EDUCATION, CULTURE AND SPORT COMMITTEE

AGENDA

21st Meeting, 2001 (Session 1)

Wednesday 27th June 2001

The Committee will meet at 11.00 am in Committee Room 2

1. **Assessment of Educational Need:** The Committee will consider a draft response to the Scottish Executive’s consultation document "Assessing our children’s educational needs. The Way Forward"

2. **Public Petition PE 342:** The Deputy Convener will report on her meeting with COSLA on the subject matter of Petition PE 342 (School Closures) by Mr Neil Kay.

3. **Committee Work Programme:** The Committee will consider whether to hold a seminar to discuss its programme of work for the remainder of the session.

4. **Gaelic Broadcasting Inquiry:** The Committee will consider future work on its Inquiry into Gaelic Broadcasting.

5. **Inquiry into the Application of Consultative Steering Group (CSG) Principles in the Scottish Parliament:** The Committee will consider a paper from the Procedures Committee.

6. **Subordinate Legislation:** The Committee will consider the following instruments under negative procedure—

   - The Sports and Sporting Events (Designation) (Scotland) Amendment Order 2001, (SSI 2001/209)
   - The Education (Assisted Places) (Scotland) Regulations 2001, (SSI 2001/222)
   - The St. Mary’s Music School (Aided Places) (Scotland) Regulations 2001, (SSI 2001/223)
The following papers are attached for this meeting—

**Draft response to Scottish Executive’s consultation document** (Agenda item 1) (To follow)  ED/01/21/1

**Paper from Procedures Committee** (Agenda item 2)  ED/01/21/2

**Clerk's note on SSI 2001/209** (Agenda item 6)  ED/01/21/3

**Clerk's note on SSI 2001/222** (Agenda item 6)  ED/01/21/4

**Clerk's note on SSI 2001/223** (Agenda item 6)  ED/01/21/5

Martin Verity  
Clerk to the Committee  
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Legislative principles

1. Is there still a need for separate legislation to ensure the provision of additional support when required? If not, what would need to be done to ensure that children's individual educational needs are given appropriate consideration?

1.1 We should consider replacing the record of needs system or revising it substantially, and consider the possibility of establishing an independent expert appeal mechanism (similar to the Tribunal system in England and Wales) which is not too formal and which includes a range of representatives.

1.2 In future placing decisions, where a special school is recommended, exclusion from mainstream must be justified in relation to the child's best interests. The justification must include a statement about how the special school will contribute to the child's inclusion, for example by specifying arrangements for part-time participation in mainstream, plans for later transfer to mainstream or extra curricular activities. All children should have Personal Learning Plans.

2. What functions/strengths of the Record of Needs should be retained and built on?

2.1 The tendency to emphasise a discrete population defined as having special educational needs, with separate decisions about their educational provision, has not been helpful. The Education Culture and Sport Committee Inquiry highlighted the complexity of special educational needs and the diversity of provision across Scotland. This diversity reflects the wide range of needs of individuals and their families and there is evidence of good practice in both mainstream and special schools.

3. What weaknesses and concerns should be addressed?

3.1 There are considerable problems associated with the spread of provision, with parents in some local authorities disadvantaged by a limited choice of provision. Evidence regarding special school placement decisions indicates that these are often based on perceptions about the inability of mainstream schools to cope, rather than on more positive factors. The Committee wishes to ensure that mainstream schools can become a realistic option for the majority of children, whilst seeking to maintain the choice of a special school placement for those with the most significant needs.
Definition/criteria

4. Should the concept of special educational needs be re-defined and, if so, how?

4.1 There should be an agreed definition of inclusive education, namely: Maximising the participation of all children in mainstream schools and removing environmental, structural and attitudinal barriers to their participation.

5. Should the criteria for opening a Record of Needs be changed to focus more on the provision being made by the school and, if so, how?

5.1 Mainstream schools should ensure that all policies and practices are inclusive. The Index for Inclusion should be made available to every school, to facilitate the changes to ethos and working practices that are necessary.

