



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EDUCATION AND CULTURE COMMITTEE

Tuesday 21 February 2012

Session 4

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EDUCATION AND CULTURE COMMITTEE

6th Meeting 2012, Session 4

CONVENER

*Stewart Maxwell (West Scotland) (SNP)

DEPUTY CONVENER

*Neil Findlay (Lothian) (Lab)

COMMITTEE MEMBERS

*Clare Adamson (Central Scotland) (SNP)

*Marco Biagi (Edinburgh Central) (SNP)

*Neil Bibby (West 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)

COMMITTEE SUBSTITUTES

*George Adam (Paisley) (SNP)

*Hanzala Malik (Glasgow) (Lab)

*Mary Scanlon (Highlands and Islands) (Con)

*Tavish Scott (Shetland Islands) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Russel Griggs

Fiona Hyslop (Cabinet Secretary for Culture and External Affairs)

Carole Robinson (Scottish Government)

David Seers (Scottish Government)

Greig Walker (Scottish Government)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

Committee Room 4

Scottish Parliament

Education and Culture Committee

Tuesday 21 February 2012

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

Decision on Taking Business in Private

The Convener (Stewart Maxwell): Good morning. I welcome members to the sixth meeting of the Education and Culture Committee in 2012. I remind members and people in the public gallery to ensure that all mobile phones and other electronic devices are switched off at all times. I have received no apologies this morning—we have a full turnout for the meeting.

The first item on our agenda is to decide whether to take in private item 5 and our consideration of a draft report on the National Library of Scotland Bill at a future meeting. Is that agreed?

Members *indicated agreement.*

National Library of Scotland Bill: Stage 1

10:00

The Convener: Item 2 is the conclusion of our stage 1 evidence-taking on the National Library of Scotland Bill. I welcome Fiona Hyslop MSP, the Cabinet Secretary for Culture and External Affairs, and her Government team, who are Carole Robinson, the bill team leader; David Seers, the head of cultural excellence; and Greig Walker, who is a solicitor. I invite Fiona Hyslop to make an opening statement.

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): The Scottish Government is ambitious for culture in Scotland. The bill recognises the importance of the National Library of Scotland to our nation and will enable the library to develop and prosper in the years to come by modernising its functions and governance arrangements for the 21st century. The National Library of Scotland is a key resource as Scotland's only legal deposit library. As a centre for cultural research on Scotland and the Scots, it is a national and international asset, and it provides free access to more than 14 million items in more than 490 languages. It is important that the legislation keep pace with the requirement to preserve and develop our national collections for generations to come.

The bill is forward-looking and sets out a broad framework of governance including, for the first time in the library's history, a range of clear and outward-looking functions. In the bill, I have sought to give the National Library of Scotland the flexibility to respond to the technological changes of the future in supporting the work of bringing the nation's history and culture to life. I pay tribute to the National Library of Scotland for what it has already achieved in the strategic approach that it has taken to digitisation. Crucially, it has made the collections and resources available online, thereby ensuring that the library is accessible to people beyond Edinburgh and Scotland.

The bill recognises the close working relationship that exists between the National Library of Scotland and the Faculty of Advocates. The faculty's library is important to Scotland both as the historical foundation of the National Library of Scotland and as a working library of publications on Scots law. I welcome the recent signing of the two memoranda of agreement between those two organisations, which I sent to the committee on 19 January. Those are not merely important housekeeping documents; they underline the vital principle of public access to items in both libraries.

It may be helpful if I mention to the committee at this stage the Government's response to some of the points that were raised in the evidence from the Faculty of Advocates. I agree in principle with the faculty on the scope of its collections and that the reference in sections 6(1)(a) and 6(1)(c) needs to be narrowed. We will produce an amendment at stage 2 to do that. I also accept the proposed technical amendment to section 5(3) and will lodge such an amendment at stage 2.

On the question of the faculty's role in selecting material for collection under online legal deposit, the committee heard the views of both the faculty and the National Library in evidence on 7 February. The Government wants the bill to recognise the faculty's experience and expertise in selecting legal publications, but I do not want the National Library of Scotland to be subject to inflexible and potentially burdensome statutory requirements. I am conscious of the fact that—as was discussed at the committee's previous evidence-taking meeting—technology is likely to develop in ways that we do not as yet understand. With all that in mind, we will reflect further on sections 5 and 6, in discussion with the National Library of Scotland and the Faculty of Advocates, and will return with possible amendments at stage 2.

I hope that the committee accepts that there is broad support for the principles and provisions of the bill, and I look forward to further debate on any points that the committee wishes to explore in more detail.

The Convener: Thank you for your opening statement, cabinet secretary. Liz Smith will begin our questioning.

Liz Smith (Mid Scotland and Fife) (Con): Two weeks ago, witnesses expressed to us a slight concern that the new body corporate might be too small which might, therefore, exclude the expertise that will be required during the period of considerable technological change to which you have referred. Will you comment on that?

Fiona Hyslop: I have discussed that very issue with the board of trustees and acknowledge the points that have been made. In drafting the provisions, we considered the sizes of other boards. As everyone will acknowledge, the inherited board structure is too big and far too unwieldy; I point out that the National Galleries of Scotland board comprises between seven and 12 members and the National Museums Scotland board between nine and 15 members. I certainly do not want to hinder the proposed board's operation; I appreciate the comments that have been made and I recognise the range of skills that will be required, but I should say that the feedback that we have received suggests that a more tightly

drawn board can be more functional with regard to decision making.

Of the boards of bodies that were established under the Public Services Reform (Scotland) Act 2010—in other words, the most recent bodies to be established—the Creative Scotland board comprises between eight and 14 members, the Social Care and Social Work Improvement Scotland board between nine and 12, the Health Improvement Scotland board between 10 and 12 and the board of Bòrd na Gàidhlig between six and 12. It is unlikely that the number of board members will be at the smaller end of the scale. I am fairly open to persuasion as to whether the size of the board should be increased, but I am reluctant to say that its membership should always be at the top end. The decision making, focus, vision and other things that we really need and expect from boards are often best delivered by smaller boards. The bill reflects, for example, the National Galleries of Scotland's current set-up.

