EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE

AGENDA

8th Meeting, 2009 (Session 3)

Wednesday 11 March 2009

The Committee will meet at 9.30 am in Committee Room 5.

1. **Social work**: The Committee will take evidence from—

   Adam Ingram MSP, Minister for Children and Early Years, Val Cox, Deputy Director for Workforce and Capacity Issues, and Catherine Rainey, Team Leader, Workforce and Capacity Issues, Scottish Government.

2. **Apprenticeships, Skills, Children and Learning Bill (UK Parliament legislation)**: The Committee will take evidence on legislative consent memorandum LCM(S3) 19.1 from—

   Fiona Hyslop MSP, Cabinet Secretary for Education and Lifelong Learning, Laura Barjonas, Team Leader, Higher Education and Learner Support Division, and Dr Audrey MacDougall, Head of Lifelong Learning Analytical Services Unit, Scottish Government.

3. **Apprenticeships, Skills, Children and Learning Bill (UK Parliament legislation)**: The Committee will consider the legislative consent memorandum lodged by Fiona Hyslop, Cabinet Secretary for Education and Lifelong Learning (LCM(S3)19.1).

4. **Subordinate legislation**: The Committee will consider the following negative instruments—

   the Protection of Children (Scotland) Act 2003 (The Meaning of Disqualified from Working with Children: Corresponding Disqualifications in Northern Ireland) Order 2009 (SSI 2009/39); and

   the Police Act 1997 (Criminal Records) (Scotland) Amendment Regulations 2009 (SSI 2009/40).
5. **Decision on taking business in private:** The Committee will decide whether its review of its work programme at its next meeting should be taken in private.

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Clerk to the Education, Lifelong Learning and Culture Committee  
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The papers for this meeting are as follows—

**Agenda item 1**

Paper by the Clerk

**Agenda items 2 and 3**

Apprenticeships, Skills, Children and Learning Bill (UK Parliament Legislation) Legislative Consent Memorandum cover note

**Apprenticeships, Skills, Children and Learning Bill (UK Parliament legislation) and Explanatory Notes**

**Agenda item 4**

SSI cover note


SSI cover note

**The Police Act 1997 (Criminal Records) (Scotland) Amendment Regulations 2009 (SSI 2009/40)**
Education, Lifelong Learning and Culture Committee

8th Meeting, 2009 (Session 3), Wednesday 11 March 2009

Social work

Background

1. At its meeting of 18 June 2008, the Committee agreed to extend the information gathering evidence sessions it has conducted on areas of its remit to include social work.

2. The Committee agreed to undertake a broad overview of the current issues facing the social work sector in Scotland before deciding whether to examine any of the issues in more depth through a formal inquiry.


4. At that meeting the Committee also agreed to take further evidence from a wide range of other witnesses at future meetings of the Committee.

5. At its meeting on 17 September 2008, the Committee took evidence from—

- Ian Davidson, Acting Deputy Director, Workforce and Capacity Issues Division, and Andy Bruce, Acting Team Leader, Improving Delivery Team, Children, Young People and Social Care Directorate, Scottish Government;


6. The Official Report from that session is available at this link:

http://www.scottish.parliament.uk/s3/committees/ellc/or-08/ed08-2102.htm#Col1420

7. The Committee held a roundtable discussion session exploring a wide range of social work issues at its meeting on 4 February 2009. Those who attended were the Association of Directors of Social Work (ADSW); UNISON; the Scottish Commission for the Regulation of Care; The Scottish Social Services Council (SSSC); Universities Scotland; and Community Care Providers Scotland (CCPS). The Official Report from that session is available at this link:

Evidence session on 11 March 2009

8. The Committee will take evidence at its meeting on 11 March 2009 from the Minister for Children and Early Years, who has responsibility for social work issues.

