald on Friday, that

"if there is a potential for closure, something is not right with the community".

Mr Cameron has responsibility for deciding potential for closure, but he is also assuming responsibility for deciding that
"something is not right with the community".

In effect, he is blaming the community for the closure. We think that such comments, coming from an elected official, are arrogant and irresponsible, and contrast them with the socially sensitive and caring policies of Highland Council, which were outlined in the same article. If any one statement can be taken as evidence that we might not receive a fair hearing, it is Mr Cameron’s.

The Convener: Thank you. I must inform you that the committee is not in a position to instruct any council not to do something that is within that council’s powers. Your petition asks Parliament to investigate the school closures programme, and that is within its powers.

Christine Grahame: Which other schools are under threat?

Neil Kay: The schools at Bridge of Orchy, Drumblemble, Ulva, Newton and Glassary are under threat.

Christine Grahame: Have there been other closures of rural schools in the recent past?

Neil Kay: Yes. In the past two or three years in south Cowal, the schools at Rashfield and Ardentinny have been closed. There have been a number of other closures, although they have been sporadic. We expect that more will follow.

Christine Grahame: What has been the impact of previous closures on the communities served by those schools?

Neil Kay: The effect on the communities before and after closure is a feeling of helplessness. People felt that they could do nothing before the closures and after them. There are no means of resistance once the council has made up its mind.

Mr Duncan Hamilton (Highlands and Islands) (SNP): I would like to make one or two brief points. I support the petition and what it represents in terms of rural school closures. I would like to take further what Mr Kay said about where we go from here. Although the committee does not have the power to stop councils doing certain things, it might be useful if John McAllion, as convener, wrote to the council to make it aware that as the committee’s business progresses, it will not be useful for it to pre-empt an inquiry by Parliament by making a decision. The consultation period is nearly at an end and a lot of nerves in the local community would be settled if the people knew that Parliament was examining the matter and that that took precedence over the council’s actions.

It is fair to say that the consultation process is undermined by the fact that educational considerations—which Mr Kay has examined in great depth—have not been properly analysed by the council. There has also been misrepresentation of statements allegedly from the Accounts Commission—that would undermine any consultation process, which is why the Education, Culture and Sport Committee might want to examine the matter.
The Convener: For members' information, another petition on Argyll and Bute Council's school closure programme is in the pipeline. It is not yet available for consideration, but it will be considered by the committee.

As members know, we dealt at our meeting on 1 February with a similar petition on the closure of Boharm Primary School. We referred that petition to the Education, Culture and Sport Committee for further consideration, so we should also refer this petition to that committee for its consideration. We must, however, consider Duncan Hamilton's request, and the request from Mr Kay, that we write to the council asking it to postpone consideration of the closure until the committee has had a chance to consider the matter.

Christine Grahame: I would like to suggest that it would also be appropriate for the Deputy Minister for Children and Education to be advised of these matters.

I support the proposal from Mr Kay and from Duncan Hamilton that we write to the council to defer its decision until the consultation period is over and until the Education, Culture and Sport Committee and Peter Peacock have had the opportunity to consider the import of the petition and the programme of closure.

Neil Kay: Mr Peacock is one of the regional MSPs, so we have informed him fully of the grounds for the petition, and we have kept him informed. He wrote us a four-page e-mail, which was helpful. However, it says that although he is monitoring the situation with interest, at this juncture he can say nothing because he might—under certain circumstances—be required to take action if there are appeals against school closures. He is fully aware of what is happening at the moment.

The Convener: The clerk has just drawn it to my attention that the Education, Culture and Sport Committee is in the middle of an inquiry into rural schools and their future, so it would be pertinent for it to consider that.

I am not sure whether it should be the Deputy Minister for Children and Education. Just because Peter Peacock comes from the Highlands does not mean that I should pick on him. I do not see why we should not keep the Minister for Children and Education informed, as the responsibility rests with him.

Is it agreed that we refer the petition to the Education, Culture and Sport Committee?

Ms Sandra White (Glasgow) (SNP): Mr Kay mentioned the closure of Stobhill. When we write to Argyll and Bute Council, can we suggest that it delay any decision regarding school closures until we have seen the other petition that might come in?

The Convener: If it is agreed, I will write to Argyll and Bute Council, indicating that we have referred the petition to the Education, Culture and Sport Committee, that there is another in the pipeline and that we ask it to delay any closure until that committee has had a chance to consider those issues.