Liz Smith: You say that you are flexible and open to negotiation on the issue. Do you intend to consult the people who have raised the issue to discuss whether it might be possible to extend the board slightly to encompass the extra expertise that they have suggested is required?

Fiona Hyslop: Yes. I am very open-minded on the issue and am prepared to consider it for stage 2. I will be interested to see what the committee says in its report—you will obviously want to consider the matter.

I point out, though, that it is not unusual to have a spectrum with regard to the number of people on a board. That said, boards themselves do not always provide expertise and carry out functions; quite often, sub-committees do that work. At the moment, the National Library of Scotland draws in expertise for particular areas and specialisms—and will still need to do so. However, as I have said, I am fairly open-minded about increasing the minimum size of the board from seven to nine.

Liz Smith: We all understand the need for the bill and the fact that it will make things more efficient. However, the National Library of Scotland is a very substantial asset and given the considerable technological and technical changes that are taking place and the fact that—as you have acknowledged—things are changing fairly quickly, the stakeholders who have expressed concern really feel that it would be helpful for that extra expertise to be permanent rather than on a consultancy basis. I am pleased to hear that you will definitely consider the matter. What is your timescale for that consultation?

Fiona Hyslop: Having looked at the evidence that has been given and having had on-going discussions in preparation for the bill and

subsequently, I am quite aware of the points that have been raised. Part of the process will, of course, include hearing the committee's assessment of, and views on, the matter. I think that I am being fairly straightforward in saying that I am open-minded about the size of the board and about seeing whether the low end of the scale should be higher.

Members should, however, bear it in mind that the size of most boards is rarely at the low end. After all, there is a reasonable risk that because of non-attendance, illness and so on board attendance might slip below the required level. In any recruitment round, the aim is to ensure that we do not leave a management board at risk of not meeting its quorum, and the matter has to be managed very carefully. I have certainly listened to what has been said on the subject.

That said, I must emphasise that the board's role relates to governance and leadership. With regard to specialisms, staff on sub-committees will certainly provide advice on particular projects and areas. The current structural shift in the boards of cultural bodies has been more towards governance, accountability and leadership. We do not necessarily want people protecting and promoting their own area of expertise at the expense of everything else. The board must have a common sense of purpose. That is why we are increasingly seeing fewer designated places for particular representative groups on boards of management.

Liz Smith: Do you accept, however, that even within management structures, a wide base of expertise on the issues that need to be discussed at this time of change is needed?

Fiona Hyslop: Yes—that is why we want to see a transition. We have taken the same approach with other organisations. There can be a period in which we can consider whether any current board members could or would be willing to serve on the new board. We are working on the skills and knowledge base—the matrix of exactly what is required. Different experiences are needed. The research library will definitely need people with experience. We are working with the universities, for example, and the interests of research students will need to be promoted. That relates to the skills matrix. Similarly, an understanding is needed of the national reach of libraries in working with our network of libraries across the country. Local government interests are another area that we will look at in relation to the skills matrix. The skills matrix must be considered in making up the board.

We have made appointments to many boards over the past five years. In looking at the size of the board, it must be ensured that there are the right skills in it. An individual might bring two

strengths, but if individuals do not have multiple strengths, it will be more likely that a bigger board would be needed to ensure that it has all the required strengths.

I have heard evidence and we have kept in close contact with people; the committee heard in evidence that a stakeholder group gave recently that we have kept in close contact with it, and we want to ensure that what comes out of the process is what is needed. I look forward to seeing what the committee recommends in its report and am open minded on making changes to the minimum size of the board.

The Convener: You say that you are open minded about the minimum size of the board. Obviously, the minimum is just one end of the spectrum. The bill says that the board would have between six and 13 members, plus the chair. Are you open minded on the six, but not on the 13?

Fiona Hyslop: Yes. There is an issue about the maximum size of boards. Ministers in this Administration and in previous Administrations have been under great pressure to deal with the wide range of public bodies that exist and the numbers of board members. Some board members are paid and some are not—in this instance, they are not—but there is an issue about the maximum sizes of boards.

I return to a point that I have made. From my experience as a minister and the feedback that I have received from people who have worked on boards, I know that, if a board of governance is too big, it will become less focused and the trustees' leadership role will become less focused. Smaller boards can be more effective than larger ones. In general, the Government is not in favour of large boards. I am therefore open to considering the first number, but not the second.

The Convener: I have no problem with trying to make boards more focused, which is an admirable aim, but you mentioned other boards that have a maximum of 14 and 15 members. Why are you so fixed on a maximum of 13 members rather than, say, a maximum of 14 or 15 members?

Fiona Hyslop: The number of board members will be 14: 13 members plus the chair. The number for the British Library is 14. It is 15 for the National Museums Scotland, 12 for the National Galleries of Scotland and there is a maximum of nine for the Royal Botanic Garden Edinburgh. Their sizes are determined by pre-1995 legislation. The more recent maximum numbers were established under the Public Services Reform (Scotland) Act 2010. The maximum number of board members for Creative Scotland is 14, the maximum for Social Care and Social Work Improvement Scotland is 12, the maximum for Healthcare Improvement

Scotland is 13, and the maximum for Bòrd na Gàidhlig, which was established in 2005, is 12.

The Convener: Do those numbers include the chairpersons?

Fiona Hyslop: Yes they do, so we are in the right realm.

The Convener: The older boards have the higher numbers.

Fiona Hyslop: Yes. The older ones have higher maximum numbers.

The Convener: That is helpful.

You touched on an issue that was raised in evidence two weeks ago. If the board is too small and is down at the lower end of the scale rather than towards its higher end, it will be difficult to form the sub-committees that it must inevitably form to progress particular bits of work. However, you have covered that by saying that you expect the board to be not too small.

