



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EDUCATION AND CULTURE COMMITTEE

Tuesday 29 November 2011

Session 4

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.scottish.parliament.uk or by contacting Public Information on 0131 348 5000

Tuesday 29 November 2011

CONTENTS

	Col.
SUBORDINATE LEGISLATION	497
Student Fees (Specification) (Scotland) Order 2011 [Draft].....	497
Education (Fees) (Scotland) Regulations 2011 (SSI 2011/389)	497
PETITION	518
Education (Qualified Teachers' Contact Hours) (PE1391).....	518
SUBORDINATE LEGISLATION	520
Student Fees (Specification) (Scotland) Order 2011 [Draft].....	520
Education (Fees) (Scotland) Regulations 2011 (SSI 2011/389)	520

EDUCATION AND CULTURE COMMITTEE

13th Meeting 2011, Session 4

CONVENER

*Stewart Maxwell (West Scotland) (SNP)

DEPUTY CONVENER

*Claire Baker (Mid Scotland and Fife) (Lab)

COMMITTEE MEMBERS

*Clare Adamson (Central Scotland) (SNP)

*Marco Biagi (Edinburgh Central) (SNP)

*Jenny Marra (North East Scotland) (Lab)

*Joan McAlpine (South Scotland) (SNP)

*Liam McArthur (Orkney Islands) (LD)

*Liz Smith (Mid Scotland and Fife) (Con)

*Jean Urquhart (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Ann McVie (Scottish Government)

Robin Parker (NUS Scotland)

Michael Russell (Cabinet Secretary for Education and Lifelong Learning)

Alastair Sim (Universities Scotland)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

Committee Room 2

Scottish Parliament

Education and Culture Committee

Tuesday 29 November 2011

[The Convener *opened the meeting at 10:00*]

Subordinate Legislation

Student Fees (Specification) (Scotland) Order 2011 [Draft]

Education (Fees) (Scotland) Regulations 2011 (SSI 2011/389)

The Convener (Stewart Maxwell): Good morning. I welcome members to the 13th meeting of the Education and Culture Committee of session 4. As usual, I remind members and those in the public gallery to switch off all mobile phones and other electronic devices. They must be switched off at all times and not put to silent, because they interfere with the sound system. We have no apologies for the meeting, and there is a full turnout.

Item 1 is oral evidence on the draft Student Fees (Specification) (Scotland) Order 2011 and the Education (Fees) (Scotland) Regulations 2011. We will take evidence from NUS Scotland and Universities Scotland, then from the Cabinet Secretary for Education and Lifelong Learning.

I welcome Robin Parker, president of NUS Scotland, and Alastair Sim, director of Universities Scotland. I thank you both for giving up your time to come along this morning to give us evidence on the subordinate legislation. I invite questions from the committee.

Liz Smith (Mid Scotland and Fife) (Con): Good morning, gentlemen, and thank you for coming. My question for both of you in your respective areas is this: what discussions have taken place with universities and students in England about the intended implications of the policies?

Alastair Sim (Universities Scotland): We are a constituent part of Universities UK, and the regime that is proposed in the Scottish statutory instruments has been discussed and supported at Universities UK level. Having looked through the responses to the Scottish Government's consultation, I am aware that the small number of English universities that responded on the proposals did so supportively. With the discussions that we have had at United Kingdom level, the evidence that we have seen at UK level

and the Higher Education Funding Council for England paper that was referred to in the press over recent days, our counterparts in the rest of the UK are fully cognisant of what is being proposed and have not raised objections.

Liz Smith: You have given some estimates on an arithmetical basis in your written submission about likely trends. Have your discussions included universities in the UK, or were they done on a Scottish basis?

Alastair Sim: Do you mean our estimates of bursaries?

Liz Smith: Yes.

Alastair Sim: Those are estimates that we developed at Universities Scotland level on the basis of the information available to us. As we are part of Universities UK, we shared that with our colleagues at UK level. I think that what we are doing is recognised as a fair and reasonable way of appraising what is going on.

Liz Smith: Can I ask about the students?

Robin Parker (NUS Scotland): I have not spoken directly to any English students about the matter, but I know that Edinburgh University Students Association, which has done quite a lot of work on the matter and many of whose members are present here today, spoke in particular to students at further education colleges in England as part of its RUKidding? campaign, who expressed concern and said that they were not sure whether they would decide to come to university in Scotland if they were faced with a £36,000 degree.

Another thing that I would bring into this discussion is the Universities and Colleges Admissions Service figures that have come out recently. It is too early to say with complete certainty what those statistics mean, but there is a great deal of concern across the board about fees from the Westminster Government in the first place and about having the most expensive university in the UK for rest-of-UK students in Scotland. We have in fact got the three most expensive in the University of St Andrews, the University of Edinburgh and the University of the West of Scotland. There is a worry that that will bring down the number of applications across the board and that the reputation of Scottish education has been damaged because of the decisions that have been made on fee levels—that is particularly concerning.

Liz Smith: Your organisations have provided substantial and helpful submissions, for which I thank you. They set out suggested likely outcomes of the legislation, but the reality is that those outcomes will depend greatly on the uptake among different types of students who want to

study in Scotland. How convinced are you that you have worked through the likely trends? I know that that is exceedingly difficult, given that, as you say in your submission, the applications will not be ready before 15 January. How satisfied are you that you have a good awareness of what the likely trends will be among students from other parts of the UK and the European Union who come to study in Scotland?

Alastair Sim: As was done last winter in the expert group that examined sustainable funding for universities and the contribution that rest-of-UK fees might make to that, we genuinely have to assume that there will be a range of variability. That was the assumption that the expert group made. Individual universities have provisionally set rest-of-UK fees at a level that they think will allow them to sustain a reasonable flow of rest-of-UK students.

I take slight issue with one of Robin Parker's points on a statistical matter. One surprising thing about the UCAS figures when we delve in below the headlines is that the number of English applications to Scotland is holding up better than the number of English applications to English universities. It is hard to interpret the UCAS statistics, but they do not appear to sustain an interpretation that demand from students who are domiciled in England for a Scottish university education is declining relative to demand for university education in England.

Liz Smith: I totally accept that. It was hard to take anything from yesterday's figures, for a variety of reasons. One of the worrying statistics yesterday was that the number of Scottish students who have applied for Scottish universities is down, which is a concern for obvious reasons.

I want to probe a little further on the level of demand that you expect from the various categories of students who are domiciled elsewhere and who are likely to come to Scotland. If the rest-of-UK fees are seen to be pretty high, as Mr Parker said earlier and in his submission, does that give rise to concern about the possible effect on universities because of the reduction in the money that might be brought in?

Robin Parker: The key point is the amount of uncertainty about the system that we are going into. I do not want to misquote Tim O'Shea, but I think that, when he gave evidence to the committee, he said that he would not place bets on what might happen to student numbers at his institution. The danger is that there could be a big decrease in the overall amount of money that comes to institutions. That would be bad not only for the institutions, but for students, wherever they are domiciled, if it leads to course closures or cuts because of a lack of income.

There is a parallel to be drawn with the changes to the UK Border Agency that affect international students. We have come together collectively on that. That situation is creating uncertainty about the number of students who will come in, which is a concern for the same reason: it could lead to an overall decrease in the amount of funds that come into institutions, which is bad for all students.

Alastair Sim: As we both acknowledge, we cannot be absolutely certain about what will happen. Institutions have made their decisions in setting provisional rest-of-UK fees on the basis that they think that those fees will maintain or possibly even promote demand. We just will not know whether the fees have been pitched exactly right until we see the final UCAS figures. We need to be careful to ensure that students from across the UK get an idea of what is on offer in Scotland and do not simply see the headline fee. The evidence on which we have been working with NUS Scotland shows that there is a good offer through bursaries and other forms of support. I do not want the myth to take root that degrees here are the most expensive in the UK. Many universities are ensuring that, even though students study for four years, they will pay a fee that is commensurate with that for three years of study in England.

When you look at the pattern of study in England, you will see that 31 per cent of students are studying for degrees of more than three years. For example, most students at Imperial College London are on four or potentially five-year degree courses and many of those doing chemistry, engineering, classics or whatever at Oxford and Cambridge are on four-year degree courses. I would, in Scotland's interests, be wary of the idea that our degrees are more expensive gaining traction because, once you compare the financial support and very substantial fee waivers available in Scotland with the picture in England, which is much more diverse than is sometimes understood, that story does not stand up.

Liz Smith: Despite the fact that Scotland has had a tradition of a four-year degree, some universities might for educational—never mind financial—reasons want greater flexibility and ask students to take on a three-year degree or enter a course at year 2 rather than year 1. Have you factored likely changes in flexibility into your calculations?

Robin Parker: Picking up Alastair Sim's comments, I think that, notwithstanding the question of three and four-year degrees, it is quite clear from the evidence that Universities Scotland has helpfully shared with us that, before and after bursaries are taken into account, the average cost of a degree will be higher for students taking a

four-year degree in Scotland that would normally be a three-year degree in England.

Alastair Sim's point about the importance of transparency and clarity for prospective students extends beyond the level of fees to bursaries and admissions. It is important to have an independent body or organisation with a role in communicating with students and providing transparency about bursary offers. However, that must happen at institutional level rather than at the sectoral level for which Universities Scotland has helpfully submitted figures to the committee. It is important to ask the sector and the cabinet secretary about individual institutions' bursary arrangements.

Students from the rest of the UK with appropriate A-levels or other qualifications are already given the opportunity to enter a course in the second year. An inherent benefit of the four-year degree in Scotland is that it offers such flexibility and anything that can be done to offer more opportunity and choice—the key words for any student from the rest of the UK deciding whether they want to do a three or four-year degree in Scotland—would be very welcome. More pressure needs to be put on institutions to increase such flexibility and make more such opportunities accessible to students.