Pre-school

6. Are there aspects of early identification and assessment of pre-school children with special educational needs which should be underpinned by legislation? If so, what should the legislation cover?

6.1 Assessment should be initiated at the earliest possible stage and with shorter time limits for the completion of the assessment process.

Staged assessment

7. Are there any benefits to providing a statutory underpinning to aspects of the EPSEN staged approach to assessment? If so, which aspects and what rights should parents and children have?

7.1 Young people with special educational needs and their parents must be fully involved in decisions about placement and provision.

7.2 Parents should have access to information and reports, with time to digest and support to ensure understanding and participation in the decision-making process. There should be an indication on the Record of Needs of the choices that parents have been offered. The child’s view should also be considered and included in documentation.
Transition points/future needs

8. What arrangements should there be for review in the case of children with significant special educational needs? Should there be a statutory requirement to have these needs reviewed at key transition points through a Record of Needs process, or other system?

8.1 The system for assessing needs should incorporate updating at key/transitional stages, making the Record of Needs a live document.

8.2 Planning meetings (from pre-school onwards) should take place well before transition points and on the basis of up to date assessments. All children should have Personal Learning Plans.

9. Should there continue to be a statutory underpinning to the Future Needs Assessment? If so, should this be available to pupils with “additional support needs”?

9.1 There is a widespread feeling that that statutory underpinning could be relaxed if personal education plans are effectively developed. The definition of “additional support needs” remains controversial. There is however, undoubtedly a need to ensure that such judgements are formulated transparently and fairly in the child’s interests.

Monitoring progress

10. What improvements could be made to ensuring that children’s needs and progress are monitored and services planned?

10.1 Target setting should reflect the nature of the school population, to avoid discouraging schools from developing inclusive practices.

10.2 The Scottish Executive should undertake systematic ethnic minority monitoring and ensure that this informs strategy. Fundamental and policy based research on inclusion is also essential. Key priorities for research are the experiences of children with special educational needs and their parents, provision for deaf children and the factors determining effective inclusion.
Information and advice

11. What support should be offered to parents and young persons in discussions on special educational needs and which aspects, if any, should be underpinned by statute? Are there aspects of equality which need to be addressed in terms of any groups or communities in Scotland?

11.1 The Scottish Executive should consider establishing an inclusive education resource centre, which would co-ordinate resources, information, and training for staff, parents and young people with special needs, and undertake research.

11.2 Additional resources should be made available for the more widespread provision of information, advice and training for parents (which is independent from schools, authorities and the Scottish Executive) and for the establishment of informal parents support networks. The current pilot mediation initiative should be extended, if it is found to be successful, to facilitate parents’ engagement with the education system in general.

11.3 The Scottish Executive should establish a mechanism for ensuring equitable distribution of funding to children from black/minority ethnic backgrounds.

Appeals

12. What statutory rights of appeal should parents have in relation to their child’s special educational needs?

13. What arrangements should there be for how appeals are handled and decisions reached?

14. How can disagreement between parents and education authorities best be resolved?

14.1 We should consider the possibility of establishing an independent expert appeal mechanism (similar to the Tribunal system in England and Wales) which is not too formal and which includes a range of representatives.

Timescales

15. Should more precise timescales for the assessment and recording process be introduced for parents and authorities?

15.1 This would be in line with the recommendations and consensus of debate on the committee.
Children’s views

16. What rights should children have in terms of assessment of their individual needs and how these are met?

16.1 *The child’s view should be taken into account and included in the assessment documentation.*

Sharing information

17. How can sharing information be made easier for those professionally involved with the child?

17.1 *Parents must be fully involved in decisions about placement and provision.* Parents should have access to information and reports, with time to digest and support to ensure understanding and participation in the decision-making process. There should be an indication on the Record of Needs of the choices that parents have been offered.

Good Practice

18. Is there a case for Scotland to have a statutory Code of Practice? If so, how would it improve provision for special educational needs?