10:15

Fiona Hyslop: Yes, but not all sub-committees will be formed from the membership of the board of trustees because specialists can be brought in. Despite the size of the board under the current legislation, NLS can still do that. People might want to go in and out of certain projects, particularly on technological changes, which Liz Smith mentioned. We would expect people who have specialisms to be brought in for specific projects.

Neil Findlay (Lothian) (Lab): The submission from the Office of the Commissioner for Public Appointments in Scotland says that it did not receive the consultation document, but that is another issue. It also states, contrary to what the financial memorandum says, that costs are associated with appointments. Will you confirm that? Are any other costs associated with the bill?

Fiona Hyslop: That is one of the arguments for not having too many board members; there is a certain administrative cost to advertising and making appointments. The Government has tried to restrict advertising costs, although we obviously still want to ensure that the adverts are accessible and that people see them.

If we are thinking about use of public resources, smaller boards also mean not only that advertising costs are smaller, but that the resource base that is needed to service the function is smaller. That resource base is quite considerable. This year, the Government has to administer quite a large number of appointments. The range includes board members for Creative Scotland and appointment of a chair of the board of the National Museums of Scotland, which has just been

advertised. The cost of those appointments will be met from existing budgets.

The bill concerns governance as opposed to creating more costs. We do not anticipate additional costs, but it is fair to say that there are costs of advertising all board appointments. However, that is a necessary cost of accountability.

We sent the consultation to OCPAS and will continue to work with it and the Office of the Scottish Charity Regulator, which are key bodies for ensuring that we put in place the governance and other measures that are necessary to implement the provisions on the National Library's trustees.

Jean Urquhart (Highlands and Islands) (SNP): There seems to be concern about ministerial powers of direction in the bill, but it is partly allayed by the fact that the powers will be fairly restricted and concern only a couple of areas. Will you explain that?

The witnesses from the National Library said:

"What we regret is making a principle of the ability to direct the National Library."—[*Official Report*, Education and Culture Committee, 7 February 2012; c 705.]

There is always slight edginess about so-called Government interference in any of our cultural organisations, so how can we allay the concerns of those witnesses?

Fiona Hyslop: There must be a balance. When an institution is funded from taxpayers' money, it must be accountable to the taxpayer for ensuring that that money is spent wisely, and for its management and governance of the institution. That must be balanced with the institution's artistic or—as in this case—curatorial responsibility and its freedom to ensure that it looks after our great cultural assets for the nation.

There is a history to the balance that we have struck, which goes back to the Charities and Trustee Investment (Scotland) Act 2005. Because of the need for public accountability, particularly in financing of organisations, an exemption was made under that act to permit national collections to continue to be charities while allowing a limited power of ministerial direction over them. I have already referred to the Public Services Reform (Scotland) Act 2010, which is the foundation for a number of bills that are likely to be introduced subsequently.

When Creative Scotland was established, one area of debate in Parliament was the degree of ministerial direction that could be allowed. There was debate not only with people who were involved in the then Scottish Arts Council, but also with the national institutions about what it would mean for them. It was generally recognised that if

we could limit ministerial direction to matters of governance, management and accountability—in particular on financial aspects—and leave out any power of direction on curatorial or artistic matters, the provisions would be satisfactory.

Members will notice that section 8(1) of the bill, on page 4, says:

“The Scottish Ministers may give NLS directions ... as to the exercise of its functions”,

but that section 8(2)—this is the really important point, given that you are asking what reassurance we can give that there will not be overbearing interference—says:

“But the Scottish Ministers may not give NLS directions so far as relating to—”

paragraphs (a) and (b). Paragraphs (a) and (b) refer to NLS’s functions, which are covered in section 2. Those functions include

“preserving, conserving and developing its collections”.

I cannot give the NLS ministerial direction on that, on “making the collections accessible” or on

“exhibiting and interpreting objects in the collections”.

That indicates where the balance lies.

I am accountable to Parliament and, at themed question time, I frequently get asked to tell Creative Scotland to invest in a particular project. That is quite frustrating because, under the Public Services Reform (Scotland) Act 2010, I cannot do that. Could I direct the NLS to have an exhibition on X, Y or Z? Under the bill, I could not. That is the balance that we need to strike. We must have faith and confidence in the professionals, their curatorial decisions and how they promote

“understanding and enjoyment of the collections”,

which is one of their functions.

We have struck a balance, although it is sometimes quite frustrating. We want to ensure that we give the professionals their curatorial independence but we must, at the end of the day, ensure that public money is spent accountably. That is why there is the restriction that the power of direction can be used only in relation to overall management of the organisation. We have a responsibility in relation to the corporate plan, the accounts and so on, and in ensuring that the organisation is well and efficiently run.

If you want me to have more ministerial powers of direction, I remind the committee that an attempt was made to do that in the previous session of Parliament and there was real resistance from the cultural collections to the proposal to give ministers overriding powers.

I know that that was quite a long answer, but I hope that it has set the scene on where we have

got to and why we want to have a limited ministerial power of direction. The power of direction that the bill will provide is very limited.

Jean Urquhart: I make it clear that I was not suggesting that you should be given more powers.

Marco Biagi (Edinburgh Central) (SNP): I declare an interest as a member of the board of NLS under the current legislation.

Where might the ministerial power of direction be used?

Fiona Hyslop: I cannot recall having used the power, in my five years as a minister, for any of the bodies for which I have had responsibility. However, we do not know what might happen in the future. The power is a safety net for accountability for use of resources.

The power means that we will be able to provide guidance. For example, collaboration is extremely important, particularly when resources are tight, so it will be helpful to be able to encourage collaboration—although I have not needed to direct the collections to collaborate and would not necessarily seek to do so.

If it became clear that the board of trustees was not properly holding its chief executive and the national librarian to account for how money was being spent, a direction might be issued. The power of direction would be used if there was any difficulty with the management functions. The same would be true of any similar organisation. Such powers are not used very often, even in other areas. If, for example, a new chairperson was not functioning effectively, that would, in the first instance, be for the board to address.