Nick Hawthorne
Senior Assistant Clerk
Education, Lifelong Learning and Culture Committee
Background

1. The Apprenticeships, Skills, Children and Learning Bill was introduced by the UK Government in the House of Commons on 4 February 2009. The Bill and the Explanatory Notes can be found at this link:

   [http://services.parliament.uk/bills/2008-09/apprenticeshipsskillschildrenandlearning.html](http://services.parliament.uk/bills/2008-09/apprenticeshipsskillschildrenandlearning.html)

2. As elements of this Bill relate to devolved matters, a Legislative Consent Memorandum (LCM(S3) 19.1) has been lodged by Fiona Hyslop, Cabinet Secretary for Education and Lifelong Learning, under rule 9B.3.1(a) of the Parliament's Standing Orders. A copy of the LCM can be found at Annex A.

3. The Parliamentary Bureau agreed to refer the LCM to the Education, Lifelong Learning and Culture Committee at its meeting on Tuesday 10 February 2009.

4. The Cabinet Secretary for Education and Lifelong Learning will attend the Education, Lifelong Learning and Culture Committee meeting on 11 March 2009 to give evidence on the LCM.

5. The Subordinate Legislation Committee considered the LCM at its meeting on 3 March 2009 and agreed it had no points to raise. A copy of the report by the Subordinate Legislation Committee is attached at Annex B.

UK Apprenticeships, Skills, Children and Learning Bill

6. The main purpose of the Bill is to make provisions relating to education and training. These measures include introducing the right to request time off to train, establishing a statutory right to apprenticeships for young people and establishing a number of new bodies in relation to qualifications and funding.

7. Amongst the new bodies to be established by the Bill are the Young People’s Learning Agency and the Skills Funding Agency. These agencies will take over many of the functions currently carried out by the Learning and Skills Council (LSC), which will be abolished.

8. Clause 14 in the Bill will transfer powers previously held by the LSC to the Young People’s Learning Agency and the Skills Funding Agency. The LCM has been lodged to allow the Young People’s Learning Agency and the Skills Funding Agency to exercise functions in Scotland in relation to education and training.

9. The UK Bill will also confer functions directly on the Scottish Ministers and alter executive competence. The LCM will also ensure that Scottish
Ministers have powers to instruct the new Skills Funding Agency to amend the criteria for Career Development Loans for Scottish learners and to ensure that, in future, Scottish learners will be able to benefit from the developments in the Managing Information Across Partners (MIAP) programme.

Procedure for dealing with legislative consent memoranda

10. Chapter 9B of the Parliament’s Standing Orders sets out procedures for the consideration of a LCM. For any Bill under consideration in the UK Parliament that makes provision applying to Scotland for any purpose within the legislative competence of the Parliament, a Scottish Minister shall lodge a motion (legislative consent motion) seeking the consent of the Scottish Parliament for the relevant provisions in the relevant Bill.

11. The Scottish Ministers must lodge a LCM which sets out a draft legislative consent motion and explains the background to the relevant Bill. The Parliamentary Bureau refers the memorandum to the relevant lead committee and, if the relevant Bill makes provision for subordinate legislation, to the Subordinate Legislation Committee.

12. The lead committee must consider the LCM and report to the Parliament no later than five sitting days before the Parliament considers the legislative consent motion.

Action

13. After hearing evidence from the Cabinet Secretary, the Committee is invited to consider whether there are any issues it wishes to raise in its report on the LCM.

Nick Hawthorne
Senior Assistant Clerk
Education, Lifelong Learning and Culture Committee
ELLC/S3/09/8/2

Annexe A

LEGISLATIVE CONSENT MEMORANDUM

APPRENTICESHIPS, SKILLS, CHILDREN, AND LEARNING BILL

Draft Legislative Consent Motion

1. The draft motion, which will be lodged by the Cabinet Secretary for Education and Lifelong Learning, is:

“That the Parliament agrees that the relevant provisions of the Apprenticeships, Skills, Children and Learning Bill, introduced in the House of Commons on 4 February 2008, relating to the management of Career Development Loans and the Managing Information Across Partners programme, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by Fiona Hyslop, Cabinet Secretary for Education and Lifelong Learning, under Rule 9.B.3.1(a) of the Parliament’s standing orders. The Apprenticeships, Skills, Children and Learning Bill (“the Bill”) was introduced in the House of Commons on 4 February 2009. The Bill can be found at:

http://services.parliament.uk/bills/2008-09/apprenticeshipsskillschildrenandlearning.html

Content of the Bill

3. The Bill makes provisions relating to education and training and primarily impacts on England. The Bill will introduce a number of measures aimed at improving schools’ performance; introduce the right to request time off to train (this provision will extend to Scotland); establish a statutory right to apprenticeships for young people; and establish a number of new bodies in relation to qualifications and funding.