18.1 *There should be mechanisms for ensuring greater accountability and consistency across local authorities, and effective linking with local authorities’ staged intervention procedures.*

18.2 *Initial teacher education should ensure that student teachers understand and are committed to inclusive education and that they adopt inclusive teaching approaches. The introduction of ‘core standards’ for inclusion is recommended for all teachers. In-service training should enable all school staff to address barriers to inclusion in their own practices. Training at all levels should reflect the purposes of the New Community Schools and prepare staff for multidisciplinary working practices. Staff development should include opportunities for work shadowing in a range of settings, and exchanges between staff working in mainstream and special schools. Parents and children should also be invited to contribute to staff development.*

18.3 *The conditions of service, training provision (including opportunities for joint staff development with teachers) and the career structure for special needs assistants require urgent attention. Special needs assistants are crucial to the success of inclusion, but require effective deployment and support.*
18.4 There should be greater flexibility in placement decisions, with opportunities for greater movement of children and staff between mainstream and special schools. Split placement options should also be explored and all placements should be reviewed regularly. ‘Outreach’ support involving special school staff, as in the Isle of Bute pre-school provision, should be considered for more remote areas.

18.5 Special schools that fulfil a national role, for example in relation to training or supporting children with low incidence special educational needs, should be eligible for financial support from local authorities. CoSLA should oversee the use made by education authorities of the reallocation of grant-aided funding, to ensure children’s needs are being effectively met and to communicate any resource issues to the Scottish Executive.

18.6 Authorities should establish joint funding arrangements between health, education and social work to support the placements of children with low incidence special educational needs.

Additional comments

The New Community Schools Initiative should be exploited fully to ensure that each New Community School becomes inclusive and that professionals’ multidisciplinary working practices remove barriers to participation.

The Scottish Executive should adapt its framework of inspection to take account of the purposes and multidisciplinary practices of New Community Schools.

Education Authorities should be able to demonstrate how the current Scottish Executive funding for inclusion and access has been used. Scottish Executive funding should reflect the three year planning cycle of local authorities and the Executive should consider providing further funding for staffing and staff development.
PROCEDURES COMMITTEE

INQUIRY INTO THE APPLICATION OF THE CONSULTATIVE STEERING GROUP PRINCIPLES IN THE SCOTTISH PARLIAMENT

Purpose

1. The Procedures Committee would be grateful if all committees would consider whether it is appropriate for them to make a submission to this inquiry.

Background

2. In June 1999 the Parliament endorsed the Report of the Consultative Steering Group on the Scottish Parliament (CSG) and the Report’s key principles of sharing the power, accountability, accessibility and equal opportunities. The Report recommended that the Parliament should “take stock” by measuring its achievements against these principles.

3. The Procedures Committee is undertaking this task and launched its inquiry on 3rd April.

4. The remit of the inquiry is:

   “Whether the key Consultative Steering Group principles as endorsed by the Parliament – sharing power, accountability, accessibility and equal opportunities – are being implemented in the Parliament, to what extent and with what success.”

Consultation

5. MORI has been appointed to conduct an extensive consultation exercise with all MSPs and staff individually, as well as externally with the general public

Consultation with committees

6. The Committee is particularly concerned to ensure that relevant experience of committees is included in the inquiry.

7. As the inquiry is likely to generate evidence on matters that are highly relevant to the Equal Opportunities Committee and the Public Petitions Committee the relevant clerks have been kept closely in touch and Murray Tosh has written to the Conveners of both committees.
Conclusion

8. The Procedures Committee’s inquiry into the application of the Consultative Steering Group principles in the Scottish Parliament is a wide ranging inquiry involving an extensive internal and external consultation exercise.

9. While the views of Members will be sought on an individual basis, the Procedures Committee considered that individual committees may wish to consider making submissions.