Our experience of going through the recruitment process has been very good, and I would like to put on record my thanks to Professor Anderson for the role that he has played and for his patience in waiting for the bill, which I promised some time ago. However, there is always an element of risk—human failure can happen in any organisation. That is why the power of direction would tend to be used in relation to management functions.

Does either of my officials want to comment?

Carole Robinson (Scottish Government): As Colin Miller explained when officials gave evidence, the power of direction could be used if the library had failed to comply with general public interest policies around, for example, no compulsory redundancies, procurement, transparency or pay policy. Those are other areas related to the management of the library.

Marco Biagi: Can you undertake to write to us after checking whether the ministerial power of direction has ever been used in the cultural

sector? If it has not been used, that would be very reassuring.

Fiona Hyslop: We do not think that it has been used in the cultural sector, but we will write to confirm that, in case it was used prior to this Administration.

Liam McArthur (Orkney Islands) (LD): I appreciate your comment that we are almost trying to anticipate the unknowable. You are seeking a limited backstop power.

Nevertheless, one can see how a power of direction on promoting collaboration might bleed into operational issues around the curatorial role in that if you were to force NLS down a particular pathway with a limited budget, that would have a knock-on impact on what it is able to do in other areas. Is there therefore a risk that action on the part of the ministers, within the constraints of the bill, could have a knock-on impact on areas that are not included under the powers of direction in the bill?

Fiona Hyslop: No. The powers of direction are quite specific. The example that I gave on collaboration was more about my guidance on what I am trying to do currently without using the ministerial power of direction. That is the sort of thing that you can do to try to get best value for the public purse, but I am not doing that by ministerial direction and I would not necessarily see that as an area in which ministerial direction would be used.

If I were to use the ministerial power of direction in respect of collaboration, but that impinged on the National Library's ability to make decisions about preserving, conserving and developing its collection—its curatorial role—I could be challenged on the ground that I was acting illegally. I would not do that however, because I think it best to do that through encouragement and other approaches. The public purse has a backstop in that there is always a point of intervention in terms of management and finances, but there is almost a backstop for the National Library, in that if I or any minister were to overstep the mark and compromise its ability to do certain things, there would be a difficulty.

Section 8(2)(a) stipulates matters on which I am not allowed to provide ministerial direction. It is clear that anything that would compromise curatorial functions is not allowed; so if we want to promote collaboration or the sharing of good practice, we can do that, but if that were to compromise exhibitions, interpretations and so on, my decisions could go to review and they could be deemed to have been illegal. There is a counterbalance for both sides, which is what we sought to achieve.

Liam McArthur: That is helpful.

The Convener: Cabinet secretary, you helpfully wrote to the committee to clarify points about ministerial direction in relation to sections 2(2)(d) and 2(3)(c). I would like briefly to discuss the matter, particularly in relation to section 2(2)(d), on promoting collaboration. Your explanation in response to Liam McArthur was very helpful, but I want to be clear about where the boundaries of ministerial powers of direction lie in relation to collaboration.

I do not want to get into obscure hypothetical examples, but reducing the number of public bodies has been an aim of the Government over a number of years. There are other collections and other library services in Scotland. Where are the boundaries that would prevent a minister in a future Administration from pushing through collaboration between the National Library of Scotland and other library services?

Fiona Hyslop: If legislation was required, obviously a bill would have to be introduced in Parliament and parliamentary authority would be required.

10:30

The Convener: Could section 2(2)(d) of the bill be used?

Fiona Hyslop: To promote—

The Convener: I suppose that my question goes beyond collaboration or a particular interpretation of collaboration.

Fiona Hyslop: I think that that would be a politically unwise use of ministerial direction, which is more of a defensive thing rather than something that would necessarily be used to try to bring about public service reform. If you want to undertake such reform, you do it proactively and make a proposal, you discuss it in Parliament and you seek advice from the committee. That is what we have done in other areas. You do not necessarily need the power of ministerial direction to do it.

I will give you an example of what Government ministers can do. We brought together Skills Development Scotland from four different organisations, so the skills and training agenda was quite disparate. That was done without legislation but with co-operation because bringing those organisations together was seen as being in the best interests of delivering better skills and training. That was quite a major change. A lot of things can be done as a result of effective policies. In relation to my actions, I am accountable to this committee and to Parliament, and that provides checks and balances when steps are taken to make improvements or changes.

On the collaboration agenda, I am pleased that a lot of the back-end services of the National Library and the National Galleries of Scotland are working together, which can help to release resources and to spend as much of them as possible on front-line services and the visitor or researcher experience, which is what everybody wants.

We are well on the way with the collaboration agenda. The trend is towards what can and should be done. People have to be quite creative in the new environment. However, I do not necessarily see that agenda as being a matter for ministerial direction. I will confirm this later, but the indication is that to date ministerial discretion has not been used in the cultural sector. I do not think that using it would be a very wise thing to do, because it is a backstop as opposed to an action to make things happen proactively. If you want to make things happen proactively and change a policy, there are better ways to do that.

The Convener: That is very helpful. Thank you.

Joan McAlpine (South Scotland) (SNP): Would ministerial powers of direction extend to charging for access to the collections? You are probably aware that the national librarian made it clear in his evidence that free access was a key principle. However, he also said:

“Our exhibitions are free at the moment, but it may be appropriate at certain points to charge for them.”—[*Official Report, Education and Culture Committee*, 7 February 2012; c 707.]

Is that the kind of issue that you might get involved in discussing?

Fiona Hyslop: I reiterate that the Scottish Government is committed to ensuring free access to our collections, although there are checks and balances within that. The charging aspect is part of the future proofing of the bill, given that there will be technologies of which we are not aware at present. For example, we can provide international access to digital work, but perhaps we will be able to do so more extensively in the future. There is no reason why the National Library might choose to charge for such services, but that does not mean that charging will never happen. However, such charges would be for quite specific areas.