Provisions that relate to Scotland

4. Amongst the new bodies to be established by the Bill are the Young People’s Learning Agency and the Skills Funding Agency. These agencies will take over many of the functions currently carried out by the Learning and Skills Council (LSC), which will be abolished. Two of the LSC’s functions were the subject of a Legislative Consent Memorandum (LCM) under the Further Education and Training Act 2007 and relate to the management of Career Development Loans and the services developed under the Managing Information Across Partners programme (MIAP).
5. Clause 14 in the Bill will transfer powers, previously held by the LSC, to the Young People’s Learning Agency and the Skills Funding Agency. An LCM is required to allow the Young People’s Learning Agency and the Skills Funding Agency to exercise functions in Scotland in relation to education and training – matters which are within the legislative competence of the Scottish Parliament.

6. The UK bill will also confer functions directly on the Scottish Ministers and will therefore alter executive competence. As a result, Scottish Ministers will be able: to enter into arrangements with the Skills Funding Agency (about Career Development Loans); to consent to arrangements between the Skills Funding Agency and bodies in Scotland exercising training and education functions in relation to Career Development Loans; and to request services from the Young People’s Learning Agency and the Skills Funding Agency that have been developed through MIAP to extend to Scotland.

7. Career Development Loans allow individuals in Great Britain to participate in learning. They are aimed at supporting increasing levels of participation in vocational learning, encouraging more individuals to take responsibility for their own learning, and encouraging financial institutions to view learning as an investment worthy of a loan.

8. The UK Government has announced that Career Development Loans will be re-branded in September 2009 as Professional and Career Development Loans with a number of changes. The key changes envisaged by the UK Government are to increase the volume of loans available (from 15,000 to 45,000 in 2010-11), to increase the rate and amount of loan funding available (100% funding rather than 80% and loan ceiling raised to £10,000) and to negotiate reduced interest rates with the banks.

9. The aim of the MIAP programme is to enable learner and learning data to be shared across the education sector within the UK. A Learner Registration Service (to allocate a Unique Learner Number) has been developed through the MIAP programme and work is underway to develop a Learner Record (a qualifications and skills summary).

**Reasons for seeking a Legislative Consent Motion**

10. The LCM is required because the executive competence of Scottish Ministers is being expanded in relation to the functions noted above. This develops the arrangements previously established as a result of the Session 2 LCM relating to the Further Education and Training Act 2007. This will ensure that Scottish Ministers have the powers to instruct the new Skills Funding Agency to amend the criteria for Career Development Loans for Scottish learners and to ensure that, in future, Scottish learners will be able to benefit from the developments in the MIAP programme.
Consultation

11. The Scottish Government has not consulted on the issues relating to the LCM. However, for the previous LCM in 2007, the Scottish MIAP Group was consulted. The Group commissioned a report into various aspects of the work and concluded that there was a desire to work alongside developments in England to ensure a joined up approach, particularly for individual learners.

Financial implications

12. There are no financial implications for this LCM.

Conclusion

13. The Scottish Government believes that it is in the best interests of the Scottish people that a) the Young People’s Learning Agency and the Skills Funding Agency be able to exercise certain functions in Scotland, in consequence of the Apprenticeships, Skills, Children and Learning Bill, and that b) Scottish Ministers should exercise certain executive functions in relation to Scotland, thereby building on the situation originally established by the Further Education and Training Act 2007. In particular, this will ensure that Scottish Ministers have the powers to amend the criteria for Career Development Loans to reflect the needs of Scottish learners and to maintain the option of extending to Scotland some of the services developed under the MIAP programme in the future. The Scottish Government therefore recommends that, so far as these matters fall within the legislative competence of the Scottish Parliament, or alter the executive competence of the Scottish Ministers, they should be considered by the UK Parliament.