Alastair Sim: I support those comments. The pattern of support and options that institutions are typically offering suggests that students are being encouraged to do the four-year degree often for the price of three years or with very generous means-tested bursary support. We believe in the value of what we are offering, but the universities also recognise that, because of cost pressures and indeed other pressures, some students will decide that a three-year degree is the right choice, so provision is being made for those people. It is a good diverse economy that meets different students' different needs.

The Convener: Mr Parker suggested both this morning and in his submission that we should raise with the cabinet secretary the fact that we are discussing average figures instead of figures for individual institutions. However, before we do so, I wonder whether Mr Sim will respond to that point. After all, although you have provided some helpful figures in your submission, NUS Scotland quite rightly points out that it would particularly help

“if data was made available for individual institutions in regards to what they expect their net fee to be.”

Alastair Sim: If we gave you data on that at the moment, it would have only a very spurious accuracy. We are aggregating a series of assumptions to arrive at our figures, recognising the very substantial uncertainties about the number of students who will come to universities

at an income level that means that they qualify for the bursaries. We have given figures that we think are a reasonable aggregated approximation. If you started to drill down below that, you would probably find that any figures that we gave you were not of value because their accuracy would be dependent on a series of things that one can make assumptions about but about which one cannot know with any certainty at the moment.

10:15

The Convener: I am slightly concerned by your use of the word “spurious”. What does it say about the collective average figure if the individual level is “spurious”?

Alastair Sim: I am essentially saying that we have made a series of reasonable assumptions based on the size and income profile of the rest-of-UK population at individual institutions, based on the available information about the bursary schemes that are being proposed by institutions. On that series of assumptions, on which we worked closely with the NUS, we have come up with what we think, between us, is a reasonable approximation. However, given the uncertainties that have already been expressed, trying to tie that down into a more detailed set of figures—Robin Parker has been very clear that all these figures have to be approached with certain caveats—would be to lead you to a level of accuracy that would have to be treated with so many caveats that it would not be of immense value.

Robin Parker: I am equally concerned. English institutions have been expected to make assumptions about their student intake and the financial background of those students. For their own budgeting processes, individual institutions would want to make estimates that are as accurate as possible in order to provide bursary packages, so I am concerned about the financial estimates and budgeting expectations of individual institutions. The expectation has been on English institutions to do that and the answer here only reinforces the need for someone independent to make it clear not only to students but to the wider public what access arrangements are on offer. I see no reason why the same expectation should not be placed on Scottish institutions. The question is whose responsibility it should be.

The Convener: Mr Sim, if your figures at the moment are full of caveats—and I understand why that would be the case—at what point will that no longer be the case? At what point will you have accurate figures? Is it a reasonable expectation that individual institution figures will be published at that point?

Alastair Sim: As institutions see who is actually applying in 2012-13, and where they fit into

bursary schemes, that will generate the accurate figures as to how students are being treated and it is entirely reasonable to expect transparency about that.

The Convener: For absolute transparency then, are you saying that Universities Scotland supports that? Can you commit individual institutions to publish these figures and say when that will be?

Alastair Sim: I refer to the minister's letter of grant, which clearly states that outcome agreements, including on widening access, will be developed with each individual institution, and to the Scottish Government's response to the consultation, which clearly says that that will include widening access for rest-of-UK students. There will be a means, through the Scottish funding council, for universities' achievements in that regard to be kept under specific statistical scrutiny.

Robin Parker: That was a more positive interpretation of what we expect from the cabinet secretary in the widening access outcome agreements. We would be delighted if rest-of-UK students were included in those, but the committee needs to seek greater clarity on that. It would be welcome if it is the case.

I point out that we are faced with a market. None of us particularly likes that, but it is important that there be independent regulation of that market to provide students with transparency about the access arrangements. Alastair Sim's answer does not necessarily show that institutions approach widening access with the intention of maintaining a student body with a diverse socioeconomic background, which is what the access agreements should be about. However, institutions should expect to maintain such a student population.

Claire Baker (Mid Scotland and Fife) (Lab): The Universities Scotland submission says:

"universities have exhibited responsible autonomy"

in light of the fee increases. Does that really reflect the decisions that the University of Edinburgh, the University of St Andrews and the University of the West of Scotland have made? Is there not a case for some independent regulation? Alastair Sim said that students were entitled to have a fair idea of what was on offer, but is the present situation not piecemeal and confusing for rest-of-UK students who are thinking about coming to Scotland?

Alastair Sim: We did not know until early August what planning assumptions the Scottish Further and Higher Education Funding Council was making and, therefore, what the remaining funding might be for teaching rest-of-UK students, so the development of the rest-of-UK fees and the bursary and financial support schemes that

surround them has been an extraordinarily quick process and the institutions have done extraordinarily well to come up with such a wide range of financial support for students. However, that timescale made it an uncertain environment for learners because institutions had only a short number of weeks from the starting point of the funding council's communication to them to think about where to pitch their rest-of-UK fees levels and what financial support to put in place.

This year, learners have not had as much advance clarity about support regimes as one would ideally have wished. That will stabilise for future years.

Claire Baker: You say that it will stabilise, but do you expect there to be changes in future years? Is it just that next year is so unpredictable that universities' decisions, particularly on the bursary support that they offer, have not been based on much factual evidence of which students go to each institution?

Alastair Sim: Universities will seek to ensure that the financial support has worked this year and that they have attracted the right diversity of able students from all sorts of backgrounds. What has been put in place is remarkable given the time that was available, but I am sure that universities will examine it in the light of experience to ensure that they have got it absolutely right.

Claire Baker: The NUS submission says:

"We are particularly concerned about the threat the new RUK fees regime poses to widening access, not just among RUK students themselves but also for Scottish students."

I ask Robin Parker to be a bit more specific about the NUS's concerns about the impact of rest-of-UK fees on Scottish students.

Robin Parker: To go back to the previous question, I fail to see how anyone could describe the decisions of the University of Edinburgh and the University of St Andrews as anything other than irresponsible. The principals there have let themselves down because, although they were given more free rein than their counterparts down south, they have acted irresponsibly and failed to show any restraint in their fee decisions and the way that they have reported what they are doing on widening access.

To answer your question to me, we have some concerns about the impact that rest-of-UK fees might have on admissions criteria. If there is higher demand from Scottish and EU students for a capped number of places, that could push up entry requirements, whereas demand for places from rest-of-UK students may decline because high fees are being set and numbers are uncapped, so admissions criteria might be loosened. We would be concerned if that fear was to be backed up in practice and the admissions

criteria for Scottish students ended up being quite different from the criteria for rest-of-UK students.

Jenny Marra (North East Scotland) (Lab): Mr Sim, forgive me if I have picked this up incorrectly, but did you say in speaking about bursary support that the universities would decide on the levels of bursary that would be available to rest-of-UK students once they have seen the applications? Will they take an average figure, decide how much money is available and then split it proportionately between those students? Is that the type of model that will be used?

Alastair Sim: No, sorry—that is certainly not what I was trying to say. I was trying to say that universities, in very short order, came up in the early autumn with what they believed were the right financial support arrangements to encourage rest-of-UK students from all sorts of backgrounds to continue to apply to Scottish universities.

Those arrangements are quite defined. If one looks at them in detail, one sees that there are certain universally available benefits at certain universities, such as the waiver of fees for a year, and certain benefits that are specifically means tested according to household income. The rules have been defined pretty clearly for 2012-13, but it remains to be seen in detail—recognising the uncertainty of the environment—who ends up applying, who falls into which income brackets and who is entitled to what level of means-tested support, according to the rules that have already been established.

Jenny Marra: But if those criteria have still to be established or are not transparent, how will students decide? You said to Claire Baker that it was important that the universities attract the right diversity of able students. Most students decide where to apply before they submit their UCAS application. If the arrangements—for which bracket students will fall into for a bursary, for example—are not transparent and students cannot sit down with their parents or guardians and work out exactly how much it will cost them and how much of a loan allocation they will have to apply for, they cannot predict how much money they will have to pay or will get in support. How are you confident, therefore, that you will attract the diversity that you said was important?

Alastair Sim: I do not accept the contention that the arrangements are not transparent. Every university, in coming up with its financial support package, has—either at the time of announcing its rest-of-UK fees or subsequently—defined in detail what the entitlement for students will be. You will find that information on the universities' websites, and students will find it there when they are considering whether to apply to a particular university.

There has been quite a compressed timescale for everything this year, but I do not believe that there is a lack of clarity in the information that universities are putting on their websites and communicating to students about the level of entitlement that they might have depending on their particular income bracket.

Robin Parker: I disagree on that. Each institution has decided on a different way in which to report its bursary arrangements, so I do not see how there is any form of clarity or transparency for any of us—for you or for the students sitting behind me, whose successors will be choosing which institution to go to.

It is problematic when Universities Scotland can report only a figure for the whole sector. None of us in the room has any idea whether that might mask massive differences between institutions that are doing the right thing in putting in place stringent measures to widen access, and those that might be doing very little or nothing, and potentially not even meeting the requirements that they might face south of the border.

Jenny Marra: Is it possible for students to sit down when they are considering their UCAS applications and budget for exactly how much money they will have and need for the four years?

Robin Parker: I think that they would have to wade through about 18 different websites and figure out about 18 different methodologies in order to do that. That is not straightforward when we are talking about trying to attract talented people from less well-off financial backgrounds.

Jenny Marra: I see the students behind you nodding, Mr Parker. I ask Mr Sim the same question.