I could not use a ministerial direction to do anything on charging even if I wanted to—which I do not; likewise, a minister in a future Administration could not use that to introduce charging because the function of the National Library to ensure that its collections are accessible to the public for study and research cannot be compromised by ministerial direction. Therefore, even if a future Government wanted to introduce charging, the legislative limits on ministerial direction would restrict it. I think that there are

similar limits in other areas, such as disposals. Ministers would need to revert back to get agreement to use a ministerial power in relation to the disposal of certain assets. That is a check and a balance the other way in terms of how assets are used in relation to charging or disposal.

We have been conscious of the limits that there would be on ministers who wanted to introduce charging, and we think that the protection for the institution—for the collections—is the fact that the power of ministerial direction cannot be used if it compromises access, preservation, conservation, study, research, exhibiting or interpreting. In that regard, such a step could be challenged.

Joan McAlpine: There are obviously some problems with definition, as the bill says that it might be legitimate for the library to levy a charge for an added-value service. You said that we do not know how technology will develop, and something that might seem an added-value service at the moment could become an essential service in the future. It seems to me that there may be a problem with the definition of an added-value service. How can such services be distinguished from a service to which access is regarded as a basic right?

Fiona Hyslop: Again, that would come down to accountability. At any point in time, the National Library of Scotland could be called to account for its corporate plan, which will set out its policy regarding what is threshold and what is incremental. You are absolutely right to say that things will change—possibly in five or 10 years’ time. However, we cannot put a definition in the bill that would constrain things in the future. The definition must allow flexibility in the future. There will always be the opportunity to hold me or the National Library to account on that definition and whether it compromises the library’s functions. It would be wrong to close off future opportunities, especially given the fact that charges already exist in some areas such as digital activity. That activity may be specialised at the moment, but it might not be in the future. We are also not in a position to give guarantees about what might happen to the budgets that Governments give to organisations, so we must give the National Library some flexibility to allow for charging. Nevertheless, the Government is committed to maintaining the principle of free access and we think that the preservation of the functions of the National Library of Scotland would prevent any ministerial direction from requiring it to charge for things.

Joan McAlpine: Let me outline another hypothetical situation. If the management of the library decided, at some point, that it wanted to charge but the ministers disagreed with that because they were committed to the principle of free access, would the cabinet secretary intervene

and use powers of direction to say, “No, you can’t charge”?

Fiona Hyslop: It would not be necessary to use ministerial powers of direction. Ministers could point to the functions of the National Library and say that it was not providing access. The library would be subject to the restrictions on its functions. It is not just ministerial powers of direction that are restricted by the functions; the National Library is restricted by its own functions. My officials may want to add to that.

David Seers (Scottish Government): As we touched on when we were before the committee previously, proposals for new charges must be agreed administratively under the terms of the public finance manual that applies to all public bodies. So, there is an administrative route to be followed. In addition, as the cabinet secretary said, any proposal has to demonstrate that it is not inconsistent with or inconducive—if that is a word—to the function of making the collections accessible to the public. There are two checks: an administrative one and a legal one.

The Convener: I know that it can be difficult to specify exactly how the bill will work, but there is at least curiosity about the difference between the powers in section 2 and the provisions in paragraphs 11(1) and 11(2) of schedule 1. Paragraph 11(2)(m) states that the National Library of Scotland may

“make charges for access to the collections”,

and paragraph 11(2)(n) states that it may

“make other charges in connection with the exercise of its functions (including charges for the provision of goods and services).”

There is a slight concern about where the line is drawn in paragraph 11(2)(n), which enables the library to

“make charges for access to the collections”,

given the point that has been made about the library’s functions under section 2, one of which, in section 2(2)(b), is

“making the collections accessible to the public”.

Where is the line drawn?

Fiona Hyslop: That comes back to the fact that the majority of funding for the National Library of Scotland comes from Government. Parties of different political persuasions will make statements in their manifestos about charging for entry to museums. Indeed, as you will recall, museums used to charge for entry, but the previous Administration stopped that and this Administration will maintain its commitment to free access.

It all comes down to politics. If people want to vote for parties that want museums to charge for entry, that is up to them. That is the democratic process. We believe in free access, as do a number of other parties; indeed, I am asked about the issue frequently in the chamber. Our letter of grant sets out what we expect from the use of public finances—for example, compliance with public pay policy and the policy of no compulsory redundancies. That does not need ministerial direction, but the fact is that a Government is elected on a certain mandate and must properly finance museums to carry out their functions.

Of course, all of that forms part of our general discussions with the National Library of Scotland about what can be achieved from the resources that we provide. Given the difficult financial circumstances, those resources can be very tight, and my officials have worked very hard to ensure that we can deliver all these things with the reduced budget that we are getting from Westminster. At the end of the day, however, it will always be up to a future Government to decide what it wants to do. The aspect that you highlight simply reflects the previous situation in which museums were allowed to charge for access. However, compared with previous legislation, the bill sets out the constraints on the setting of such charges. Charges cannot be introduced if they damage the functions set out in section 2 with regard to public access and curatorial matters.

The Convener: I am trying to understand the relationship between the powers of ministerial direction and, in particular, the general powers of the library as set out in schedule 1. Where is the balance between those two sets of powers? How does the approach operate?

Fiona Hyslop: Your question raises issues about how much should be set out in legislation. You must remember that the bill is about governance and management, not about individual decisions. Although it is always open to us to say in legislation that access to museums will always be free, I suspect that such a move would be unwise. For example, it is not unreasonable to charge for certain highly specialised digital work that is currently done; otherwise, anyone could ask for anything and expect to get it for free because the legislation says so.

I must reiterate that we have absolutely no intention of introducing charges. We are committed to free access but the bill must be future-proofed to stand the test of time. As I have just pointed out, museums can already make charges for certain services, and we think that that position should be maintained. As for our policy position, we have not had to put in legislation our commitment to free access to the museums and national collections, including the National Library

of Scotland; we expect that to be met from the resources that we provide. As I have said, that is already part and parcel of our discussions.