Pauline McNeill (Glasgow Kelvin) (Lab): The reason for asking the council to delay its decision is that the Education, Culture and Sport Committee is investigating the issue of rural schools. You are correct to point out that there is a precedent for our
doing that. However, we should continue to set the right precedents; we are setting a further precedent by taking a second decision to do that. If we do this today, we will be asked to do it in other circumstances.

We have to be clear about our reasons for writing to the council, the particular reason being that there is an investigation. That is a special reason of which we should make particular mention in the letter. We should ask the council to hold off for that reason.

**The Convener:** The committee will not make any recommendation about school closures; that is a matter for the Education, Culture and Sport Committee, which will decide whether to recommend for or against closure. All we are doing is drawing it to the attention of the authority that those petitions have been referred to that committee and that it is considering them. We would ask the authority not to go ahead with any closure until that is done.

**John Scott:** A wider issue is at stake, that when small rural communities lose any vital services such as schools, churches, banks or post offices, it starts a downward spiral effect. There is a bigger issue than just the loss of a school. It is a loss, potentially, of a community. The convener will advise me whether the Rural Affairs Committee is the right committee to refer that problem to.

**The Convener:** It is open to the committee to copy anything that we send to the Education, Culture and Sport Committee to the Rural Affairs Committee, for its information. It is up to that committee how it wishes to respond.

**Mr Hamilton:** It might be useful if it was suggested to the Education, Culture and Sport Committee that it should take evidence, perhaps jointly with the Rural Affairs Committee, or representatives from that committee, about the impact—

**The Convener:** That is a matter for the Education, Culture and Sport Committee. We are already getting cries of pain from the various committees of the Parliament about the petitions that we refer to them. We have to walk a tight line; we should refer the petition to the Education, Culture and Sport Committee and leave it to its good sense how it deals with it.

Is it agreed that we refer the petition to the Education, Culture and Sport Committee, copy it to the Rural Affairs Committee and write to the convener of the council, asking him to hold any decisions until the committee has had a chance to consider the petitions?

**Christine Grahame:** A courtesy to members who attend is to provide them with a copy of the letter that goes out to whomsoever; the convener can monitor from his point of view and from that of the petitioners.

**The Convener:** Are you referring to Duncan Hamilton or to all the new members?

**Christine Grahame:** No, as a general rule to the members who have spoken to a particular petition, and also to the petitioner.

**The Convener:** We will do that.
The Convener: I do not know how to pronounce the name of the next petitioner—Risnidh Mag something—who is petitioning on behalf of the Celtic league.

Christine Grahame: John, that will go into the Official Report.

The Convener: I cannot pronounce Gaelic—perhaps I should take classes.

Christine Grahame: All I can say is that you should not go north of Perth.

The Convener: The petition calls on the Scottish Parliament to introduce legislation to require local authorities to provide access to Gaelic as a second language, where reasonable demand exists, and to legislate for the provision of suitable courses to allow teachers to gain proficiency in the teaching of Gaelic as a second language. It also asks the Parliament to legislate for the establishment of an independent body to monitor local authority Gaelic education development programmes and, finally, to include those proposals in the Standards in Scotland’s Schools etc Bill.

We considered a similar petition, which we passed to the Education, Culture and Sport Committee, asking that committee to take into account the issues raised as part of its consideration of the bill. This petition is different—it requests the Parliament to introduce legislation—but it is suggested that we pass it to the Education, Culture and Sport Committee and ask that committee to take the issues raised into account when considering the bill.

Ms White: I go along with that recommendation. The Standards in Scotland’s Schools etc Bill is a substantial bill. Anyone who is sufficiently interested in the bill to petition the Parliament deserves to have their petition passed to the Education, Culture and Sport Committee. I hope that we will get it right this time and that we will take on board everything that the petitioner has submitted—well, within reason.

The Convener: Do we agree to pass this petition to the Education, Culture and Sport Committee?

Members indicated agreement.
We now turn to petition PE164 from Sibylle Alexander. This petition deals with the ages for starting nursery and school.

**Sibylle Alexander:** Good afternoon. I am happy to be here. It has been a fascinating afternoon. My father was a judge in civil law in Hamburg, and he had a lot of similar questions, so I have found this meeting interesting.

**The Convener:** Thank you.

**Sibylle Alexander:** I hope before I am dead that the children of Scotland have the same practical experience as do children in Europe, who start school at six or seven. Their vitality is far greater. They have a much more broad education. The health service in Scotland would save millions of pounds.