10. *The Procedures Committee would be pleased to hear from any committee that wishes to make a submission and present oral evidence.*
1. The Sports Grounds and Sporting Events (Designation) (Scotland) Amendment Order 2001,(SSI 2001/209), was laid on 6 June 2001, and is subject to negative procedure. It comes into force on 28 July 2001, and will remain in force, unless it is annulled by the Parliament within 40 days, excluding the recess period, of being laid before the Parliament i.e. by 14 September 2001.

2. The purpose of the instrument is to amend the list of designated sports grounds; the effect of the designation is to make the carrying and consumption etc of alcohol a criminal offence at the grounds. Full details are contained in the Executive Note attached to the Instrument.

3. The Education, Culture and Sport Committee is the lead committee for this Order, and should report to the Parliament by 10 September 2001. There are no other committees to report to this Committee. The Minister responsible is Mr Allan Wilson, the Deputy Minister for Environment, Sport and Culture.

4. The Subordinate Legislation Committee have reported on this Instrument and determined that the attention of the Parliament need not be drawn to this instrument.

5. A copy of the SSI, an explanatory note which is not part of the Order, the Executive Note and the report of the Subordinate Legislation Committee are attached.

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

7. A procedural note is attached.

Ian Cowan
Assistant Clerk

Martin Verity
Clerk to the Committee
Procedural Note

Standing Orders

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

SSIs subject to annulment: ‘negative instruments’

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

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

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

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

6. To date, no motion to annul SSI 2001/209 has been lodged with the chamber clerks.

Proceedings in the committee

7. This committee is invited to discuss the SSI. Members will then be asked whether the committee wishes to make any recommendation in its report to the Parliament.
EDUCATION, CULTURE AND SPORT COMMITTEE

27 June 2001

Scottish Statutory Instruments – SSI 2001/222

1. The Education (Assisted Places) (Scotland) Regulations 2001, (SSI 2001/222), was laid on 11 June 2001, and is subject to negative procedure. It comes into force on 1 August 2001, and will remain in force, unless it is annulled by the Parliament within 40 days, excluding the recess period, of being laid before the Parliament i.e. by 19 September 2001.

2. The Regulations consolidate the Education (Assisted Places) (Scotland) Regulations 1995 and in addition make amendments to the qualifying income levels for the remission of fees and charges. Full details are contained in the Executive Note attached to the Instrument.

3. The Education, Culture and Sport Committee is the lead committee for this Order, and should report to the Parliament by 14 September 2001. There are no other committees to report to this Committee. The Minister responsible is Mr Jack McConnell, the Minister for Education, Europe and External Affairs.

4. The Subordinate Legislation Committee have reported on this Instrument and determined that the attention of the Parliament need not be drawn to this instrument.

5. A copy of the SSI, an explanatory note which is not part of the Order, the Executive Note and the report of the Subordinate Legislation Committee are attached.

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

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

6. To date, no motion to annul SSI 2001/222 has been lodged with the chamber clerks.

Proceedings in the committee

7. This committee is invited to discuss the SSI. Members will then be asked whether the committee wishes to make any recommendation in its report to the Parliament.
1. The St. Mary’s Music School (Aided Places) (Scotland) Regulations 2001, (SSI 2001/222), was laid on 11 June 2001, and is subject to negative procedure. It comes into force on 1 August 2001, and will remain in force, unless it is annulled by the Parliament within 40 days, excluding the recess period, of being laid before the Parliament i.e. by 19 September 2001.

2. The Regulations consolidate the St. Mary’s Music School (Aided Places) Regulations 1995 and in addition make amendments to update the qualifying income levels for the remission of fees and charges. Full details are contained in the Executive Note attached to the Instrument.

3. The Education, Culture and Sport Committee is the lead committee for this Order, and should report to the Parliament by 14 September 2001. There are no other committees to report to this Committee. The Minister responsible is Mr Jack McConnell, the Minister for Education, Europe and External Affairs.

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

6. To date, no motion to annul SSI 2001/223 has been lodged with the chamber clerks.

Proceedings in the committee

7. This committee is invited to discuss the SSI. Members will then be asked whether the committee wishes to make any recommendation in its report to the Parliament.