We are simply trying to work out what in the general administration of the National Library of Scotland and the relationship between it and the Government does not require to be set out in the bill. The aspect that you highlight does not require to be set out in the bill because it is subject to the general administration of NLS and the relationship between it and Government with regard to our expectations of what will be provided for the grant that we provide.

The Convener: Thank you for that, but I am still trying to understand the relationship between section 2(2)(b), which relates to

“making the collections accessible to the public”,

and paragraphs 11(2)(m) and (n) in schedule 1. On the face of it, they seem to contradict each other. On the one hand, the bill says that the collections must be

“accessible to the public and to persons wishing to carry out study and research”,

while on the other it says that NLS has the ability to

“make charges for access to the collections”.

Fiona Hyslop: That is the current situation. The bill provides flexibility, but the main function is in section 2—at the beginning of the bill—which is the key legislative driver. Perhaps some legal advice might help. NLS may be able to do other things, but it cannot do them if they would compromise its main function.

10:45

The Convener: I was trying to get to that point. In non-legal language, does section 2(2)(b) trump paragraph 11(2)(m) of schedule 1?

Fiona Hyslop: Run that by me again.

The Convener: Is it the case that section 2(2)(b) cannot be superseded by paragraph 11(2)(m) of schedule 1?

Fiona Hyslop: Section 2(2)(b) cannot be overly compromised, because it is a main function. As is currently the case, there will be flexibility for things to happen incrementally, but that cannot compromise the main functions.

David Seers: Paragraph 11 of schedule 1 starts with subparagraph (1), which says:

“NLS may do anything which appears to it ... to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions”

or

“to be conducive to the exercise of its functions.”

That puts the functions first. Subparagraph (2) just says, “In particular”, and gives examples of what NLS can do. Paragraph 11(1) is the connecting point between paragraph 11(2) and section 2.

Marco Biagi: David Seers said that any new charges would have to be approved at ministerial level, because of the public finance manual. Is that underpinned by, or does it stem from, any primary legislation?

David Seers: I am not sure—we will write to you about that.

Fiona Hyslop: Any charges will be minimal and in relation to incremental or additional matters—that is the case now. It might help the committee to ask NLS to give an example of what it charges for.

The Convener: If you write to us about the other point, I am sure that your letter could cover both issues.

Jean Urquhart: I think that I am understanding all this. I will use an example not from the National Library but from the Kelvingrove art gallery. We declare the national collections to be free and available, but the Glasgow boys exhibition was charged for, because it brought to this country Glasgow boys paintings from other European countries’ national collections. That exhibition contained items from our collection, private collections and collections around the world. Charging for it did not negate our basic principle that the national collections are available to the public. That example shows that, if something exceptional is concerned, there will be a charge, which I presume covers the extra costs that are involved.

Fiona Hyslop: That has been the case in recent years for different institutions. It would be great if a benefactor was found or if the public purse could make all such things free to access but, to get some of the best international collections on loan, charging happens in galleries and museums.

Clare Adamson (Central Scotland) (SNP): I will examine legal deposit issues. In your opening statement, you commended the library for its strategic approach and its work on new media and digital media. However, legal deposit legislation provides no guidance on what to do with that. I understand that the United Kingdom Government made a commitment in April 2011 to produce guidelines that would fit with the current regulations, which are under Westminster’s control. Have you made any representations to the UK Government about when those guidelines are likely to come through? Does the bill give the library the confidence to continue on the lines that it has followed in relation to new media and digital media?

Fiona Hyslop: That is an important question. The bill is an enabling measure that will allow future proofing for e-deposit. However, there are frustrations that there have been delays in introducing UK regulations. I have urged the Department for Culture, Media and Sport to proceed swiftly with regulations, as our records would be weakened by delays in implementation. We have tried to future proof the bill so that it covers existing arrangements for print material and arrangements for making electronic content available when it is received. However, you are right that the legislative competence on copyright exemptions and on other aspects that enable the use of copyright material when it is received is still reserved to Westminster. The bill ensures that, when such information is received, the operations of the library can be conducive to future proofing in relation to digital work.

There is an outstanding issue. It would be helpful to us, and timely, if the DCMS proceeded with the regulations. My understanding is that the UK Government's general approach is to limit the number of additional regulations to try to limit what I suppose it sees as burdens on organisations. However, that is compromising our approach, as we need the guidelines.

We have made representations to the DCMS, but it is open to the committee to make further representations to it. The issue is more pertinent to Scotland, as we are considering a piece of proposed legislation, but it is as relevant to UK institutions as it is to Scottish ones. It would be helpful if we had the guidelines before the bill is passed, but I am not prepared to hold up the bill to wait for them. We have made representations, but it would be helpful if the committee also considered doing that.

Marco Biagi: I want to move away from the point about the firmer relationship of ministerial direction and on to the softer relationship between the Government and NLS. The bill will set out in statute—for the first time, I believe—a great many functions that NLS will be asked to perform. How do you envisage the Government measuring success in performance? How will you handle that more informal aspect of the relationship in the years after the bill is passed?

Fiona Hyslop: That takes us to the relationship aspects in the administration of the organisation. For NLS and for other organisations, a corporate plan is important, as it sets out what an organisation seeks to achieve. We have dialogue with bodies on the preparation of corporate plans. The NLS corporate plan will set out what the body is trying to do and how it will measure its success. At a time of change and transition from the use of print media to the technological age, evidence will be needed on how the NLS is managing that.

Those changes provide fantastic opportunities for the National Library to be truly national, because people will not have to get to Edinburgh to access information, as access will be available throughout Scotland. That is an interesting issue.

We will set out our expectations and what we want the NLS to achieve, and we will measure it against that. That will be done publicly. The corporate plan will set out what the NLS expects to achieve, so it can be measured on that basis. I would not put that in legislation, because the situation will change. In five years, what the NLS seeks to achieve could vary from what it seeks to do now. There is a difference between what we put in legislation and what we expect from the general corporate plan. A primary aim and purpose of Parliament is to pass legislation to provide the basis of administration, but much of the accountability does not come through the legislation; instead, it comes from the opportunities that the committee has to hold me and the institution to account.

