Education, Culture and Sport Committee
13th Meeting, 2001
Tuesday 1 May 2001

The Committee will meet at 2.30 pm in Committee Room 2

1. **Item in Private:** The Committee will consider whether to take item 6 in private.

2. **Adoption Policy Review:** The Committee will consider an Executive memorandum.

3. **Special Educational Needs Inquiry:** The Committee will be updated on SEN provision and grant aided schools.

4. **Children's Commissioner:** The Committee will be updated on the Children's Commissioner inquiry.

5. **Public Petition PE 342:** Petition by Mr Neil Kay calling for the Scottish Parliament to (a) consider framing national guidelines for school closures that are at least as fair and comprehensive as those adopted in England, and (b) ask councils to consider deferring decisions on any school closures until these new guidelines have been established.

6. **National Stadium Inquiry:** The Committee will consider a first draft report.

The following papers are attached for this meeting—

- Memorandum from the Scottish Executive (Agenda item 2) ED/01/13/1
- Clerk’s note on PE 342 (Agenda item 5) ED/01/13/2
- National Stadium Inquiry first draft report - Private paper (Agenda item 6) ED/01/13/3 (P)

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## Education, Culture and Sport Committee

### Meeting – Tuesday 24th April 2001

#### Papers circulated

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<td>Memorandum from the Scottish Executive</td>
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<td>National Stadium Inquiry First Draft Report (Private Report)</td>
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1. The Minister for Education, Europe and External Affairs has announced that he intends to commission a review of adoption policy in Scotland, which will be overseen by an advisory group under the convenership of former Sheriff Principal Graham Cox.

2. An Executive Memorandum, which seeks the committee’s views on the proposed remit and objectives for the review, is attached.

3. The memorandum was considered by the Justice (2) Committee at its meeting of Tuesday 24 April 2001. An extract from the committee Official Report of the meeting is attached. A report from the Justice (2) Committee to the Education, Culture and Sport Committee will be tabled.

4. The committee is invited to consider the memorandum and submit its views to the Minister.

Martin Verity
Clerk to the Committee
Extract from the Committee Official Report of the meeting of the Justice (2) Committee held on Tuesday 24 April 2001.

The Convener: The final agenda item is on adoption. When we first discussed the subjects that we wanted to examine, we decided that we wanted to consider adoption from a justice point of view. Members will know that Jack McConnell, the Minister for Education, Europe and External Affairs, has made a statement in Parliament and is proposing to conduct a review. The Justice 2 Committee has been asked to comment on the review and its remit.

Christine Grahame: I have a question to which I do not know the answer, although that is probably my fault. I still do not know whether it is mandatory to intimate to the natural father—it usually is the father, although it could be the natural mother—that there is an application for adoption. If that is still not mandatory, I would like a change in primary legislation. Notification should not necessarily be mandatory in all cases. If the natural father is off the scene when the woman is eight months pregnant, it might not be appropriate to intimate any adoption application to him. However, I would like the weight to fall the other way. I was astonished when dealing with a case to find out that it was not mandatory to intimate that information to the natural father. My client had lived for 10 years with a man. She then married someone else—together they set about adopting the three children of the first man, the natural father. I asked the sheriff whether I was required to intimate that fact to the natural father, with whom the woman had, after all, cohabited for 10 years. The answer was no and the fact was not intimated to him. I do not know whether it is still the case that intimation is not mandatory but, if it is, there is a huge gap. I would like that to be looked at.

Scott Barrie: My understanding is that the issue has to do with whether the father holds parental rights. That will be covered by the reform of family law, which will clarify the position. That is the difficulty with the case to which you refer.

Christine Grahame: I still think that, even if a father does not apply for parental rights, it would be just in many circumstances to intimate to him the major change in his child’s status. The sheriff might decide that there is no point in that and that the father should not have a say. Nevertheless, we are talking about a major
thing and I have always felt that it is unjust not to intimate the information. If other legislation will deal with the issue, let us investigate it.

Secondly, on the list of groups—given under point 9—that the remit of the review would be sent to, who and what are "Legal interests" and "Professionals close to, but not currently directly responsible for, adoption services"?

We cannot say, "You should also consult X, Y and Z" if we do not know who those groups are. Point 9 is not specific enough.

**The Convener**: I agree. It would be useful for the committee to put together a short report for the Education, Culture and Sport Committee covering all the points that have been made and crystallising our input. The report would primarily be on rights and responsibilities, particularly those of parents, as those of children are probably covered by the remit of the Education, Culture and Sport Committee and would not be a matter for us. However, it is clearly part of our remit to look at rights and responsibilities in adoption in terms of family law. We may wish to make that point. On your previous point, Christine, we can ask the Executive for a legal note on whether there is an issue. I see no harm in flagging up to the minister that that is one of our areas of interest. I also concur with your view that we need to clarify what is meant in point 9 by "Legal interests", and whether that means the Law Society of Scotland or the Scottish Law Commission, for example. We can address all those points by saying that that is where our interest lies and that we would like the remit to reflect our interests in rights and responsibilities.

We can decide at a later date who, be it experts or organisations, should be called to give evidence on our areas of interest. Presumably, when the review is under way, the committee will agree formally to discuss those bits and pieces.

**Christine Grahame**: There is not a problem if the lead committee is the Education, Culture and Sport Committee. Our remit would be, for example, court procedures, intimidation, the impact on other areas of family law—as Scott Barrie rightly said—and whether there are gaps that create injustice. Once we find out about the issue that I raised, we may find that I am barking up the wrong tree.

**The Convener**: Paragraph 13 says:

"The Committee is invited to note the objectives and
process for the Review. Ministers will welcome any comments”.
Do members object if we say that we have a role to play that is stronger than just commenting and that we feel that there is a particular focus for us that we would like to be recognised?