I can give you examples. When children start school at four or five, boys are bored. They want to kick or tramp or climb trees. They want to experience life. At school, they are going to sleep. Our doctors have found that after six months in school, children no longer have any deep breathing. That means that they have shallow breathing in their chest. They have bronchitis. Do you know how many hours are lost because of bronchitis and asthma in Scotland alone? Little girls are diligent. Even at four they can usually hold a pencil. They are writing. But what happens? They get arthritis. A doctor told me, "Four at school, 40 in a wheelchair." We have 40,000 wheelchair users, and it is completely unnecessary.

A child who starts school at six or seven will learn reading, writing and arithmetic far more easily. Childhood is development in phases. The first seven years are needed to build a strong body. Children need plenty of movement and fresh air, good food and no pressure. They need time, leisure and rich verbal input. I am a writer. Here you can see my book of Scottish and Irish stories. A wealth of oral tradition in Scotland is lost because people use the most stupid readers—excuse that expression—in primary schools. Children are too small to read reasonable things. They cannot read, content-wise, anything that is meaningful. That leads to what I have termed frustrated beginners.

Why do people play truant? Because they are bored. What is given to them is wrong. They are absolutely right to protest against school at four. I put my petition to our Borders Liberal Democrats, and I was amazed. It had 100 per cent support. Fathers said, "Our daughter is ruined because she started school at four and a half." You cannot repeat what you have lost in the early years of childhood.

School should start at six, but in a way that is rhythmical, that is rich in oral work and that still gives a lot of movement. That is why I do not call it a nursery but a kindergarten—a garden for children, where they can be outside, where they can have a sandpit, where they can get to love this earth on which we work, where they can have a swing to really experience courage and where they can have the circle
time, the story time and the social interaction. I believe that that would make Scotland a very much happier place. As I said, before I am deid I want to see it.

I have here some interesting work that was done in Nordrhein-Westfalen on kindergarten workshops. Naturspielräume means creating in a very small space. A small child is quite happy in a small space with a Wendy house, a little hill for running up and down, a few trees and shrubs and a sandpit. They do not need much space, but the children should be outside for a lot of their time. I hope that all of that will come. If it does not come now, it will come. Parents are already writing to Brussels. There is a fantastic organisation called A Right to Childhood. This is a human rights issue: we need to delay formal learning. That is my spiel.

**The Convener:** Thank you very much. We have also received two letters in support of your petition. Your petition is fairly radical, although perhaps not as radical as ideas that I heard when I was at teacher training college in the 1970s.

**Sibylle Alexander:** I was at Moray House for 20 years.

**The Convener:** Some people called for the abolition of schools altogether.

**Sibylle Alexander:** No. I believe in good schooling and strict discipline.

**Christine Grahame:** I have a lot of sympathy with what you say. Like John, I am a former schoolteacher, although I have since become a lawyer. This is an interesting issue to be raised for the Education, Culture and Sport Committee. It is refreshing to consider what our European neighbours achieve. You are talking about another kind of education before the age of formal education, a more natural and child-centred education.

**Sibylle Alexander:** If children learned more of the important social skills, we would not need all the dustbin men. Switzerland is clean. Children learn in kindergarten to be aware of their surroundings and to be proud of the country.

**Christine Grahame:** It is very interesting, and there is European practice that we could look at to see whether a better generation of children could come out of it.

**Sibylle Alexander:** May I read an amendment of the Scottish National party Inverness conference in September 1999?

**Christine Grahame:** I do not know whether John wants to hear it.

**Sibylle Alexander:** Would you like to hear it?

**The Convener:** There are only two SNP members here so the rest do not know what it is.

**Sibylle Alexander:** It has only four lines.

"In order to decrease inequalities and failure at an early age, Conference calls on the SNP group to work towards changing the starting age of formal education to 6 years
in line with our European neighbours and in line with the increasing body of research in this area”.

**Christine Grahame:** I had forgotten that.

**The Convener:** You are probably in danger of losing the support of the majority of the committee.

**Sibylle Alexander:** I am not SNP, I am quite liberal. Mr Jenkins fully supports my petition. Is anyone interested in looking at some of our beautiful stuff? Probably not, but shall I leave it?