10:30

Alastair Sim: You would have to look at each individual institution's scheme. If I was going to apply to Edinburgh Napier University I would go to its website and see specifically that I was entitled to a £2,000 bursary if I came from a household with an income of less than £25,000. If I went to Glasgow Caledonian University's website, I would know that if I fell into a certain income bracket I would be entitled to pay no more than £12,000 for an honours degree. Because the schemes have been developed by individual institutions, you have to look at what each institution is offering. What they are putting up there is transparent. Learners should be able to make a reasonable assumption about what financial support they are entitled to at the individual institution to which they are thinking of applying.

Jenny Marra: Thank you. It seems that there are a variety of methods of working out this

information across universities. Given that the cap of £9,000 is standard across universities in Scotland, would it be useful to have a standardised widening access and bursary support arrangement?

Robin Parker: That would be incredibly helpful. That is one of the suggestions that we made to the committee in our submission. We have tried to approach the issue as constructively as possible and have offered lots of ideas for ways in which we could improve the system. Having a national scheme or a minimum standard across the board for what institutions have to do on access would allow us to say, "Come to Scotland. This is what we'll do to protect access." We are left with a difficult system thanks to the wrong decisions of the Westminster Government, but we could say that we as a Scottish nation have decided to do something better.

Alastair Sim: I am honestly not sure. Given that Scottish universities are very different places in terms of demand from rest-of-UK students and the rest-of-UK fees that they have set, we would have reservations about a one-size-fits-all model, which might be less well tailored to meeting the diverse needs of students at diverse universities than the models that each university has tailored to ensure that it has the best possible offering to attract the widest possible range of talent.

The Convener: Thank you. Effectively, I think you both accept that it is possible to work out the figures, but that people have to work them out individually, depending on which institution they wish to go to. Is that correct?

Alastair Sim: Yes.

The Convener: Mr Parker, I am not absolutely sure that it is realistic to say that a student thinking of coming to Scotland would be thinking of coming to all the institutions. I looked at no more than three or four before I applied to maybe three. Surely you exaggerate when you say that somebody would have to work out the figures for all 18 institutions.

Robin Parker: An individual would presumably also be looking at numerous institutions south of the border, too, or in Northern Ireland or Wales, so they would still have to wade through numerous different systems. There is a great deal more clarity in England, because the Office for Fair Access is producing what is essentially a league table that shows what different institutions are doing to protect access. We would all find it incredibly problematic if different banks each reported their interest rates in a different way. We are in a market and, therefore, it would be infinitely better to have some form of independent transparency and a guarantee for prospective students on how access measures are reported.

Joan McAlpine (South Scotland) (SNP): I have a supplementary question for Mr Sim on the point that Mr Parker made earlier about the emergence of different admissions criteria for Scottish and rest-of-UK students. Is that in any way likely to happen?

Alastair Sim: I would find that very surprising, given that we are under both a moral and a legal obligation to treat people equally. I would be astonished if we were to end up in a situation in which students within the UK were being treated differentially for admissions purposes. Universities want to get the best students from the widest variety of backgrounds and to apply fair admissions criteria, in the perfect knowledge that if those criteria were not fair, they would quite rightly be the subject of legal challenge. I do not think that I entirely recognise that risk.

Liz Smith: I want to clarify that, because the issue is important. I am not sure that that is what Mr Parker said. I think he hinted that the overall admissions criteria in different universities—it does not matter whether they are for different types of student—could be affected.

Robin Parker: No. I was thinking more along the lines that we could end up with a situation for students from the rest of the UK that is different from the situation for students from Scotland because the pressures of supply and demand are quite different.

Claire Baker: I have a question for Alastair Sim. Rest-of-UK students are taken out of the teaching grant so universities can choose to recruit as many of those students as they wish. I think that that is the point that Robin Parker is making in relation to pressure on admissions.

There is a certain allocation for Scottish and EU students, which universities can go above by a small percentage. However, the concern is that when it comes to rest-of-UK students, they can—in the much-used phrase in university education—be used as a cash cow to bring finances into the university. There is no limit on the number of students that can be recruited.

Alastair Sim: I think that they are a bit too intelligent to allow themselves to be used in that way.

Claire Baker: But that is what the UCAS admissions figures this week suggest.

Alastair Sim: There are real reasons why that will not happen to an unacceptable degree. Frankly, someone who is teaching a laboratory-based course will find that their scope for expansion is pretty much constrained by the facility as well as by the human resource of teaching.

Also, every university is utterly conscious that at the heart of its values is its reputation. That value is incredibly important to people who have graduated from that university. If a university was to dent that reputation by pursuing expansion at the cost of lowering standards, to be blunt it would be sawing off the branch that it was sitting on.

Liam McArthur (Orkney Islands) (LD): This question is probably more for Alastair Sim than it is for Robin Parker. In the written evidence and the early part of the oral evidence, I have been struck by the amount of collaboration between NUS Scotland and Universities Scotland on hacking through the detail and coming up with some agreed figures, and yet we are still struggling to reach that point.

I do not think that there is any threat to the diversity of universities and their ability to take decisions that are appropriate to the needs of their students and staff and so on. What I am struggling to understand is the resistance in the university sector to having a degree of independence in relation to arbitration, which would give reputational reassurance to those institutions, and clarity, transparency and reassurance to students about what is on offer throughout the sector as well as in individual institutions.

Why is the sector resisting something that could safeguard it from the accusations that have been made previously and in evidence today, and from the lingering suspicion that universities will not necessarily always act in the interests of students?

Alastair Sim: If I have any disagreement with Robin Parker on that issue it is one of mechanics rather than of principle. The NUS argument has been that there should be a particular regulator for a particular category of student—in other words, rest-of-UK students, who make up about 15 per cent of the student population.

What I was trying to say earlier is that we should consider the issue more holistically. In fact, the minister's letter of guidance to the SFC and the Scottish Government's comments on the consultation on the instruments point towards that more holistic solution, which is that we should look to the funding council, in its interactions with each individual institution, to set reasonable benchmarks for widening access and for other activities and attainment across the board. That would ensure that there is a proper holistic system of incentive and accountability for universities and that we have the diverse student body that is right for universities' role as providers of opportunity for people from all sorts of backgrounds.

Robin Parker and I work extremely closely on many things, and we recognise that there are some differences of opinion between us on this particular issue. However, on the arrangements for

ensuring that universities are securing widening access, our disagreement is on the mechanics rather than on the principle.

Robin Parker: The only way in which we can walk away happy from this meeting today is if we have a cast-iron guarantee from the cabinet secretary that there will be specific measures on protecting widening access for rest-of-UK students. That is not to say that there would not be a great deal of merit in an holistic system that looked at all forms of students together, but it would be naive to suggest that we could treat the different groups of students separately within such a system. Indeed, we would not want to do so.

The Scottish Government's laudable ambition is to improve rates of access for students from Scotland. That is entirely welcome. It is entirely the right thing to do, and we support it. Instead of muddying that system with rest-of-UK students, a much more realistic ambition would be to hold ground on widening access. Muddying the two aspects would just make the process complicated. Perhaps the answer is to have an holistic system that takes account of the two quite different situations, in which we try to improve access for Scottish students and to stay where we are on having students from widely diverse backgrounds outside Scotland.

Liam McArthur: There is clearly a common approach to some of the principles involved, but the mechanics are not unimportant. Before the individual institutions announced their fee levels, the cabinet secretary gave a pretty clear steer that he expected universities to act responsibly. Since then, a number of institutions that have been mentioned today have not acted in accordance with that firm steer from ministers—even by the cabinet secretary's own yardstick, judging by hints that he has made. It is difficult to see how ministers' aspirations can be secured through the universities on behalf of the students without a formalised sanctions mechanism.

Robin Parker: We were concerned that the approach being adopted resembled a 19th century gentlemen's agreement, but we went ahead with it anyway. I do not think that it has really come through with a result, however, and some principals have acted without restraint. There are two ways of approaching the mechanics of this. The first, in relation to access, could involve a proportion of rest-of-UK fee income going back into bursaries and into protecting access. A second approach could involve consideration of the outcomes of the widening access agreements, examining Scottish and rest-of-UK students separately and imposing financial penalties for any decline in access for rest-of-UK students.

Alastair Sim: I think that some explanation is needed on the mechanics. I should also like to

say, on behalf of my members, which have made a diverse range of decisions on setting rest-of-UK fees, that those that decided to set the fees at the upper end have also made a serious commitment to financial support. Edinburgh, for example, has committed to spending at least 50 per cent of its new income on financial support for students. St Andrews has likewise committed 40 per cent. We also have to remember that this is largely substitutional income, because universities are losing substantial amounts of teaching grant for rest-of-UK students. The bulk of what is being done in raising fees from rest-of-UK students is to substitute for that loss of teaching funding.

Liam McArthur: Presumably the cabinet secretary is aware of the details of how the individual institutions' systems work, yet he has still expressed disappointment with the actions of certain principals in certain institutions. Clearly, the actions taken by certain universities are not in accordance with what he thought was a firm steer as to what he expected to happen, given the latitude that he gave the universities.

10:45

Alastair Sim: That is a judgment for him.

Robin Parker: I want to pick up on two points that Alastair Sim made. First, it is true that most of this is substitutional income, but it would be useful if the cabinet secretary provided clarity with regard to the Government's consultation response on the action that it will take if the situation persists and certain institutions gain disproportionately from the system. We think that reducing the fee cap and putting more pressure on institutions with regard to bursary arrangements will stop them benefiting disproportionately.

Secondly, with regard to the commitment made by St Andrews and Edinburgh to spend 40 per cent and 50 per cent respectively of new income on financial support, no one I have asked can give me a straight answer to the question, "Forty and 50 per cent of what, exactly?"

