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Education, Lifelong Learning and Culture Committee

Room T3.40

The Scottish Parliament

EDINBURGH

EH99 1SP

Schools (Consultation) (Scotland) Bill

Written Evidence

April 2009

Children in Scotland welcomes the invitation to submit written evidence to the Education, Lifelong Learning and Culture Committee on the *Schools (Consultation) (Scotland) Bill*. We have made previous representations about the particular position of rural schools – and strongly support a legislative presumption against rural school closure (when coupled with other related presumptions we proposed).¹ We are, therefore, disappointed that this legislative presumption against rural school closures does not feature in the current Bill, despite it being the primary focus of the previous proposal.

Indeed, the Cabinet Secretary's introduction to the previous consultation document highlights the Government's commitment to this presumption and underlines the benefits that can accrue from small, rural schools remaining located in the communities they serve. Given that support from at least one other political party for the presumption against rural school closures has already been strongly articulated, it is unclear why this important provision is missing now.

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http://www.childreninscotland.org.uk/docs/policy/RuralSchools_SGconsultation_CiS.pdf

We do welcome the proposals to introduce a consistent approach to the nature and scope of consultation about schools. Even in this respect, however, we believe that the Bill can be strengthened. *Meaningful* (not 'tick box') consultation should take place with parents, pupils and community members. Such consultation processes should be of sufficient duration, easily accessible, understandable and inclusive -- and the results of such consultations should be fully taken into account before decisions are made. The consultation processes developed with the Scottish Borders' schools through Children in Scotland's Access All Areas project offer valuable lessons about how to consult effectively with children and young people.²

Process for all schools (Sections 1 – 11)

We welcome the introduction of a requirement for education authorities to consult with designated interested parties before proceeding with the major and enduring changes to school provision specified in the Bill. Furthermore, we support the introduction of unequivocal timescales, specified consultees, and obligatory procedures. These provisions could, however, be made more robust by the inclusion of some additional elements.

First, the provisions of Section 3 do not establish any definition of 'educational benefit' or any criteria for assessing the 'likely effects' of a 'relevant proposal'. This inevitably compromises the transparency and consistency of the process and of the criteria used for decision-making. It also means that a postcode lottery is likely to be created, not only from authority to authority, but also from case to case within the same authority.

Requiring authorities to state their reasons for believing a proposal to have educational benefit is a positive change. Such educational benefits as may result from these changes are frequently secondary considerations, and usually focus on the *presumed* (rather than proven) advantages of a larger establishment, such as wider curriculum choice and economies of scale generating more resources for additional services.

It would be especially helpful for these reasons to be evidence-based, not merely speculative. For example, simply asserting that maths instruction will be improved as a result of merging schools should be backed up by credible evidence as to why this conclusion was reached – and whether it would be possible to achieve the same quality of maths instruction in the current schools.

The paramount incentive to vary school provision in the significant ways covered by the Bill, however, is most often financial. Here, too, actual evidence of comparative costs would be more helpful. In other words, an analysis is preferable to an assumption.

² http://www.childreninscotland.org.uk/html/par_acc.htm

The Bill is silent about the criteria for decision-making if/when educational benefits point toward one decision and financial benefits point toward the opposite decision. Similarly, the Bill gives no guidance on the nature and sufficiency of the evidence that 'counts' in terms of acceptable reasons for proceeding with a 'relevant proposal'. Conversely, the Bill does not specify what would constitute adequate justification for a proposal to be declined or withdrawn.

We believe that while educational and financial considerations are legitimate and important, Children in Scotland thinks that the consideration of paramount importance in any 'relevant proposal' should be its likely impacts upon **the current well-being and future life chances of the young people affected.**

We welcome the introduction of defined timescales for consultation. We do not however, support setting the timescale at six weeks. This is an insufficient period for meaningful involvement of those who are concerned about or affected by the 'relevant proposal'. For many of those whom the Bill requires to be consulted, the process will be unfamiliar. In order to ensure that they are able to gather and present pertinent information, the timescale should be extended. **We propose a twelve week consultation period**, which is consistent with the standard period for Scottish Government consultations.

The inclusion of pupils in the consultation process is commendable. Still, we are concerned about the education authority's degree of discretion in this respect (Schedule 2 – '*in so far as the education authority considers them to be of a suitable age and maturity*'). Even very young children can contribute effectively to a consultation process, if it is carried out using appropriate methods and materials. **We ask that consideration be given to removing this loophole.**

We see the proposed role of HMIE as a valuable safeguard. It potentially introduces an additional degree of professional rigour to the Educational Benefits Statement. The concerns we expressed above in relation to the parameters and criteria that inform the Statement are also relevant to HMIE's scrutiny of proposals. Once again, **nationally consistent guidelines would be welcome.**

There appears to be an inconsistency between the time stipulations in Section 11 and those expressed in Section 15. Section 11 (1) allows an education authority to 'proceed with a relevant proposal' three weeks after publication of the consultation report. 'Proceeding', in Section 11 (2) (b) is defined as 'implementing' the proposal 'wholly or partly'. Section 15 allows Scottish Ministers to issue a call-in notice up to six weeks after a decision is made, by which time the education authority could, quite legitimately, have proceeded with implementing the proposal. *Clarification of this point is needed.*

Specific provision for rural schools (Sections 12 – 14)

We agree that there are additional factors in relation to rural schools that ought to be considered in deciding on any 'relevant proposal'. Once again, we are concerned about ambiguous criteria in relation to issues such as 'likely effect on the local community' and 'sustainability of the community'. Ensuring such criteria were developed and included within the Bill's provisions, possibly by means of statutory guidance, would reinforce the positive intentions of the Bill.