**The Convener:** Yes, by all means. Thank you.

**Sibylle Alexander:** These articles contain some modern ideas, because they are still learning in Germany too.

**The Convener:** Anything that can improve Scottish education is worth while. The recommendation is that the petition should be passed to the Education, Culture and Sport Committee for its consideration.
The Convener: Petition PE160, on health and safety, is from Ian Allen, on behalf of the joint trade union safety representatives at the Trades Union Congress occupational health and safety course at Stow College. It sounds like it may have been a college exercise. The petitioner suggests that in the light of the increase in workplace accidents, there is a need for a safety culture to be developed from secondary school level. The petition asks the Parliament to pursue that. It is suggested that we refer the petition to the Education, Culture and Sport Committee for its consideration.

Pauline McNeill: I am not against sending the petition to that committee, although I am conscious of the number of petitions that we are sending there. I recollect that Cathy Jamieson has lodged a motion on health and safety. I cannot remember what it says, but many people signed up to it. As quite a few MSPs have signed the motion, it might be an idea to send a copy of it to the petitioners, to show that we take the matter seriously already. Although health and safety is a reserved matter, we can take on board the point about creating a health and safety culture.

John Scott: It is an especially good idea, so it should go somewhere where it can be addressed positively.

Christine Grahame: Rather than giving the petition to the Education, Culture and Sport Committee—although it could be sent to that committee for information—I would send it only to the Minister for Children and Education for comment. He may wish to respond to it as an idea. That would spread the load a bit for committees and ministers.

The Convener: We could agree to send a copy Col 386 of Cathy Jamieson’s motion to the petitioner. I should sign it before it is sent. I tend not to sign motions.

The other action is to send this petition to the minister, asking for a response, with a copy to the Education, Culture and Sport Committee for its information.

Christine Grahame: Just to note.

The Convener: Are members agreed?

Members indicated agreement.
COMMISSIONER FOR CHILDREN

MEMORANDUM FROM THE SCOTTISH EXECUTIVE TO THE EDUCATION, CULTURE AND SPORT COMMITTEE OF THE SCOTTISH PARLIAMENT

Introduction

1. This memorandum is submitted by the Scottish Executive in response to a request from the Education, Culture and Sport Committee of the Scottish Parliament.

2. The Committee indicated from the time of its establishment an interest in the issue of consultation with children and respect for their rights. This is an area where over the past 5 years or so there have been notable developments through, for example, the Children (Scotland) Act 1995 and the appointment of a Minister for Children. But Ministers recognise that we should not be complacent about the adequacy of existing structures and safeguards. Some have suggested that children’s rights and interests would be better secured with the appointment of a Commissioner for Children and the Committee has agreed to examine this idea. This memorandum sets out arguments considered by the Scottish Executive in examining this issue to date, against the background of recent developments.

Background: Children’s Commissioner

3. A number of countries (with both unitary and devolved systems of Government) have set up Children’s Commissioners or similar bodies. Outline details of some of these are set out in the Appendix. It is hard to identify a single common theme among them. They vary in status. Some are independent but some seem to be government agencies with “Commission” or something similar in their title. Some have been established by statute, others by executive action. Role and tasks vary considerably including review of individual cases in the role of ombudsman, lobby group on behalf of children and/or mechanism to report on the UN Convention on the Rights of the Child etc.

4. In his recently published report ‘Lost in Care: the Report of the Tribunal of Inquiry into the abuse of children in care in the in the former county council areas of Gwynedd and Clwyd since 1974’, Sir Ronald Waterhouse recommended the establishment of a Children’s Commissioner for Wales whose remit would encompass monitoring, ombudsman and reporting type roles (all of which will be considered later in this document). All four political parties in the National Assembly for Wales have endorsed the idea of a Commissioner for Children in Wales. Its Health and Social Services Committee is now looking at this in more detail. The Scottish Executive’s response to the issues raised in the Waterhouse Report – which go wider, of course, than just the case for a Children’s Commissioner – will be published shortly.

Discussion

5. It must be right to seek to learn from other countries’ experiences. But it is clear that the role of Children’s Commissioners and similar appointments in those countries that have them vary considerably. Other institutional structures for children’s issues also vary between countries. The unique children’s hearings system in Scotland is an example of this.
Reflecting the variety of international practice, those who have called for a Children’s Commissioner in Scotland have envisaged such an appointment playing a variety of roles.

6. This memorandum looks in some detail at these potential various roles. While a Children’s Commissioner may seem the right way forward in some of these circumstances, it might not in others. In the remainder, it may be that the present position can be improved upon through some other means.

**Arguments for Children’s Commissioner**

7. A number of valid arguments have been advanced for having a Children’s Commissioner. These include expertise, independence, and/or a voice for those actually or potentially discriminated against.