The Convener: I have been very lenient with members in their questioning but I must remind the committee that we are discussing the order and the regulations, not bursaries and student support. It is, of course, important to get the wider context and we have managed to do that to some extent.

Jenny Marra: What are the implications of the proposed changes to the domicile arrangements?

Robin Parker: In our initial response to the consultation, we expressed concern about students falling into the domicile-test gap—four want of a better phrase—between Scotland and England. We felt that it was unfortunate that

students who had moved over the border within the three-year period and therefore qualified under neither system would simply be left behind. We welcome the fact that the Scottish Government has listened to us on that issue and has made adjustments.

Alastair Sim: It is a sensible adjustment that stops people falling between the cracks. I give all credit to the NUS for pressing the issue.

Clare Adamson (Central Scotland) (SNP): The instruments would allow higher education institutions to charge students higher fees up to the £9,000 cap in the 2012-13 academic year. How stable is that figure, and will there be any pressure for it to be uplifted?

Alastair Sim: Because it is dynamically responsive to what is happening south of the border, I would regard it as unstable only if the regime in England changed significantly. I regard the cap to be pretty stable and would be pretty surprised if, in the foreseeable future, things in England went beyond it.

Robin Parker: In its response to the consultation, the Scottish Government suggests that it will review the situation in the new year and, if certain institutions appear to be benefiting disproportionately under the current regime, it will look again at the arrangements. That is the right decision; indeed, it is what the Government should be doing anyway. Given that the most expensive degrees in the UK have been introduced in Scotland, I think that there will be pressure to reduce the cap. Certainly, I would be concerned if any institution were to be benefiting disproportionately. The issue needs to be constantly reviewed.

Clare Adamson: Given the lack of restraint that you said has been shown, I can understand why the NUS would be looking to have the cap reduced. However, is Mr Sim's evidence really that Scotland is being led by what is happening in England, that we are unable to create our own position and that everything very much depends on whether there are inflationary rises down south?

Alastair Sim: Yes, we are trying to make sure that we manage cross-border flow and that Scottish institutions are able to compete fairly with English institutions to attract students from the widest possible variety of backgrounds. I stand by what I said before: the system is dynamically responsive to what is happening in England, but having gone through the immense pain of creating a particular system south of the border, I do not foresee radical change to that system that would increase the fees beyond £9,000, except in relation to inflation.

Robin Parker: In approaching the issue, our biggest concern was to protect access for Scottish students to Scottish universities. Therefore, the key thing that has happened is that rest-of-UK students are being taken out of Scottish and EU-funded places. We think that that effectively creates a quota or a cap on Scottish and EU students that protects access for Scottish and EU students. Therefore, whatever you do on the other side, it is really just a budgetary decision and is separate from the issue of protecting access for Scottish students.

Liam McArthur: I will move on to the issue of medical students. I am not sure that there is a link, but you will recall the rationale for setting a slightly higher level of fee for medical students four or five years ago. That was done in response to an earlier report by Calman that identified particular pressures on medical courses in Scotland and the specific need to manage cross-border flow.

Within the proposals before us is a suggestion that no increase beyond that £9,000 cap should apply to medical students, which, while welcome, begs the question whether there is a degree of cross-subsidy of students on medical courses from rest-of-UK fees paid by students doing other courses. Can you give me the rationale for why a single cap can apply now to medical courses, which are obviously longer and more costly than other courses?

Alastair Sim: The cap of £2,895, or however much it was, is no longer necessary for rest-of-UK students because the fees are set by the universities themselves on a basis that is competitive with universities around the United Kingdom—hence, the regulations. Obviously, nowhere in the UK does a £9,000 fee for a medical student cover the full costs of that extremely expensive education, so all the funding councils across the UK still offer an element of additional teaching funding to make sure that students, wherever their domicile in the UK, can study medicine at the destination of their choice. There is an element of remnant Scottish funding council teaching funding going into the very high cost subjects to make sure that they can still be provided at a fee that is competitive. The Higher Education Funding Council for England does exactly the same thing in relation to medicine in England.

Liam McArthur: I do not dispute the fact that there was always going to be a level of continuity needed for those more expensive courses, but going back to our earlier discussion, do you agree that there may well be a suspicion that Edinburgh, for example, has taken its fee right up to the cap because it sees an opportunity to cover more of the cost of courses such as medicine by securing

higher fees from rest-of-UK students studying other courses?

Robin Parker: Where I have a lot of sympathy with the decisions the institutions have had to take is that there has been little clarity so far about what amount of teaching grant will be left for higher-cost subjects. In terms of the timescale, it would have been desirable to have that knowledge available earlier, when institutions were taking the decisions. That might have helped them to make less irresponsible decisions, which would have been a good thing.

From the British Medical Association's submission, I think that it would agree that the only way in which we can walk away from the committee with a successful conclusion is if there is a strong commitment from the cabinet secretary to protect widening access through primary legislation later on.

Liam McArthur: I have a brief supplementary. Looking through the documentation, I noticed that although those who defer courses up until April next year will be eligible for the existing cap, medical students who defer will not be—they will move to the £9,000 cap immediately. I am struggling to understand the rationale—

Alastair Sim: Is that right?

Liam McArthur: Reference is made to the fact that students who defer will be able to enter university on the basis of the current arrangements, but that stipulation does not apply to medical students.

Alastair Sim: I did not reach that inference when I read the regulations, so you had better pursue that with the Scottish Government.

The Convener: I think that that is a question for the cabinet secretary.

Claire Baker: As the convener said, the areas that we are looking at are quite narrow. Universities will be allowed to increase fees. In addition, variability will be allowed in the fees that are set, which is a change from the previous arrangement, under which, as Liam McArthur described, there was a flat cap.

There are variable fees down south. That was the case when the cap down there was £3,000. Is our moving down the road of having variable fees in Scotland for rest-of-UK students unavoidable?

Robin Parker: Our position is that we would have preferred a flat fee. We think that a flat fee is better, in principle, as it does not create a market in education, which we think is damaging as regards students' decisions about where to go to study. Our preference would have been to have a lower cap and not to have variability.

Universities Scotland's response seemed to be that it would be too expensive to have a flat cap. I do not quite understand that, as it depends on the level at which the flat fee is set. The decision whether to have variability or to have a flat fee is a matter of principle; the level at which the variable fee or the cap is set is the budgetary decision.

Alastair Sim: There is a wide range of courses at Scottish institutions, which are diverse in nature as regards whether they are extensive and mature players in the rest-of-UK market, with some offerings being the same length as equivalent offerings at English universities and others being a different length. Those factors added to the need, which I think we have all recognised, to have a sustainable funding package for Scottish universities that is partially reliant on realising rest-of-UK fee income. We have certainly taken the view that having variable fees set by universities that are, on the one hand, reading the market and, on the other, making financial provision with a view to continuing to attract the widest possible range of students is the best way of ensuring that the regime works for the benefit of universities and for the benefit of Scotland.

Claire Baker: In recent years, we have had a flat fee for rest-of-UK students in Scotland. Has that been detrimental to Scottish universities?

Alastair Sim: It was a flat fee that corresponded closely to what, in effect, was a flat fee in England.

Claire Baker: Is it not still, in effect, a flat fee in England? Is there now so much variability in England that we have to go down the road of having variable fees?

Alastair Sim: If we follow that argument, given that the flat fee in England is bumping up pretty close to the £9,000 level, that is the level at which it would have been set here. However, we are seeing a much more diverse picture in Scotland—universities are offering a diversity of fee that goes all the way from £5,000 up to £9,000, as they have made quite subtle decisions about how they can best expand their ability to attract talented individuals from all walks of life from the rest of the UK.

The Convener: I want to pursue that. If a flat fee was set, as Mr Parker has suggested, at what level do you suggest that it should be set?

Robin Parker: I do not think that it is our position to suggest what that flat fee might be.

The Convener: If it was set at £9,000, would that be—

Robin Parker: A flat fee was suggested by the technical working group that looked at the funding gap between England and Scotland.

The Convener: So, a level of £9,000 would be acceptable.

11:00

Robin Parker: Fundamentally, our organisation does not believe in tuition fees. We should try to avoid the worst excesses of the system. It is a bit surprising to hear Alastair Sim describe those as “subtle decisions”. I do not think that anyone could describe as subtle the decisions of Edinburgh and St Andrews, where 40 per cent of the students are rest-of-UK students who have chosen to study there.

The Convener: What would the impact be if a flat fee was set at a level that was considerably lower than some of the fees that are being set in England? Would that not take us back to the problems with cross-border flow, which is one of the reasons why we have been forced into this situation in the first place?

Robin Parker: No, I do not think that it would. There would still be strong protection in place to enable Scotland-domiciled students to go to Scottish universities. That should be our most important concern, because there is still a clear cap in terms of the number of Scottish and EU students. What happens to rest-of-UK students over there, as it were, is a separate decision. There is still strong protection for Scottish students.

Alastair Sim: If a relatively low flat fee was set, as the NUS would probably have preferred, there would be obvious knock-on effects. Going back to the arithmetic of the technical expert group, let me give one example of a knock-on effect. We are trying to put together a sustainable funding package that protects the quality, competitiveness and accessibility of Scottish universities, and a lower flat fee would mean that it would be necessary to find significantly more public money for universities to come out at the same bottom line.

Such an approach would also end up leading to different perversions of competition, because if you were to set an artificially low flat fee in Scotland, you would end up with a lot more rest-of-UK applicants, so you would end up being able to choose only the very best qualified of those, which would not necessarily be good for widening access. To be blunt, a lot of the people who get the very highest qualifications are those who have been very well coached at schools that are used to having a very high proportion of their population going to university. Choosing a low flat fee might have perverse effects on widening access.