Scottish Government
February 2009
Subordinate Legislation Committee

16th Report, 2009 (Session 3)

Legislative Consent Memorandum on the Apprenticeships, Skills, Children and Learning Bill

The Committee reports to the Parliament as follows—

1. At its meeting on 3 March 2009, the Committee considered provisions in the Apprenticeships, Skills, Children and Learning Bill which confer on the Scottish Ministers powers to make subordinate legislation. The Committee submits this report to the Education, Lifelong Learning and Culture Committee under Rule 9B.3.6 of Standing Orders.

2. The Scottish Government provided the Parliament with a legislative consent memorandum 1.

Delegated powers provisions

3. The Committee is content with clauses 65 and 103.

4. Briefly, in regard to what is covered by these provisions, clauses 65 and 103 would enable the Scottish Ministers, by order, to specify other persons as ‘permitted recipients’ for the purpose of being provided with services by the Young People's Learning Agency, and by the Skills Funding Agency, respectively, both established under the Bill. (These would be services required by that recipient in connection with the exercise of its functions relating to education or training. They could include providing accommodation and other facilities to a permitted recipient, or procuring goods and services for use by such a recipient).

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1 Legislative Consent Memorandum
Subordinate legislation


Background

1. The Protection of Children (Scotland) Act 2003 establishes a list of individuals considered to be unsuitable to work with children in Scotland.

2. Section 17(1) of the 2003 Act defines “disqualified from working with children” as meaning those person listed in the list of those considered unsuitable to work with children kept under section 1 of the 2003 Act, as well as persons included in other lists in England and Wales or subject to a court disqualification in England and Wales.

3. The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (SI2003/417) (the POCVA Order) establishes lists of individuals considered unsuitable to work with children and vulnerable adults in Northern Ireland and provides that listed persons are disqualified from working with children in Northern Ireland.

4. Currently, individuals included on the POCVA children’s list and so disqualified from working with children in Northern Ireland are not prohibited from working with children in Scotland.

5. The above order closes a gap that has existed since the 2003 Act and the POCVA order came into force. It will provide that the disqualification from working with children under the POCVA order will be recognised in Scots law so that individuals disqualified under that order are also prohibited from working in a child care position in Scotland.

6. The order will come into force on 1 April 2009.

7. The Education, Lifelong Learning and Culture Committee is the lead committee for this instrument and should report to the Parliament by 23 March 2009.

8. Copies of the SSI, an explanatory note (which is not part of the Regulations) and the Executive Note are attached.

9. A note on procedure for considering SSIs is attached overleaf. This is a negative instrument.
Subordinate Legislation Committee’s consideration

10. The Subordinate Legislation Committee considered the SSI at its meeting on 24 February 2009 and determined that it did not need to draw the attention of the Parliament to the instrument on any of the grounds set out within Rule 10.3.1.

Action

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

Linda Smith
Assistant Clerk
Education, Lifelong Learning and Culture 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 is annulled by the Parliament. Any MSP may by motion propose to the lead committee that the committee recommends 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 2009/40 has been lodged with the chamber clerks.
Background

1. Under part 5 of the Police Act 1997, the Scottish Ministers may carry out criminal record checks. In practice, the day-to-day business is carried out by Disclosure Scotland.

2. There are currently three levels of checks. The criminal conviction certificate (basic disclosure); the criminal record certificate (standard disclosure); and the enhanced criminal record certificate (enhanced disclosure).

3. The purposes of the above regulations are to expand the definition of central records for the purposes of all disclosures and expand the conditions for approaching the Police Service of Northern Ireland (PSNI) for information for enhanced disclosures.

4. These changes will close an information gap and will ensure that Disclosure Scotland will have access to the record of convictions in the courts of Northern Ireland and will be able to include them on the face of certificates.

5. These regulations will also allow Disclosure Scotland to approach PSNI in connection with enhanced disclosure applications. This change will improve the ability of disclosure Scotland to find out if relevant information exists about applicants for work with children and adults at risk.

6. The Education, Lifelong Learning and Culture Committee is the lead committee for this instrument and should report to the Parliament by 23 March 2009.

7. Copies of the SSI, an explanatory note (which is not part of the Regulations) and the Executive Note are attached.

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