**Expertise**

8. On expertise there are certainly people with considerable experience in one or more areas of children’s services. The issue may be more whether one person could genuinely claim expertise in the range of policy issues affecting children aged 0-18.

9. Expertise could be provided by a Children’s Commissioner having appropriately skilled staff - in addition to support staff. If a key function of the position were to be seen as bringing outside expertise to bear, that would probably imply a larger staff requirement (and hence cost) than under some other models. Evidence from other countries suggests that setting up a Commissioner for Children may cost anything between £150,000-£620,000 per year. It seems unlikely that a unit with a Commissioner, two specialist staff and two support staff would cost less than £300,000. In addition a budget for research might be appropriate (see paragraph 12 below). However there may be scope for reducing the additional costs required to set up and fund such a unit. A Commissioner would replicate a number of functions for which other bodies already receive public funding: the extent to which this happened would depend on his or her precise role. If a Commissioner were to be appointed, it would make sense to re-examine funding for existing bodies – including voluntary bodies – to ensure that none of it was being duplicated. Relevant voluntary bodies receiving core funding from the Scottish Executive during 2000-01 include Children in Scotland (£134,608), the Scottish Child Law Centre (£58,066), Who Cares? Scotland (£60,816) and Childline Scotland (£43,286). In addition these and other bodies may receive separate funding for specific projects.

**Expertise: Existing Sources**

10. The need for such a source of expertise should also be seen against the background of existing sources. Within the Scottish Executive Her Majesty’s Inspectorate of Schools, the Social Work Services Inspectorate and the Chief Medical Officer and his staff provide considerable knowledge and experience in their fields. A range of statutory and voluntary organisations, universities, and think-tanks provide outside expertise. The ability of Scottish Parliamentary Committees to use expert advisers for specific enquiries would be a valuable way of mobilising existing expertise both in scrutiny and in making policy recommendations. It could be argued that bringing in sources of expert advice in this focused way may be more effective than relying upon one person or small group of people to cover the whole ground although the latter would provide a single easily recognised route for those seeking advice.
Expertise: Holistic Perspective

11. While there are a number of sources of expertise already available on children’s issues, it is sometimes argued that these are not deployed holistically in development and implementation of policy. Steps have been taken over recent years to seek to address this:

- The Children (Scotland) Act 1995 set in place the system of children’s services plans drawn up by local authorities, but involving health boards, the voluntary sector and others in their compilation.

- There is now a Minister for Children and Education with an overarching view of children’s issues within the Scottish Executive. In addition, the Child Strategy Statement ensures that children’s interests are considered in developing policy across the Scottish Executive. The Statement is being drawn to the attention of local authorities and others as something that might be adaptable by them to their own circumstances.

- The Social Work and Schools Inspectorates are now both housed within the Scottish Executive Education Department and responsibilities for children’s social work services, children and families policy, sport, community education, childcare and pre-school education have all been brought together within a single Children and Young People’s Group within that Department. There are close contacts with other parts of the Scottish Executive whose work affects children e.g., the Civil Law Division of the Scottish Executive Justice Department in relation to family law.

- As regards an integrated approach to children’s health, the Planning and Priorities Guidelines issued to the NHS in Scotland for 1999-2002 stress that children and young people should be an important focus of the improving health and tackling inequalities effort and emphasise the importance of joint working with other agencies. Every Health Board in Scotland now has a lead Commissioner for Children’s Services. In addition, the Innovation Fund for Children’s Services will provide £9m over 3 years to develop innovative, combined and integrated child health services.

We will continue to look for further ways in which an integrated approach to children’s services can be achieved. As the examples above indicate, this is already an issue high up on the Scottish Executive’s agenda.

Expertise: Providing information, reports and research into children’s issues

12. If a Children’s Commissioner were to be appointed, he or she could provide research and information on children’s issues. The key question here is whether research or reports from this source would be markedly more valuable than from existing organisations in this field. It is arguable that, say, an annual report from a statutorily established Children’s Commissioner would attract more publicity and carry more clout than one from a non-statutory body. The role of the Committee must also be looked at in this context. The Committee is itself well placed to comment and report on material issued by the Scottish Executive related to children’s issues. These will include reports to be made on progress towards targets and milestones in relation to the Programme for Government and social justice, including the eradication of child poverty.
Expertise: Promoting the UN Convention and reporting on Government compliance to the UN Committee on the Rights of the Child