The Convener: Does Mr Parker want to respond?

Robin Parker: I have said my bit.

The Convener: As there are no other questions, I thank the witnesses for their evidence, which has been very useful. We have covered a wide range of issues, some of which fall within the scope of the regulations and the draft order and some of which do not, but they have all been discussed in the context of the change that they bring about. Many of us share the concerns that have been expressed and wish that we were not in this situation, although it is perhaps inevitable, given the changes made by the UK Government.

11:03

Meeting suspended.

11:12

On resuming—

Petition

Education (Qualified Teachers' Contact Hours) (PE1391)

The Convener: We should be moving on to evidence from the Cabinet Secretary for Education and Lifelong Learning, Michael Russell but, because of traffic and weather problems, he is not yet with us. Instead, we will take the agenda item on petition PE1391. I hope that Mr Russell will be with us shortly.

The petition calls on the Scottish Parliament to urge the Scottish Government to make it a legal requirement that qualified teachers teach children for 25 hours in a normal school week, subject to existing local flexibility of school hours in primary 1 and 2. Members have received a background briefing on the petition along with their papers and the comments of the Public Petitions Committee. Do members have any comments to make on the petition?

Liz Smith: It is an interesting petition in terms of its principles, but it would be premature to take it much further given that the recommendations of the McCormac review are still to be discussed in their entirety. There are a lot of interesting recommendations in the review and some of them may impact on this area. I would be reluctant to take the petition further until we have had a better discussion of the McCormac review.

Liam McArthur: I echo that. The only option open to us would be to seek the Government's views on specific aspects of the McCormac review, and we have already given notice of our interest in seeing the Government's responses across a range of those issues. I do not think that much would be served by making a specific recommendation.

The Convener: Does any member have a contrary view?

Claire Baker: I support those comments, but we should recognise the petitioner's concern. There was a strong feeling in her local authority that premature decisions had been made about how to go forward on Scottish education.

The Convener: We have a number of options, but the main one is to leave the petition open until the discussions and negotiations on the McCormac recommendations are complete.

Clare Adamson: Perhaps the way forward would be to leave the petition open until we have heard the McCormac evidence and to revisit it after that.

11:15

Marco Biagi (Edinburgh Central) (SNP): Are we aware of the timescale for the conclusion of that process?

The Convener: No, we do not have a timetable for that. The other thing that we could do, which might be more helpful, is to send the petition directly to the Government, asking it to look at it as part of the negotiations and discussions. In that way, it would be evidence that the Government could incorporate into its thinking. That would not change the fact that we could leave the petition open and discuss it later.

Liz Smith: It may be, however, that other people with similar issues would request that their views be submitted as evidence as well.

The Convener: The bottom line is that we could leave the petition open and come back to it at the end of the negotiations on McCormac because of the overlap between the McCormac review and the petition. Are we agreed to do that?

Jenny Marra: Can we seek clarification from the Government of the timetable according to which McCormac will come back to the committee?

The Convener: Yes. We can certainly ask for clarification of the timetable. Do we agree to leave the petition open until that point?

Members indicated agreement.

11:16

Meeting suspended.

11:17

On resuming—

Subordinate Legislation

Student Fees (Specification) (Scotland) Order 2011 [Draft]

Education (Fees) (Scotland) Regulations 2011 (SSI 2011/389)

The Convener: We will now take evidence from the Cabinet Secretary for Education and Lifelong Learning, Mike Russell. I welcome the cabinet secretary to the committee. I also welcome Ann McVie, from the higher education and learner support division, and Neil MacLeod, from the legal services directorate, both from the Scottish Government. I invite the cabinet secretary to make some opening remarks.

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): I apologise for being slightly late. If I were to show you pictures of the flooding that I have seen this morning in the west of Scotland, I am sure that they would amaze you all. I am glad that I am only slightly late—thank you for your forbearance. Thank you also for giving me the opportunity to answer any questions that you may have on policy relating to the draft Student Fees (Specification) (Scotland) Order 2011 and the Education (Fees) (Scotland) Regulations 2011.

The order will set tuition fees for higher-level courses of education for full-time students who start their courses in 2012-13, but institutions will not have to charge tuition fees at the levels set by the order to any student who does not have a relevant connection with Scotland or who is not an excepted student within the meaning of the regulations. In general, non-UK European Union nationals who live in the EU will be excepted students in that context. The regulations also provide for certain other categories of excepted student. Generally speaking, the net result of the order and the regulations will be that fees that are set by the order will not apply to students who normally live in part of the UK other than Scotland—what we term rest-of-UK students.

You are familiar with the contents of the instruments. You know that, as a result of a decision of the UK Government, university tuition fees in England will rise to a ceiling of £9,000 a year in 2012-13. That has been the subject of much media attention and a lot of justifiable outrage, and it may—on the basis of the latest, very provisional figures from UCAS—be depressing the number of applications to universities north and south of the border. The devolved Administrations in the UK have had to move quickly to develop tuition fee policies to best serve their students and their institutions. It is worth noting that each of the devolved

Administrations has responded with policies that mean that students from other parts of the UK will pay more than students who normally live in its area of responsibility.

In Scotland, we pride ourselves on our commitment to ensuring free access to higher education. We will not compromise on that because of decisions that have been made elsewhere in the UK, which, in my opinion, are flawed. Neither can we allow institutions to be inundated with applications from students who usually live in England but can no longer afford to study there.

The new annual fees in England are up to five times the current fee for rest-of-UK students who study in Scotland. If we were to do nothing, the deluge of applications could be unmanageable. Let me put it into perspective. If only 10 per cent of the English students who studied in English universities in 2009-10 decided that it was much cheaper to come to Scotland to study, that would amount to about 37,000 students: more than half of the entire student group in Scotland. We simply could not allow that to happen.

Regrettably, my primary priority must therefore be to protect places at Scottish universities for Scottish students by taking action to maintain the current level of cross-border flow. We also need to give our universities the opportunity to compete for students from other parts of the UK on an equal basis with their counterparts elsewhere in the UK. The task has been a difficult one: to deliver a new policy to allow us to keep on providing free access to higher education for eligible Scottish students; to preserve much-needed places for those students; and to develop a solution that can be enforced in 2012-13.

I want to say a word or two about the consultation, which is quite crucial. We have considered the best way forward and have spoken to representatives from throughout the sector. We undertook a public consultation exercise on the draft order and, as part of that, we have had regular meetings with a range of bodies, including NUS Scotland. One of our main stakeholders—Universities Scotland, from which you heard this morning—agrees with the decision that I ultimately took, while the other does not. There has been a variation of opinion. I know that some are opposed to what they see as introducing a market for higher education, and I fully understand that. I know that some have suggested that a better approach would simply be to increase the fee for all full-time undergraduates—students who live in Scotland as well as those from the rest of the UK—which is what was done before. Some have suggested that, in the context of the approach that we are taking, the cap is too high.

Let me touch on each of those points, because they are vitally important. First, in order to increase fees for all full-time undergraduates, we would require a fundamental change in the way in which we fund our universities, requiring a transfer of over £500 million from the Scottish funding council to the Student Awards Agency Scotland to cover the cost of the increased student tuition fees. That would double the size of SAAS's budget, give rise to a number of severe governance issues for it and reduce the ability of the funding council to use its funding levers to drive the wider reforms that we are pursuing under our post-16 reform programme.

Indeed, it is questionable whether the funding council would be able to continue to fulfil even its statutory duties if the money available to it was to be reduced by around 50 per cent. Moreover, setting new higher tuition fees for all full-time undergraduate students would have unintended consequences for Scottish students who are not entitled to tuition fee support from SAAS, such as students who choose to do a second undergraduate degree.

In giving Scottish universities the flexibility to set their own fees, I have been persuaded by the arguments put forward by Universities Scotland that they should be given the flexibility that allows them to compete fairly; that is against a background of uneven patterns of demand for Scottish higher education between and across nations, subjects and institutions, and of where there are comparable degree subject programmes of equivalent length in Scotland and the rest of the UK. Of course, there is the potential for entry into the second year, not to mention a range of fee levels.

That complex environment explains why I came reluctantly in the end to the decision to allow fees to be charged and a cap to be set at £9,000, matching the upper limit in England and Wales. I know that the committee has already taken evidence this morning on the issue of average fees, but the average fee level in Scotland is at around £6,840 before taking account of fee waivers, bursaries and other forms of student support. That compares with the average fee in England of £8,509. In addition, the NUS has suggested that we legislate to require universities to provide enhanced support measures. We have given a lot of thought to those suggestions, but I do not think that a quota system, which has been suggested, would be the best way forward. However, I think that we need to legislate for better access, and I propose to do that in a coming bill in a form that has never been done before in Scotland and which would be much stronger than what exists south of the border.

We have come to our conclusion after a great deal of thought. I would much rather not charge fees to anyone, but I do not have that option within the budgetary constraints. Therefore, I have come to what I think is the least-bad option. I hope that the committee will support it in a responsible way in order to allow Scottish higher education to move forward.

The Convener: Thank you for your opening statement. I now invite members to indicate whether they have any questions or points of a technical nature that they wish to put to the cabinet secretary and his officials.

Liz Smith: Good morning, cabinet secretary. The NUS put it to us that the most important thing for it was to get a guarantee about widening access. Can you give us some idea of the principles—I stress that it is the principles, because I am sure that you have not got the detail yet—of the legislation, to ensure that that guarantee can be given?