We would also like to see a requirement on authorities to take into consideration possible developments in affected communities. The impact of current planning applications and future land use as articulated in the local structure plan should also inform decision-making. It would be unwise to close a small rural school when new families with pre-school or school-aged children are anticipated to be moving into a community.

Our main concern, however, is that the Bill does not presume against closure, or indeed several other significant changes, in rural schools. We believe there are many persuasive reasons why this legislative presumption should be included. We argued strongly for this in our submission to the 2008 consultation, as follows:

"For decades in Scotland, across the UK and in other OECD nations (especially the United States), there has been a de facto presumption in favour of rural school closures among education authorities and government agencies. And, unlike numerous other policies, the historical presumption in favour of rural school closures actually has been implemented with unusual determination and 'success'.

There are 552 fewer schools in Scotland now than four decades ago. In the 30 years from 1976 to 2006, the total number of publicly funded schools in Scotland has dropped by nearly 17% -- including 357 (15%) fewer primary schools, 83 (18%) fewer secondary schools and 112 (37%) fewer special schools. Of course, this decline largely is attributable to fewer pupils.

Internationally, as well as within Scotland, the presumption in favour of rural school closures has continued long after the evidence failed to document the decisive benefits of this action. Rural school closures often were ill- advised, whether judged by the impacts upon the students involved or by the effects on the rural communities from which this public asset was removed. The main beneficiaries of these closures appear to be the education authorities, given that there were sometimes (narrowly-defined) cost savings. Even the cost savings are less significant -- and sometimes non-existent -- under closer scrutiny and accurate measures of total costs.

Given the historical propensity (presumption) by local education and government leaders to view rural school closures as desirable, it seems necessary to impose a legislative presumption against rural school closures for a period of time in order to 'level the playing field'."

Two further factors are also worthy of consideration. First, if families live, and are to continue living, in rural areas, schools must be provided for them. No primary school in a community means that families will be unlikely to choose to live there. Living near a school will therefore necessarily mean living in a larger centre of population.

Second, the decision to close rural schools can lead to accelerating depopulation in rural communities and increasing density of population in urban and semi-urban areas. Rural depopulation may not only be undesirable *per se*, but it will also have a pernicious effect on infrastructure essential to the national economy such as tourism, green energy and agriculture. Seen in this social and economic context, the price of maintaining good quality rural schools is a wise investment. Rural people already have to do without a variety of publicly-subsidised services and amenities that urban residents take for granted -- from neighbourhood emergency services to transport networks and leisure facilities. Rural people are not the recipients of higher public service expenditures overall; rather, the allocation of public resources is spent in different categories, such as small schools.

Call-in by the Scottish Ministers (Sections 15 – 17)

The provision for call-in of school closure proposals is welcome. This offers both an opportunity for more objective scrutiny and extends the time for consideration. A number of comments we have made in relation to previous sections would be equally relevant here. Again there is no presumption against school closure. **We would argue strongly for such a provision to be instated in relation to rural schools. We further suggest that, where an education authority has decided to implement a closure proposal in respect of a rural school, call-in should become a statutory requirement.**

The potential anomaly in time periods was referred to above. **It is essential to make clear that no implementation action can proceed before the expiry of the six-week call-in period.** This is particularly important in small schools with few pupils as closure can take place far more quickly than when larger numbers are involved.

In respect of the grounds for call-in and the refusal or granting of consent, **we would again urge that clear and consistent criteria be developed.**

Guidance (Section 19)

We strongly support the development of guidance that addresses the issues we have raised above.

For further information or questions please contact Marion Macleod, Senior Policy and Parliamentary Officer.

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Children in Scotland is Scotland's national agency for organisations and professionals working with and for children, young people and their families. It exists to identify and promote the interests of children and their families and to ensure that policies and services and other provisions are of the highest possible quality and are able to meet the needs of a diverse society. Children in Scotland represents more than 450 members, including 90% of Scottish Local Authorities, all major voluntary, statutory and private children's agencies, professional organisations, as well as many other smaller community groups and children's services. It is linked with similar agencies in other parts of the UK and Europe.

The work of Children in Scotland encompasses extensive information, policy, research and practice development programmes. The agency works closely with MSPs, the Scottish Government, local authorities and practitioners. It also services groups such as the Cross Party Parliamentary Group on Children and Young People (with YouthLink Scotland). In addition, Children in Scotland hosts Enquire - the national advice service for additional support for learning, and Resolve: ASL, Scotland's largest independent education mediation service.