13. Another suggestion has been that a Children’s Commissioner might promote the UN Convention on the rights of the Child and report on Government compliance with it. The United Kingdom (like all other countries except the United States of America and Somalia) is a signatory to the UN Convention on the Rights of the Child. There is no court that enforces adherence to its terms in the same way as for the European Convention on Human Rights. But the UK Government has to submit a report on compliance to the UN Committee on the Rights of the Child every 5 years. The UN Committee then offers comments on this. The Scottish Executive has publicised the UN Convention through, for example, the leaflet ‘The UN Convention on the Rights of the Child: A Guide for Children’ commissioned from the Scottish Child Law Centre and distributed widely to schools and others. There is also a UK National Committee for the United Nations Children Fund (UNICEF), much of whose time is spent in promoting the UN Convention. It receives grant funding from the UK Government. In its response to the 1st UK Report on the UN Convention, the Committee suggested that the UK Government should establish a permanent monitoring mechanism on compliance with the Convention. It seems unlikely that this task alone, if thought necessary, would justify establishing a Children’s Commissioner. But it might be combined with other duties. Equally, one could imagine a Parliamentary Committee or other mechanism looking at this subject at regular intervals.

Independence

14. Other things being equal, the Executive’s policy is to minimise the number of “Quangos” with their more indirect accountability, in favour of the more direct accountability of Ministers to Parliament and, ultimately, the electorate. In other words Ministers owe their powers to a democratic process which provides legitimacy for decisions. A Commissioner would probably owe powers to Ministerial appointment but not be part of the Executive. It is therefore suggested that the simple fact of independence is not in itself a strong enough argument for a Commissioner; there must be other arguments to balance the loss of direct accountability.

Independence: Role of Parliament

15. That leads on to the role of the Parliament, validated by democratic election, and its committees, as the foremost source of independent scrutiny of the Executive.

16. It is not really for the Executive to comment on the role of the Parliament. But to give a full picture it seems necessary to say at least something about its relation to children. First, the simple fact of having a Scottish Parliament considerably increases the degree of scrutiny to which the Executive is subjected, on children as on other issues. The ability to contact MSPs should help children, among others, in making their views heard. The ‘Put it to your MSP’ initiative set up by the Educational Institute of Scotland and UNICEF for MSPs to hold surgeries for young people is relevant here.

17. The Education, Culture and Sport Committee specifically scrutinises the portfolio of the Minister for Children and Education. As the Minister himself has an overview of all children’s issues, the Committee will be well placed to take a wide view. There are, however,
other committees with an interest in children’s issues, such as Health and Community Care, and Social Inclusion, Housing and Voluntary Sector. In addition there is a Cross-Party Group in the Scottish Parliament on Children.

**Independence: Scrutiny of Specific Cases**

18. Independent scrutiny of specific cases is at present largely covered by the range of ombudsmen. Their role is mainly limited to dealing with complaints from individuals that they have suffered injustice because of maladministration, although the Health Service Ombudsman can also deal with complaints about clinical care. Complaints to the Parliamentary and Scottish Parliamentary Ombudsmen must be referred by an MP or MSP respectively on behalf of the aggrieved person, who could potentially be a child. The Local Government and Health Service Ombudsmen can accept complaints directly from the aggrieved person. (In all cases considered by ombudsmen there is an expectation of having exhausted other means of complaint first.)

19. While we have no evidence that children’s interests are inadequately dealt with by the existing range of ombudsmen, it is possible that a child might find these processes hard to fathom – particularly if without any or adequate parental support. If this were found to be the case, a Children’s Commissioner acting as a focus for all cases involving children might be one way forward. Consideration would need to be given to the scope of his or her jurisdiction. Would he or she have sole responsibility for dealing with such cases? Investigating complaints of maladministration is a specialised job in which the existing ombudsmen have accumulated considerable experience and expertise. It might therefore be more appropriate for the Children’s Commissioner’s role to be simply as a link between the child and the ombudsmen who would continue to carry out the investigations. Other questions that may need to be considered include - how easy would it be to distinguish cases involving children? would cases only be accepted from children or also from parents or other representatives?

20. Although a Children’s Commissioner might address any shortcomings that might be identified with current ombudsman arrangements, the creation of a separate office may not be the only or the best way forward. One could imagine, for example, a ‘virtual’ children’s ombudsman whereby a single telephone number/address/e-mail point, well publicised in media and attractive to children, provided advice on taking up complaints and a gateway to the various ombudsmen. The Scottish Parliamentary and Health Service Ombudsmen already share an address and telephone helpline.