Neil Bibby (West Scotland) (Lab): The cabinet secretary will be aware that we are required to consider the impact that the bill will have on equal opportunities. I understand that an equalities impact assessment was carried out in relation to three areas: the board, users and collections. How has the equality impact assessment process ensured that we will have better equal opportunity outcomes as a result of the bill?

Fiona Hyslop: Part of the process is to ensure that all legislation abides by the impact assessment in what it provides. With the bill, the primary issue is appointments to the board of trustees and governance arrangements. The Public Appointments Commissioner for Scotland will ensure that equality impacts are taken into account in the appointment processes that are applied.

With the bill that the committee is scrutinising, the board and the governance arrangements are the main subjects of the equality impact assessment. As far as the other aspects are concerned, when it comes to the organisation and its general day-to-day running, it must abide by equality legislation and the more general duty in that regard. What is interesting is that, as libraries become more accessible online, there is an issue about digital accessibility. There is a general issue about digital participation, the digital divide and how people can access materials electronically but, in one sense, online availability provides better and more equal access to the country as a whole, because people do not have to go to the library to access its collections. In a sense, the bill will enable a situation in which better and more equal access to services can be provided.

However, the primary driver as far as the equality impact assessment is concerned will be the appointment system for the board. That is driven by the public appointments system, which is governed by general principles. There is probably some way to go to ensure that that process is as good as it should be in terms of equal access.

Neil Bibby: I have a follow-up. It was reported that 6 per cent of NLS users declared themselves to be disabled, whereas 20 per cent of the general population are classified as disabled. Does the bill contain any specific provisions that you think will improve the usage rate by people who have a disability?

Fiona Hyslop: I think that it will have more of an indirect effect. It will future proof the organisation so that it can provide more material online, which will ensure better access geographically. The National Library faces the challenge of being located on a number of sites. Disabled access is always constrained in old buildings. The bill is enabling legislation in the sense that it will future proof the library for new technologies, the use of which should provide more access for people with disabilities.

We should remember that the library's current functions are such that it is primarily a research library. The figure for access to the reading room may reflect how many disabled students there are in the general university population. There would probably be a better correlation between the proportion of postgraduate researchers who are registered as disabled and the figure for usage of the library by disabled people. If the proportion of disabled postgraduate researchers is a bigger number, that might lead one to believe that fewer disabled researchers use the library. If it is the same number, the disabled usage figure simply reflects the population that tends to use the library.

The Convener: I have a final question about the legal deposit issue, which was raised earlier. You mentioned that, in April 2011, the DCMS committed to bring forward regulations on the matter but that no regulations have so far appeared. Can you confirm that legal deposit is a devolved matter? Through a Sewel motion in 2003, the Scottish Parliament allowed the UK Government to pass an act on its behalf. If, as is my understanding, it is a devolved area, why are we waiting for the DCMS to act?

Fiona Hyslop: Our understanding is that, as of now, that function is exercised by the Westminster Government—it has the responsibility and the powers on that. I am less familiar with the situation prior to 2007, but perhaps colleagues can help.

David Seers: I would call it a semi-devolved area. The power to request that publications be placed on legal deposit in the National Library of

Scotland is devolved, but there are other provisions in the enabling legislation and in the regulations to do with issues such as copyright and protection from defamation that relate to reserved areas. It is half and half.

Fiona Hyslop: The bill will enable us to act on the first aspect, but the second—the copyright aspect—is an area in which Westminster has responsibility.

Greig Walker (Scottish Government): I would like to follow up on my colleague's point by saying that the law of defamation is devolved, but copyright falls within intellectual property and is therefore reserved.

The Convener: I suspect that the answer is that you are waiting for the draft regulations because it is better that they cover all such areas, rather than us taking action on one aspect of them.

Fiona Hyslop: Yes.

The Convener: As there are no further questions, I thank the minister for her attendance, which has been very helpful.

10:59

Meeting suspended.

11:01

On resuming—

“Report of the Review of Higher Education Governance in Scotland”

The Convener: Item 3 is consideration of the “Report of the Review of Further Education Governance in Scotland”. We are fortunate this morning in that we will take evidence from Professor Russel Griggs. Good morning, Professor Griggs. Thank you for attending this morning to provide us with evidence on this most important issue. I invite you to make some opening remarks, if you wish to do so.

Professor Russel Griggs: They will be short and sweet. First, thank you for inviting me. I am delighted to be here. You are quite correct that this is a very important subject, so I am happy for there to be the widest debate possible on where we want to go on it.

When the Cabinet Secretary for Education and Lifelong Learning asked me to undertake the review, he asked me to do two things in particular: to look at the structure of college governance and, within that, to look at the democratic accountability. Governance is an interesting thing and college governance is a particularly interesting thing in that you need to understand first what it is that you are governing—the further education sector—before you can look at how you govern individual colleges. You have to look at A before you get to B.

My bona fides for doing the review is that I have a wide range of experience of doing such things, plus I am the chair of a college board. I have now been involved in the sector for eight or nine years, so I have a background in understanding it. I was happy to do the review, particularly because I know how important the further education sector is both economically and culturally to all the people who go through it in Scotland. It is one of the sectors that in many ways have an influence on everything that we do both economically and culturally. We must not forget that a lot of people go to colleges to learn as well as to seek employment. There is a great breadth of desire of people wanting to learn.

I guess that we did the review in the way that we did because nobody had looked at the issue properly for 20 years. We stood back and looked at what it was. I gathered round me a group of people whom I thought would give me the best advice, so I had a senior official from the National Union of Students, a senior official from the Educational Institute of Scotland, an ex-chair of a college who had been through a process of bringing a number of colleges together and a current college principal. I felt that that group of people, with good support from the civil servants

who have been involved with the college sector for a long time, would give us a good basis for doing our work.