Members indicated agreement.
EDUCATION, CULTURE AND SPORT COMMITTEE

1 May 2001

Public Petition PE 342: Mr Neil Kay

The petition

1. The attached petition by Mr Neil Kay calls for the Scottish Parliament to (a) consider framing national guidelines for school closures that are at least as fair and comprehensive as those adopted in England, and (b) ask councils to consider deferring decisions on any school closures until these new guidelines have been established.

Public Petitions Committee

2. At its meeting of 13 March 2001, the Public Petitions Committee agreed to refer the petition to the Education, Culture and Sport Committee for further consideration and to respond directly to the petitioner.

Background

3. A number of petitions have previously been received in relation to specific school closures (PE72, PE171, PE175 and PE230). These petitions were taken into account by Cathy Peattie MSP and Jamie Stone MSP in their reports to the Education, Culture and Sport Committee on rural school closures.

4. This Committee agreed to note the reports and to look at issues relevant to rural schools during its School Infrastructure Inquiry. It agreed that both reports should be copied to CoSLA and to Audit Scotland requesting that they review national guidelines on school closures. It is understood that CoSLA is considering guidance on school closures, and that, although there has been a delay, this work is currently under way.

5. The petitioners represent a variety of schools including those who have previously petitioned the Parliament about their own circumstances. The petitioners allege that since the committee’s report has been sent to CoSLA, no further action appears to have been taken.

6. The petition highlights the situation in England where a new system for school closures was introduced in 1998. The petitioners recommend that a number of the key elements of the English system be introduced in Scotland as national guidelines.

7. The Public Petitions Committee noted that the Scottish Parliament cannot overturn the executive decisions of other public bodies or ensure that the decisions on school closures are deferred. However, because of the apparent lack of response to the report of the Education, Culture and Sport Committee, it
agreed to pass the petition to this committee and ask it to consider it and respond directly to the petitioner.

**Recommendation**

8. The committee is invited to note the decision of the Public Petitions Committee and consider the petition in the light of its own remit.

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Martin Verity
Clerk to the Committee
ADOPTION POLICY REVIEW: PROPOSED REMIT AND OBJECTIVES

MEMORANDUM FOR EDUCATION, CULTURE AND SPORT COMMITTEE
[ALSO (SECOND) JUSTICE COMMITTEE]

Introduction

1. The Minister for Education, Europe and External Affairs has announced that he intends to commission a review of adoption policy in Scotland. This will be overseen by an advisory group under the Convenorship of former Sheriff Principal Graham Cox.

2. The purpose of this memorandum is to seek the Committee’s views on the proposed remit and objectives for the Review.

Background

3. There are on average 450 Adoption Orders approved each year in Scotland of which half are step-parent adoptions. The others will cover a range of circumstances including adoption of children and young people looked after by local authorities. They illustrate the trend in adoption applications, particularly measured against total numbers of children and young people looked after by local authorities.

4. The primary purpose of the Review is to focus on adoption within the range of services delivered by local authorities and the relevant specialist agencies to promote and improve the life changes of children and young people for whom they have some form of corporate parent responsibility.

5. Adoption legislation in Scotland was updated most recently in the Children (Scotland) Act 1995. Otherwise the overall legislative framework for this service is set out in the Adoption (Scotland) Act 1978.

6. The main change introduced by the 1995 Act made the child’s interest paramount in considering the child’s suitability for adoption. The Act clarified also the statutory responsibilities of local authorities for the provision of adoption services including assessment of adopters, post adoption support, the procedures governing adoption panels and reference of proposed adoption orders to the Children’s Hearings.

Current Proposals

7. Ministers have decided that it is opportune to review the position of adoption services, specifically in relation to looked after children since implementation of the Children (Scotland) Act in April 1997. Within that general context, and with a clear priority being given to the issues specifically affecting looked after children, they wish to focus on 4 priority areas in the first instance:

- The place of adoption services within the spectrum of services considered for children and young people;
• The recruitment, selection and assessment of prospective adopters;

• The provision of post-adoption support services for families;

• The case for Scotland joining the proposed UK National Adoption Register.

8. Ministers recognise that there are wider issues equally worthy of consideration in relation to adoption. These might include the rights of birth parents, the arrangements for planned contact and time-scales within court procedures. Some, or all, of these topics can be examined in a second phase of the Review.

9. It is proposed that the Review with this remit should be overseen by an Advisory Group under the Convenorship of former Sheriff Principal Graham Cox. Ministers are considering also inviting membership from the following interests:

• Directors of Social Work in Scotland

• Adoption and Fostering Associations

• Legal interests and Children’s Panels

• Professionals close to, but not currently directly responsible for, adoption services

10. Ministers are also committed to securing representation from adoptive parents and young people who have experienced the adoption process.

Expected Outcomes

11. Without prejudging the outcome of the process Ministers will invite the Advisory Group to marshal their conclusions under 3 main headings:

• Those which can be addressed within the framework of existing legislation (primary and secondary);

• Those which might require further detailed guidance, with or without statutory backing;

• Those which can be achieved only by changes in either primary or secondary legislation.

Timetable

12. Ministers will invite the Advisory Group to report within 6 months of their appointment. It may be that not all of the topics can be covered in exactly the same depth and further work may be required in a later phase. However, it would be important to address particularly the issue of exactly how to improve, as appropriate, the current position of adoption services within the range of support for looked after children, particularly those looked after away from home.
Conclusion

13. The Committee is invited to note the objectives and process for the Review. Ministers will welcome any comments the Committee wishes to make on these points.

SCOTTISH EXECUTIVE
April 2001