21. The Executive will shortly be issuing a consultation paper on the Review of Public Sector Ombudsmen in Scotland. Amongst the issues it will discuss are various proposals for improving the accessibility of the Ombudsmen, eg removal of the MSP filter for complaints to the Scottish Parliamentary Ombudsman; and the establishment of a one-stop shop combining the offices of the Scottish Parliamentary, Local Government and Health Service Ombudsmen. The paper could be extended to include specific proposals relating to complaints by children.
Independence: Looked After Children etc

22. Particular concerns about children’s rights arise in the context of looked after children. The current pre-legislative consultation paper on Regulating Care and the Social Services Workforce sets out the Executive’s intention to establish the Scottish Commission for the Regulation of Care (SCRC) and the Scottish Social Services Council in 2001. These will have a considerable impact in safeguarding children’s interests and, in particular, in ensuring independent scrutiny of care for children. There may be scope for appointing a Children’s Rights Director within the new Commission. This is the approach being taken forward in England, where a Children’s Rights Director will be appointed as part of the National Care Standards Committee. (The Committee, which will have a similar role to the SCRC, is due to be set up in 2002 by the Department of Health.) In addition, local authorities have been funded to establish a network of advocacy services through Who Cares? Scotland and others for children in residential and foster care. These reforms need to be taken into account in considering whether a Children’s Commissioner could add further value.

Advocacy

23. There is also an argument that children need an advocate. This could be to counter their absence from democratic participation because of age and/or to counter or challenge cultural assumptions about children’s views or capacities. The latter has some similarity to the case for the Equal Opportunities Commission or the Commission for Racial Equality. But there are differences. These two Commissions were set up in legislation which also made illegal specific forms of discrimination on grounds of gender or race, made it possible to seek redress for this from the courts or an employment tribunal, and gave the Commissions a function of monitoring how this legislation was applied in practice and of providing assistance where people wished to bring a case on these grounds.

24. Although the Children (Scotland) Act 1995 does include some broad rights for children to be consulted on matters of concern to them, these rights may not lend themselves to redress through the courts in the same way as, for example, being turned down for a job on grounds of race where there will be a clear monetary consequence. That said, the two Commissions do range more widely, for example in encouraging good practice and looking more broadly at policy. Here one can see a clear analogy with work that could be carried out with a children’s focus – and which, indeed, organisations such as Children in Scotland already carry out, albeit on a non-statutory basis.

Advocacy: Taking test cases and initiating legal action on behalf of children

25. The role envisaged here is similar to that of the Commission for Racial Equality and the Equal Opportunities Commission (which can initiate legal proceedings in their own right). There may be something in this. Although there have already been notable developments in the law relating to children, for example over corporal punishment in schools following an ECHR case, it seems intuitively possible that children’s legal rights may sometimes be neglected given the lesser probability of them having recourse to legal action (although children under 16 can apply for legal aid and instruct solicitors in connection with any civil matter, where they have a general understanding of what it means to do so; parents can also act on their children's behalf). It is worth adding that the EOC and CRE work in the children’s field where relevant to their core duties.
Advocacy: Children’s Hearings

26. This also needs to be seen in the context of the children’s hearing system. This combines the principles of child welfare and juvenile justice and has implications for any scrutiny and advocacy role of a Commissioner. Around 14,000 children are referred to hearings each year. The creation of a Commissioner could therefore risk overlap with the statutory functions already exercised by children’s panels. If a Commissioner were to have a specific advocacy role, particularly for the vulnerable and damaged children and young people appearing before hearings, this could introduce renewed pressures for legal representation within the system. The relative informality of hearings is generally seen as one of the strengths of the system.

Conclusion

27. This memorandum has sought to outline the possible role of the Children’s Commissioner, the arguments for and against such an appointment and the arrangements already in place to ensure the interests of children are safeguarded, promoted and taken properly into account. It does not aim to come to an overall conclusion. But key issues for consideration might be:

- is there more that ought to be done that is not being done now to protect and promote children’s interests, collectively or individually?
- if yes, is a Children’s Commissioner the best way forward? Are there alternative approaches which might be better or equally effective?
- what added value might a Children’s Commissioner bring? What specific roles would a Children’s Commissioner perform?
- what would or might have to change if we had a Children’s Commissioner?
- what roles currently undertaken by voluntary organisations would be taken over by a Commissioner?
- to whom would a Commissioner be answerable?

