

Dear Convener

Response to Public Petitions Committee (PE01583)

It has been encouraging to read the responses to the above petition, all of which appear to recognise and sympathise with its aim.

I sympathise equally with **UNISON** and **EIS**'s concerns over funding and resourcing implications. I do believe, however, that a thorough safety risk assessment along similar lines to that of North Ayrshire Council ¹ as well as the statistics relating to incidents and accidents at this time of day ², both highlight that this is not a matter to be compromised on cost.

UNISON states that some schools have supervision in place from 08.45am confirming that this "*appears to be a local decision rather than a national or even council policy*", while the data compiled from responses to Freedom of Information requests demonstrates that the majority have none ³. Their response highlights a demand for childcare before and after school, but this is by definition entirely different and is not our aim. The idea of a parent-led breakfast club was in fact rejected locally by my son's Head Teacher, due to the requirement for parents to be accompanied by a member of staff, even with the requisite PVG disclosure. The aim of our petition is merely to ensure the safe arrival and supervision of children travelling on dedicated council transport buses 'in loco parentis', until such time as they are allowed inside the building. Transport to school is a privilege which is often paid for by parents who are unable to provide this supervision themselves on arrival. The benefits to all children, however, regardless of how they arrive at school would be significant, as indicated in my opening speech at the Public Petitions Committee Meeting on 14th December 2015 ⁴.

The **Scottish Government** recognises in its response, the general duty of care to the safety of pupils in the charge of local authorities that is placed on them by existing legislation in Regulation 3(a) of the Schools (Safety and Supervision of Pupils) (Scotland) Regulations 1990⁵ and expects authorities, schools, staff and parents to work together in identifying and addressing any issues of concern in respect of the safety of children travelling to school and during the period before the school day begins. It states that it is "important that appropriate risk assessments are carried out and action taken should alleviate such concerns", however it is important to note that in practice, this does not happen at a local level as evidenced in the data supplied ³.

Several local authorities, when replying to Freedom of Information requests stated that they believe they are adequately fulfilling their duty of care to pupils by having a member of staff inside the building 20 minutes before the start of the school day. We have yet to establish where this policy regarding indoor supervision comes from or whether it in fact exists (see the Public Petition Committee's question to **COSLA**, 15th December 2015) ⁶.

When considering the financial cost implications of having someone physically supervising the playground before school, if a member of staff *is* currently required to be present inside the building, could this person not simply be outside the building without incurring additional expense?

Alternatively, schools might follow the example set by Glasgow City Council, who has made this the responsibility of Janitors ⁷. It was in fact Aberdeenshire Council, who during the course of trying to reach a local resolution at my sons' school, stated cost as a barrier. Interestingly, Aberdeenshire and Aberdeen City have the least number of schools with a formal or recognised practise already in place at this time of day, with just 7% of their primary schools providing supervision in the playground³.

HSE recognise in their response, the risks to pupils in school playgrounds under the Health & Safety at Work Act 1974, which requires schools to ensure pupil safety in matters relating to unsafe transport (e.g. where vehicles are operated in the vicinity of pupils), falls from play equipment, among others. These risks are undoubtedly present not only at break and lunchtime when national legislation requires physical playground supervision, but also in the period before school starts when children arrive on council transport⁵. If local authorities are devolved responsibility for the safety of pupils arriving on school buses⁸, it can surely be argued that a physical presence in the playground is equally warranted in the 20 minute period before school and the obligation to them, to ensure the safety of pupils confronted with similar risks at this time of day, ought to be just as significant? As highlighted in the petition, the risks are arguably even greater at this time of day, given increased volumes of traffic.

If the Scottish Government were to impose a change in legislation that required primary schools to provide supervision during the 20 minute period before school, perhaps they could be permitted the freedom to choose *how* they employ this, rather than *whether*. Grant them instead the flexibility, depending on size and circumstance, to make this a duty of either Janitors, PSAs, clerical or teaching staff (providing adequate training where required).

On this point, it is worthy of note that PSAs and teaching staff would already be in possession of the required skills and training for undertaking such a supervisory role. It would of course be for Ministers to decide on the best approach, but given that 6 of the local authorities contacted through Freedom of Information requests (representing 20% of those contacted) already have a formal supervision policy in place at this time of day, perhaps Ministers might consider contacting them and asking how they addressed these issues in order to achieve this⁹.

In response to the suggestion by **UNISON** that a more effective solution might be found in better organisation of school transport, Aberdeenshire Council stated in their communication with me in 2011, that they had made enquiries with local transport contractors and were told that this would not be favourable, as it would cause delays in winter due to snowy / icy road conditions.

In addressing the point made by **UNISON** regarding the fact that staff may be taken away from other duties, the same could be said for break and lunchtimes when playground supervision is required by law. In answer to this, there can be no more important duty than protecting the welfare and safety of young children in their charge. It should not be a question of if, but how. Legislation governing the duty of local authorities toward children at this time of day needs to be tightened to ensure that the safety risks are recognised, and the requirement for early morning supervision addressed.

In summary, the variation in practice highlights that the extent to which local authorities choose to fulfil their general duty to take "reasonable care the safety of pupils when under their charge" is currently open to wide interpretation by local authorities concerning those pupils arriving on dedicated transport, and the lack in many cases of physical playground supervision at this time of day further demonstrates that allowing policy to be set locally, is neither a sufficiently reliable nor consistent form of protection for these children. Guidelines and expectations are all well and good, but it is ultimately legislation that will ensure appropriate and consistent levels of care are delivered to these pupils at this time of day.

Thank you.

Yours

Lisa J Willis

Petitioner (PE01583)

14th February 2016

References:

1. <https://www.whatdotheyknow.com/request/267775/response/652241/attach/3/Playground%20Supervision%20August%202014.pdf>
2. http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/2015_1208_PE1583_A_Petitioner.pdf (page 3-5)
3. http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/2015_1208_PE1583_A_Petitioner.pdf (page 6-8)
4. <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10284&i=94624#ScotParIOR>
5. <http://www.legislation.gov.uk/uksi/1990/295/made>
6. http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/PE1583_WrittenQuestions.pdf.
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8. <http://www.gov.scot/Topics/Education/Schools/Parents/transport/transport-guidance>
9. http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/2015_1208_PE1583_A_Petitioner.pdf (page 9 & 10)