Michael Russell: The basic principle of access would have to be that studying for higher education in Scotland is based on ability and that there is no deterrent on the basis of poverty or any other disadvantage. I pay tribute to the previous Administration in so far as there has been steady, if unspectacular, progress on that issue for more than a decade. We need to ensure that there is a fairness in the process and that all those who are capable of and qualified to study get the chance to do so. We also need to build aspiration to study. I have often said—in debates in the chamber and elsewhere—that one of the most important drivers in that regard involves not the university doors but the school gate, and possibly even the primary school gate, because that is the stage at which educational aspirations are built. We need to do a great deal about that.

I am currently consulting on legislation. Your ideas on widening access would be as welcome as anyone's. I hope that we can put in place further measures to improve access.

Liz Smith: Various people, including the NUS, have suggested that, as happens south of the border, a certain percentage of the additional income that is generated from the rest-of-UK fees could be put back into widening access. Are you considering that?

Michael Russell: I am willing to consider that suggestion seriously. I think that the universities would argue that they are already doing that, through their bursary packages. However, I do not reject the suggestion out of hand. I am quite sure, knowing the NUS and its efficient representation, that that thought will come winging to me in its submission, to which I look forward. I do not reject anything in that regard.

Liz Smith: The NUS has slightly different ideas from Universities Scotland, which feels that it would be preferable to have a variable system of charging the fees, which would allow the individual institutions to decide what to put back in. How will you try to negotiate between those two different views?

Michael Russell: We have a situation that will apply over the next period. We needed to put that situation in place for 2012-13. However, we intend to legislate next year. The situation that will pertain in perpetuity, in so far as anything is in perpetuity, will be decided next year. It might be the one that is in place at the moment or it might be another one, following debate around other and possibly better ideas. I am not ruling out changing the current situation. However, last year I gave universities a guarantee, which members know about, that we would ensure that they were not disadvantaged. In order to do so, we had to get an arrangement in place as soon as possible. As you know, the £9,000 cap is voluntary, but the universities have observed it. Indeed, the average fee is considerably lower than that.

I would like to find a better means of operating. If one can be found, I am open to it.

Liz Smith: It has been suggested that, if the rest-of-UK student body were to decline as a result of their having to pay higher fees, that could have implications for the demand for places by other students, which might have an implication for entrants and widening access. Do you accept or refute those concerns?

Michael Russell: There are an awful lot of unintended consequences that will arise as a result of a policy that I think is wrong. I make that absolutely clear. It is entirely up to the UK Government to have whatever policy it wishes, but I disagree with it. It is entirely diametrically opposed to my view of higher education. I think that it is possible that there will be a range of difficulties.

The UCAS figures are provisional. Last year, the final figures were rather different from the provisional figures. However, I think that a concern is arising across higher education that the noise and publicity around this issue has depressed applications. If that is the case, it is immensely regrettable.

Marco Biagi: To follow up Liz Smith's questions, could you make it absolutely clear that you are saying that the issue of rest-of-UK students will come into the legislation that will be developed on widening access?

Michael Russell: Absolutely. I am open to thoughts on that issue. We needed to put in place a solution and we have done so. We rejected a number of solutions that were suggested,

including a tempting suggestion that we should vary the arrangement that was previously in place by simply raising the fee of £1,825 or whatever to some acceptable figure—the difficulties that would be involved in doing that were such that it would pervert the entire system.

The decision that was made in Westminster has, inevitably, had an effect on each of the devolved Administrations. I do not want our policy on higher education to be set, in perpetuity, in reaction to what I regard as a flawed policy. Had I changed the approach of funding universities through the funding council and given a massive increase in funding for SAAS, that would have changed the entire basis of administering higher education in Scotland to its detriment. We have taken the decisions and we want support for the legislation that will allow us to implement them. However, of course I am open to discussing whether there are better approaches.

11:30

Marco Biagi: One concern that has been raised with me is that, at present, rest-of-UK fees are in essence regulated only by an agreement with the universities. Was that situation in any way avoidable?

Michael Russell: The difficulty was that we would require primary legislation to set the cap and we had no opportunity to do that within the timescale. However, I have no reason to doubt the word of the university principals that they will observe the cap. The First Minister has made clear his wish that a couple of them had shown greater restraint, and I agree with him. However, despite that, nobody has breached the cap.

Marco Biagi: Another concern about the cap and the issue of restraint is that there is a lack of clarity. Universities rushed to set their fees between 27 August and 3 October. At that stage, each of them announced clearly how much it would charge, yet the same clarity has been absent in relation to bursaries. Universities Scotland has presented aggregate figures for all the institutions, but there is nothing to allow greater scrutiny of the behaviour of individual institutions and of whether they have shown restraint. Are you concerned about that?

Michael Russell: I certainly want institutions to be entirely transparent about bursaries and the allocation of funds. I will ask them to be transparent and, if they are not, I will regard that as a matter to be considered for legislation. We should remember that a governance review is taking place. The universities are in no doubt about my view that there must be the highest degree of transparency in all their operations.

I do not want to anticipate resistance on the point, as I do not think that there is any. We should remember that the timetable was set externally by decisions of the current UK Government and the previous one, which set up the Browne review. There has been a dynamic to which we have been forced to respond. The difficult thing has been to preserve what we wanted to do while responding to that. That is difficult, but we are endeavouring to do it.

Claire Baker: At the start of the process, the cabinet secretary called for restraint. There is disappointment among committee members that some university principals have not shown the restraint that was sought. Is there a case for a regulator similar to the Office for Fair Access to regulate fee levels and bursary systems?

Michael Russell: We do not know whether the Office for Fair Access will be effective. I see no sign at present that it will be effective, as fee levels in England are higher than even the fees that have been set in Scotland. I will continue to consider whether further action is required. I have expressed my opinion on two universities in particular—we know which ones they are—as has the First Minister. I would have liked them to have behaved more responsibly, but they chose not to. We do not live in a perfect world. We live in a world in which universities and others have freedom of action. Universities are autonomous institutions, but they can be judged and they are open to criticism if they do things that you do not like.

Claire Baker: Can the Government give assurances that universities will not be tempted to overrecruit rest-of-UK students to benefit financially?

Michael Russell: Yes, there are strong assurances on that. There is a double lock of some sort on that. The first lock relates to the overall number of students. We know the number of students that we want to be educated in Scotland and that is our priority. The universities know that, too. In addition, they know that we would look closely at any university that appeared to be overrecruiting students beyond what we think is its capability. The Scottish funding council knows universities very well.

To speak bluntly, no university will want to dilute its product. I have heard university principals say that. Let us not talk down Scottish universities. We have a unique situation in Scotland, with five of the world's top 200 universities in our boundaries. We have more world-class universities per head of population than any other country on the planet. We have something exceptional here and the guardians of that are the university principals and courts. They will not wish to dilute the product in any way. Indeed, their competitiveness is based

on it. We have eight universities in the top 400. We have an exceptional brand that the university principals and courts will not want to dilute. Recently, I was in Malaysia with Heriot-Watt University, which signed a deal to set up a university in the new Malaysian capital of Putrajaya. It got that deal because of its worldwide reputation and the worldwide reputation of Scottish universities. Therefore, I am pretty confident that what you describe will not happen.

Claire Baker: I am not in any way talking down Scottish universities—indeed, I very much agree that we have world-class universities—but the reputational damage that has been done to them as a result of some of the fees that principals have set has been referred to this morning. There has also been talk about the confusion over the variation in fee levels and the lack of clarity about bursary support. Is there a case for the Government to consider more regulation and show greater direction?

Michael Russell: If you would like to make that case in the governance review and in a submission on the post-16 paper, I would be very willing to look at it, but we must be careful about reputational damage. Scottish universities have a very high, worldwide reputation. Simply because one or two universities make decisions with which we disagree and we all express our disagreement, we should not talk up reputational damage. We have to be confident that Scottish universities will behave fairly to all people. If we see evidence that they are not behaving fairly to some, we should say so.

Joan McAlpine: Earlier, we talked about access. There was a lot of focus on access for students from the rest of the UK, but I think that there is still considerable scope to improve access for students within Scotland and that we may find that easier to do through building links between universities and their immediate communities.

Michael Russell: I absolutely agree. The subject of access can be divided in many ways. You have worked hard on the issue of disabled access to further education, for example. The barriers to access to higher education have to be overcome in many different ways. Those barriers—whether they are socioeconomic, disability or other barriers—certainly still exist in Scotland, and we should work hard to bring them down. Of course, the effort that I would like to see through legislation will apply to Scottish students, but a further barrier to fair access arises through fees, and we should address that, too.

Joan McAlpine: Can you give us any more details about the legislation on fair access that you are going to introduce?

Michael Russell: We are still consulting on that, and I stress my openness to discussing the matter. I am having a lively and active discussion with a range of bodies, and we are getting in lots of interesting information. There are pretty good practices elsewhere that we can look at, and there can be tangibles. I am not saying that this will be in the legislation, but we could say that we will have a target that we will seek to increase year on year for different groups, or we could say—the two are not mutually contradictory—“Let’s put a lot of effort and time into encouraging young people to aspire to higher education.” I have previously given the example of the KIPP—knowledge is power programme—schools in America, which are focused on that. Therefore, there is a range of issues, and we will look at many things. We do not have a monopoly of wisdom.

The Convener: What is the likely timescale for the conclusion of the consultation and the Government’s response?

Michael Russell: The consultation closes on 23 December. I hope to move to draft legislation some time in the spring of next year.

Liam McArthur: We had an interesting session with NUS Scotland and Universities Scotland this morning as you were hacking your way through floods and pestilence—I flew down from Orkney this morning and, believe me, it is no more pleasant being up in a plane in this weather.