Scottish Executive
May 2000
APPENDIX

COMMISSIONER FOR CHILDREN: FOREIGN COMPARATORS

Australia - Queensland: Children’s Commission

- Functions - monitoring / review of services; advising Minister on standards for child care; receiving & investigating complaints; monitoring procedures for handling complaints; co-operating with police in investigating offences involving children & on sexual abuse, pornography/sex tourism; establishing tribunals to hear appeals; inquiring into matters relating to children’s services. No formal legal powers.

Australia - South Australia: Children’s Interest Bureau

- Established by statute in 1983. Funded as part of the Office for Families and Children within the South Australia Government’s Department of Human Services (annual budget £120K).
- Functions - policy review & development; advice to Government; research & monitor interests of children; community & professional education; advocacy services for children; promoting UN Convention.

Austria: Ombudsman for Children and Young People

- Established 1991. No legal basis. Budget is subsumed within the Federal Ministry.
- Functions - promoting a children-friendly society; raising awareness of children’s issues; collaborating with regional ombudsmen, public & private welfare organisations; undertaking individual casework. No legal powers.

Belgium: General Representative for Children’s Rights and Youth Assistance

- Established 1991 to preserve the rights and interests of all children & young people.
- Function - provide information about children’s rights; control whether relevant laws and rules are correctly applied; make proposals to the Executive to adapt rules currently in force; receive information & complaints.

Belgium (Flanders): Children’s Rights Commissioner

- Established 1998. Annual budget £300K.
- Functions - ensure implementation of UN Convention; research living conditions of children; dealing with complaints & acting as Ombudsman; informing Government & Parliament of need for new laws.

Canada - British Columbia: Commissioner for Children and Office of the Child, Youth and Family Advocate.

- Established 1996: Commissioner by Order in Council; Advocate’s Office by statute.
• Functions of Commissioner - monitor services for children; monitor complaint and review processes; follow up unresolved complaints & review all children’s deaths.
• Functions of Advocate’s Office - ensure that rights & interests of children, youth & families are heard.

**Denmark: Danish National Council for Children**

• Established by Order in 1994. Members appointed by Minister of Social Affairs. Funded by Government (annual budget approximately £250K).
• Functions - advise on matters relating to children’s issues in light of the UN Convention. No formal legal powers.

**Germany: Children’s Commissioner**

• Established in 1988 as a subcommittee of the Committee for the Family, Elderly, Women and Youth of the Bundestag. Funded as part of the Bundestag.
• Essentially a lobby group for interests of children across Government. Principal function is to examine the effect of Federal initiatives & regulations on children & propose amendments/improvements.

**Israel: Director of the Open Line for Pupils**

• Established 1991 as part of Office of the Deputy Director General of the Ministry of Education, Culture and Sport. Annual budget £100K.
• Functions - propose changes to policies, guidelines & means of enforcement & monitoring in relation to pupils rights; respond to complaints & crises by pupils & parents; advise & assist pupils & education workers; increase awareness of pupils’ rights; improve policies of Ministry of Education; help pupils defend their rights.

**New Zealand: Office of the Commissioner for Children**

• Established by statute in 1990. Annual budget £270K.
• Functions - details unavailable - has been criticised for lack of independence.

**Norway: Ombudsman for Children**

• Established by statute in 1981. Funded by Parliament through Department of Family and Children Affairs (annual budget approximately £550K).
• Principal functions - protect interests of children in all fields; ensure that legislation on protection of children’s interests is observed; propose measures to strengthen children’s safety; propose measures to solve or prevent conflicts between children and society; provide information on children’s rights. No executive powers.

**Sweden: Children’s Ombudsman**

• Established by statute in 1993. Funded by Department of Social Affairs (annual budget £570K).
• Functions - consider legislation and ensure all legislation follows UN Convention; take initiative to make changes which safeguard interests of children; represent children in general debates; propose changes to legislation; co-ordinate precautionary measures to safeguard children; provide information on UN Convention.
EDUCATION, CULTURE AND SPORT COMMITTEE

Invitation to a symposium “Space for Children”

1. The Convener has received an invitation from the Danish Cultural Institute, inviting members of the Committee to attend a symposium “Space for Children” on Friday 9 June at 3 Doune Terrace, Edinburgh.

2. The symposium seeks to invite discussion on the importance of space in schools in the development of children; and the need to develop modern and flexible buildings in which to learn.

3. The symposium seems particularly relevant given the Committee’s inquiry into schools infrastructure, and members are asked to indicate whether they would be willing to attend the seminar on behalf of the Committee. A copy of the programme is attached.

Gillian Baxendale
Clerk to the Committee
May 2000