It was clear earlier that there has been a lot of collaboration between NUS Scotland and Universities Scotland to develop figures on what is happening, but we kept coming back to a fundamental disagreement over whether there is a lack of clarity and transparency at the institutional level. You have reiterated your concern that, in a limited number of cases, principals have not necessarily acted with the restraint that you advocated prior to the summer. Does that not make the case for an independent arbiter to provide reassurance to students and protection to the reputation of universities? The Office for Fair Access is able to do what you, by your own admission, have not been able to do and can levy sanctions against those that do not deliver on their access and outcome agreements. Is that not something that is lacking in the Scottish system today and would be beneficial?

Michael Russell: I disagree with you about the Office for Fair Access, as we see no evidence yet that it is operating effectively. However, I accept that we can look at a longer-term solution. I do not know whether that is a solution, but let us recognise why we are here. We had a limited period to put into place a solution that would work for Scottish universities, given the situation south of the border. That is what we have done and without primary legislation. We are now looking at

the longer-term solution of primary legislation that will cover all post-16 education. I am open to looking at that if you Liberal Democrats wish to make a submission on the need for it. I certainly do not reject it out of hand, but I am sceptical about the operation of the Office for Fair Access.

Given the situation that we were in, the solution that we have now has been arrived at with some difficulty, but it has been arrived at. I want to see greater attention to detail about what the universities are offering and I will press them on that, but we now need to look at a longer-term solution.

Liam McArthur: Would you suggest that the actions of one or two institutions and principals in not picking up on the very clear steer that you and the First Minister gave prior to the summer have made it inevitable that, whatever longer-term solution is put in place, ministers will have to have more sanctions available?

Michael Russell: That option is on the table. I am not saying that it is more likely. I do not agree with what they did; they know that I do not agree with what they did—I am not somebody, as you know, who tends to hide what I think. I think that there should have been greater restraint, but I do not necessarily think that that means that every institution would be affected. I am willing to discuss and consider the issue and I would genuinely welcome an input into it, but I have not come to a conclusion. Indeed, once there is a conclusion, I suspect that this is the committee that will deal with the legislation and we can rehearse the argument in detail again.

Clare Adamson: We took some evidence about the future stability of the £9,000. I am not surprised that Robin Parker, while reiterating his opposition to tuition fees, would like to have seen it at a lower level. Alastair Sim said that it would be a change of policy down south that would drive a request for uplift in that figure, whether inflationary or otherwise. What is the Government position on that stability?

Michael Russell: It illustrates the difficulty that we are in, that some reaction to this flawed policy south of the border will still be required. As far as I am concerned, £9,000 is the absolute limit. That is not to say that things will not change south of the border, but you could postulate another set of changes south of the border, which is that the system may not sustain that figure. You could look at the economic pressure that people are under; there would be a real detrimental effect on higher education and you might find the policy unravelling.

I do not have a crystal ball; all that I am able to say at this stage is that we have set that as a voluntary level for the coming year, I do so with

reluctance and we want to ensure that it is observed. The universities may approach us with a mechanism for uprate; I would be very reluctant to anticipate higher levels, but we should discuss that in the committee and in the legislative process.

I have a lot of scepticism about what will happen now south of the border. I talked about how setting a fee would have disrupted the levers of change; that is precisely what has happened south of the border with regard to the teaching grant. The system is very difficult to steer in terms of flexibility and openness and that may have a strong detrimental effect. There is also a growing body of research evidence—for example, from America—into the damaging effects of monetarisation, and there is a growing move in Germany, for example, towards the idea that higher education should be, if not free, then very competitive, in order to encourage access. Not for the first time, the UK Government may be behind the curve in international thinking; it may also be doing things in an imitative way that will damage its own students.

11:45

Liam McArthur: I would not want Robin Parker's views to be misrepresented, cabinet secretary, not least because he is in your camera shot. His point is that, although the UCAS figures that we saw yesterday are very preliminary, we will have a better sense of the regimes both north and south of the border come January and he was holding out at least some hope that, if the approach is found to be having a detrimental effect on numbers, the Government has not closed its mind to reducing the cap on fees allowed north of the border. Are you able to offer Mr Parker any comfort in that regard?

Michael Russell: We would have to see what the situation was. I point out as gently as I can to Mr Parker as well as to you, Mr McArthur, that we are talking about 14 per cent of Scottish students. I would be concerned if the overall publicity on this started to affect the 83 per cent of Scotland-domiciled students, who might be thinking that there was some problem in going to university because of the fees to be charged. I have said before in the chamber and say again now that it is important to send out the clear message that, for 83 per cent of students at Scottish universities, no fees will be charged. We made that decision. Whatever position the political parties take now, only one political party present this morning dissented from that view at the time. We should do everything possible to make that position clear.

It is very difficult to tell from the UCAS figures whether there has been a diminution—after all, we have seen variations before—but if there is such a

diminution both north and south of the border we will need to look at the matter and take steps, particularly as it might well affect those who are most distanced from education. However, I will look first at the 83 per cent to see what we can do to encourage them and tell them the truth about what is available.

Liam McArthur: I see that Mr Parker is smiling wryly. I guess that that is as much as we are going to get on this matter.

Michael Russell: Perhaps I should get a mirror.

Liam McArthur: Be careful what you wish for, cabinet secretary.

Michael Russell: Indeed.

The Convener: I think that I will stop that exchange there and move on to Jenny Marra.

Jenny Marra: I understand that the NUS talked up the unintended consequences of the domicile arrangements; instead of talking them down, you listened to the students' arguments and gave them the concession in the regulations. I believe that that has been very helpful. However, students are now talking up the very serious and important issue of widening access to rest-of-UK as well as Scottish students. Would you consider putting the rest-of-UK widening access agenda in the legislation that you will introduce in the spring?

Michael Russell: Yes. As I have made clear, I am in no sense dismissing the fact that fees are emerging as a very considerable barrier in addition to the existing difficulties to access that we have been discussing such as socioeconomic status and disability. That is true south of the border and, of course, where they apply for the rest of the UK. That would be part of my agenda and I regard the access issue as applying across the board. Indeed, it applies a lot more widely than you have suggested because I continue to be concerned about our ability to attract the best overseas students. Fees for overseas students are very high, but universities themselves know that and provide bursaries in that respect, particularly for postgraduate activity.

I am glad that you picked up on the domicile arrangements because we wanted to ensure that we got the issue as right as it could be. After all, I am bound to get letters and e-mails about the matter—I am sure that all members get the same—and we need to be as clear as we can be about it.

Jenny Marra: So the Government's proposals for its widening access legislation will include arrangements for Scotland, the UK and international students.

Michael Russell: I expect that the issue of access will be treated in its widest sense across all

students. That is not to say that all measures will be the same; in any case, the fact is that, under the present constitutional settlement, my primary responsibility with my resource must be the 83 per cent of Scotland-domiciled students. However, I remain concerned about the effect of fees on discouraging wider access by rest-of-UK students to Scottish universities and I hope that we will be able to address that issue—at least partly—in anything we bring forward.

Jenny Marra: Are you giving a commitment that the proposals will include arrangements for widening access for the various categories?

Michael Russell: I give a commitment that I believe that it is an issue that will need to be addressed. I will not tie myself down to specific actions at this stage; however, I do not disagree that the issue needs to be addressed within what we do next.

Jenny Marra: I have one more question on the bursaries issue, which is part of the widening access agenda. You said that you want institutions to be transparent about bursaries and that, if they were not, you would consider making it part of the legislation. Given that you hoped that the principals would show restraint earlier in the year but they have not shown that restraint, would you like to pre-empt them by producing proposals on the bursaries as part of the legislation? I cannot imagine that you have a lot of confidence after what the principals have done.

Michael Russell: Not at all. I am a believer in carrots as much as in sticks, and carrots seemed to work with all bar two in the sense that they understood the imperatives. That is not a bad record, although I would have liked all of them to have done it. I will not give a commitment to that, but I am constantly encouraging principals to operate with openness and transparency—I have set up a governance review that is all about that—and I will continue to do so. I do not reject the possibility of what you suggest, but I will not commit us to that on the basis of the experience to date.

Jenny Marra: It is interesting that you say "bar two". Those two examples—the University of Edinburgh and the University of St Andrews—are perhaps the most famous universities in Scotland and really set the bar for Scottish universities.

Michael Russell: The University of Glasgow would deeply resent that statement.

Jenny Marra: I am sure that it would.

Michael Russell: The University of Dundee, in your constituency, might be upset, too.

Jenny Marra: Nevertheless, those are two of the most well-known Scottish universities internationally and what they do in terms of their

bursary arrangements and widening access is seen in the rest of the UK and internationally. Should they not set an example? Would you not like to encourage them to do so through the legislation?

Michael Russell: I constantly encourage good behaviour—that is what I am here for. One could take another view of that, however. A university that sets fees at a level that is regarded as too high may be resented south of the border and other universities with a more reasonable offering but with equal academic clout—we have five universities in the top 200, as I have said—may be advantaged by that. I would not necessarily say that what those universities have done is trumpet their irresponsibility abroad, but they might have disadvantaged themselves.

Jenny Marra: Those two universities also have the highest proportion of rest-of-UK students.

Michael Russell: They do at present, but we do not know the outcome of the changes. That is the trouble with the policy: it is driven by a monetarisation that, I think, most of us disagree with—it is the wrong thing to do—but we do not know the outcome. The pattern of rest-of-UK students might change as a result of the policy. One or two universities have done different things. The University of Glasgow's offering is very different, and the Robert Gordon University has a varied offering depending on the type of course. It is possible that the pattern will change—I do not know, and neither does anybody. That is one of the difficulties with the policy.

Joan McAlpine: You have talked about your principal obligation being to the 83 per cent of Scotland-domiciled students at Scottish universities. I appreciate that you cannot give us details just now, but if you were to introduce measures to widen access for students from the rest of the UK, where would the funding for that come from?

Michael Russell: That is the big difficulty, is it not? As Robin Parker suggested, it could come only from the resource that was contributed by the rest-of-UK students. There might be grounds for saying that, for the general health of the Scottish universities system, we should help that to happen. It is good for Scottish universities to have a mixture of people from elsewhere. The proportion of students from the rest of the UK is currently 14 per cent, and that figure has been fairly constant over a period. I would like to see that figure remain fairly constant, as it is good for our universities. You make a good point, but we would look at the matter in the round.

Marco Biagi: Another pressure on students who come here is the number of students coming from the rest of the EU. There will be funded

places for Scottish or EU students and the rest-of-UK students will be taken out of the competition for those places. That is helpful because it means that we are not setting Scottish and rest-of-UK students against one another. However, do you foresee a potential pressure from the changes in the system that are being implemented by the UK Government down south, which is raising the fees there to £9,000 for EU students? That will lead to more EU students competing with Scottish students for the limited number of places in Scottish universities.

Michael Russell: I am extremely keen to regularise that situation. Discussion continues with the EU on that difficult point. We have had a good hearing, and we are not alone in Europe in being in such a situation—more countries are getting into it.

However, I do not yet have an answer. I want to ensure that the anomaly is resolved between now and next year. That will be very tough to do, but we are trying to do it.

Marco Biagi: Are you hopeful that a resolution will be found?

Michael Russell: Yes—I always travel hopefully.

Liam McArthur: I want to move on to medical students. We have received a submission from BMA Scotland that reiterates many of the points that NUS Scotland made about having an independent regulator on access, but the issue that leaps out as far as the SSIs are concerned is to do with the fact that medical courses will be subject to the same cap as other courses, which is a departure from the current arrangements, whereby the fee that is allowed for medical courses is a bit higher. I think that that reflects concerns that existed when the Student Fees (Specification) (Scotland) Order 2006 came in that there were particular pressures as regards medical courses and safeguarding the position of Scotland-domiciled students on those courses.

Why have you decided that, this time round, there should be the same cap for medical students as for everyone else?

Michael Russell: There are two reasons for that. The first is that medical education is among the most expensive education that is provided in universities, and the real costs of providing it are substantially higher than the fees that are charged. Secondly, to be blunt, we know that there is no shortage of students in medical education. I would like to see better access arrangements—that applies across the board here, as elsewhere—and there are some access arrangements that are remarkably successful in attracting into medicine people who would otherwise not study it.

Just a month ago, I appeared on a platform in Inverness with a young man from West Lothian who was the first person from his family to go to university. He had had no intention of studying medicine and had thought that it was beyond him, but because of the access arrangements that the university—I think that it was the University of Edinburgh—had in place, that had worked extremely well for him. I will encourage the development of such arrangements to take place, but I do not think that there is a justification for making an exception of medicine.

Another issue that I have thought carefully about is veterinary medicine and, in particular, the attraction of Northern Irish students to veterinary medicine courses in Scotland. No veterinary medicine training is provided in Northern Ireland, so it is inevitable that those students will come to Scotland. That creates a difficulty that we need to think about, but I cannot see a resolution of it because veterinary medicine, too, is an extremely expensive course to provide. We do not support it, because it is not our responsibility to do so.

Liam McArthur: I do not disagree with your points about the cost of delivering medical courses and the demand for them, but does that not serve to create the suspicion that, for example, the University of Edinburgh has set its fees at £9,000 across courses in part, at least, to allow it to cover some of the costs that it is haemorrhaging with regard to medical courses?

Michael Russell: Yes, that is the case. Of course universities charge fees in order to offset their costs. University principals will tell you—I did not hear Alastair Sim's evidence, but I am sure that he would have told you if you had asked him—that even in charging £9,000, they will, in certain circumstances, receive less than they spend. It is a complex area, which would benefit from some independent examination.

Liam McArthur: My final point is about the deferment of courses. I think that I am right in saying that those students who have places on courses that are due to start before the academic year 2012-13 will be subject to the current fee arrangements, and that they will still be subject to the current fee arrangements if they defer their course prior to the start of the academic year 2012-13. However, medical students who defer their courses appear to be excluded from that arrangement, and it is not clear from the papers that we have been given what the rationale for that might be.

Michael Russell: I will take advice on that, if that is the case.

12:00

Ann McVie (Scottish Government): The provisions on medicine make different arrangements for students who have a relevant connection with Scotland, so that they are treated under the new arrangements rather than the existing arrangements. That is preferable from the student's point of view, because the tuition fees for Scotland-domiciled students would be £1,820 rather than the higher amount that there is for medicine at the moment. In general, Scotland-domiciled students do not have to cover their tuition fees, but quite a high percentage of students who study medicine are doing a second undergraduate degree, so the legislation is set out in a way that is preferable for students who are not entitled to tuition fee support from the SAAS. I am sorry if my answer was a bit technical. Did it make sense? Perhaps not.

Michael Russell: I am happy to write and repeat the explanation, if that would help. I understand it, but I can see that it could do with a second take.

The Convener: Thank you, that would be helpful, although it is clear that the arrangement is beneficial for the student, which was our point.

Michael Russell: Yes, it is.

The Convener: The NUS made the point in its evidence to us that the Scottish Government has talked about taking action if institutions are benefiting disproportionately from fee income from rest-of-UK domiciled students. Can you define "benefiting disproportionately"?

Michael Russell: I am not sure that I can. I would want to see evidence that a university was benefiting disproportionately—charging more than it should charge, on a regular basis. I do not know precisely what that would look like. However, I have a mechanism that can deal with the issue, which is the adjustment of the sums raised so that there is equity across the sector. The SFC grant will take account of the moneys that are being raised and it will be possible to make adjustments, so that anyone who is earning too much money gets less SFC grant.

As I said, the situation is willed upon us and there are things about it that we are just learning. We would have to take into account Liam McArthur's point about the actual cost of providing a course.

The Convener: Thank you. As I said to the first panel, most of us agree that we would rather not be here having to discuss the matter. It is unfortunate that we must discuss it, because of circumstances that are beyond our control. I thank the witnesses for the evidence session.

The next item is formal consideration of the Education (Fees) (Scotland) Regulations 2011 (SSI 2011/389). No motion to annul has been lodged. If members have no comment to make, does the committee agree to make no recommendation to the Parliament on the regulations?

Liz Smith: Convener, I want to abstain on the issue. I absolutely accept that voters in Scotland made a democratic decision about free higher education. I respect the decision, although I disagree with it. I am not convinced that we have had sufficient information about the instrument or proposed legislation on the issue.

The Convener: Thank you for putting that on the record. I must still ask the committee whether it agrees to make no recommendation on the instrument.

Members *indicated agreement.*

The Convener: The next item is formal consideration of the motion to approve the draft Student Fees (Specification) (Scotland) Order 2011. Scottish Government officials may not participate in the debate, which must last no longer than 90 minutes. I say to members and to the cabinet secretary that I hope that it will not last as long as that; we all have other appointments. I invite the cabinet secretary to speak to and move motion S4M-01315.

Michael Russell: The issues have been well ventilated, so I simply move,

That the Education and Culture Committee recommends that the Student Fees (Specification) (Scotland) Order 2011 [draft] be approved.

The Convener: Thank you. I invite comments from members.

Claire Baker: I remain to be convinced that the order provides the right answer, overall, but I accept that action must be taken. After this morning's evidence I remain concerned about the introduction of a variable fee and the lack of regulation and access arrangements, and I have wider concerns about the £9,000 fee level that has been set. However, I will support the order, which I realise is important if we are to manage cross-border flow and protect student places. I will return to the fee level, the regulator and other issues of concern when primary legislation is being considered.

Liam McArthur: I, too, still have reservations after hearing the evidence, in relation to the point about transparency of the regime. The cabinet secretary has gone some way to give commitments on access as far as he felt able to do. I will support the order at this stage, but we will return to the issue over the coming year.

Jenny Marra: I associate myself with Claire Baker's comments.

The Convener: If there are no more comments from members, do you want to respond, cabinet secretary?

Michael Russell: No, other than to say that we will return to some of the issues when we are considering legislation. I encourage people who are concerned about the issue to make representations during the consultation period.

The Convener: Thank you. The question is, that motion S4M-01315 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adamson, Clare (Central Scotland) (SNP)
Baker, Claire (Mid Scotland and Fife) (Lab)
Biagi, Marco (Edinburgh Central) (SNP)
Marra, Jenny (North East Scotland) (Lab)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Urquhart, Jean (Highlands and Islands) (SNP)

Abstentions

Smith, Liz (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 8, Against 0, Abstentions 1.

Motion agreed to,

That the Education and Culture Committee recommends that the Student Fees (Specification) (Scotland) Order 2011 [draft] be approved.

The Convener: I thank the cabinet secretary for attending and for making such a valiant attempt to get here through the floods. I should say to Mr McArthur that I am sure that there was no pestilence in the west of Scotland, which is the wonderful region that I represent—I hope you were not talking down my region.

Meeting closed at 12:07.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

Members who wish to suggest corrections for the revised e-format edition should e-mail them to official.report@scottish.parliament.uk or send a marked-up printout to the Official Report, Room T2.20.

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by RR Donnelley and is available from:

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

For details of documents available to order in hard copy format, please contact: APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk

e-format first available
ISBN 978-1-4061-7904-0

Revised e-format available
ISBN 978-1-4061-7913-2

Printed in Scotland by APS Group Scotland