I regard the 34 recommendations that we have made as a good place to start. One of the things that we have to recognise is that education is forever evolving, which means that a lot will be involved over the next 10 to 15 years as we learn how to learn in different ways. We wanted to put in place something that would give us a platform to build for the future.

In all that we discuss this morning, I would like us to recognise that this is just a place to start from rather than a place to end up in. I would be disappointed if I were sitting in front of you in 10 years’ time and nothing had changed from where we are today, because we need to evolve.

I am happy to answer any questions on the report.

The Convener: Thank you for those remarks, Professor Griggs. Neil Findlay will begin the questioning.

Neil Findlay: Your executive summary for the committee says:

“In effect, therefore, for the purposes of the report we will take our first recommendation of the move to a regional model for the College Sector as being accepted”.

I know that that is just part of your evidence, but how do you respond to the charge that it was your predetermined position—that you went out with a predetermined position and you were determined to return with it?

Russel Griggs: It was not a predetermined position at all. We met, as you do, we had a conversation, and then we had another conversation. We started by considering one of our challenges, which is that, with 41 individual governing bodies, it is very difficult to govern a sector that needs to be part of Government strategy, because ultimately the vast majority of the money that is given to colleges comes from the public sector. We also considered the inequalities that have built up over the past 20 years in how the college sector has treated students and how it has managed itself. That led us to consider that, if we wanted to change the process as other countries have done—we looked at how things have gone in Northern Ireland, Canada, New Zealand and elsewhere—we needed a much smaller group of governing bodies to be part of driving the strategy forward for Scotland. That was not predetermined.

I will tell you openly how we got to where we were. We had had two or three meetings and our view was that we were moving towards the idea of a regional structure. Obviously, as you carry out such reviews, if something comes up that is going

to be in your final report but you know that the Government is also thinking about it, it is much more sensible to have a conversation. We had a conversation with the Government in about three or four places over time. The initial consultation document, which came out in September, contains one set of regional proposals by the Government. We had a conversation with the Government about those, we gave our views and this is where we have ended up. It was not predetermined at all. I can honestly say that, when I started doing this, I had no idea at all about where we would end up. The regional structure was not predetermined at all. It is where the conversation took us naturally.

Neil Findlay: In a different time—let us delve into the realms of fantasy—if there was tonnes of money kicking about, would you make the same recommendation?

Professor Griggs: Absolutely. We say clearly in the report that what we have recommended has nothing at all to do with the economic circumstance in which we find ourselves. We put that to one side and said that we cannot do this just because of where we are. However, as we say in the report, in times when you have lots of money, you tend not to look at some of the hard things that you should be looking at, and it is only when you have fiscal restraint that you do so. On the question of whether this recommendation was predicated by economic circumstances, the answer is absolutely not. We all agreed at the beginning that we would look at this in terms of what was right for the sector, regardless of the funding.

Neil Findlay: I will remain very sceptical about that. What evidence can you provide to suggest that what we are moving towards has major advantages for the education of students?

Professor Griggs: It became clear when we looked at certain parts of Scotland that have moved to a wider form of governance, such as Forth Valley College and parts of Fife—we also looked at places such as Northern Ireland, Canada and New Zealand—that if you look more strategically over a bigger area, you can use the resources that you are given, plentiful or not, much better. That involves setting up centres of excellence, if I can call them that—I do not like the term, but that is all I can describe them as. Our view is that everybody needs to go to college wherever they want locally but, as students progress up the scale, there is evidence that you get a better response from the student and a better outcome if you can focus your money in particular areas. If you look at what Forth Valley College has done, by focusing a lot of money on particular areas of the curriculum in Falkirk and Stirling, you will see that it has seen the benefit

and that students do not mind travelling when they have reached a certain level of learning.

Our view is that there are two benefits. First, it gives you a more rounded way of looking at how you spend your money. Secondly, it is very clear that there is an inexorable link between colleges and what the Government wants to do in terms of strategy. That has been clear for the past 20 years. In fact, the way in which colleges were set up in 1992 came about as a pure piece of Government thinking at the time. Therefore, we believe that, however many there would be in the group—12 or 14—a group that works with the Government to drive the sector will be much more powerful and will allow much more national and local strategic decisions to be made. However, I return to a point that has been made. We believe that, by creating bigger capacity, allowing student associations to be bigger, and getting all the things that we will get from that type of scale—which have been demonstrated in Forth Valley College, Fife and places in Northern Ireland—we will get a bigger bang for our buck for the student. That is of prime importance. The process must result in something that is better for the learner.

Neil Findlay: In my area, West Lothian College has recognised that it possibly has a unique case, but there is clear evidence of its co-operative working with the local authority and other partners, including other colleges, and there is no desire to regionalise further. Indeed, it has made a robust case for that. If that is the model for how a college should function, it is being recognised that retaining independent status—dare I say?—works. Therefore, why are regional models for the rest of the colleges being recommended?

Russel Griggs: Perhaps we would not be doing that if all colleges were like West Lothian College but, sadly, they are not.

Neil Findlay: Should we not be going in that direction?

Russel Griggs: No, I do not think so. West Lothian College is unique for specific circumstances. With regard to the rest, I still strongly believe that bringing colleges together with a more strategic governance view that does not in any way, shape or form take away the ability of local colleges still to operate in their locality gives the student better provision and better outcomes in all sorts of ways.

Neil Findlay: You say that that gives the student a better outcome. Would you please say what you mean by that?

Russel Griggs: I believe that money will be invested more widely. I return to the examples of Forth Valley College and Northern Ireland. We should consider spending a lot of money on one space to which students from across a wider

geographic area can go to learn about specific things. If we always break down X money into a myriad of different pots—41—we will not get the advantages that can be got by breaking it down into 12 pots. Working with a bigger amount of money in 12 pots across a wider area allows that money to be used in a much better way than it would be by giving it to 41 individual colleges.

Liz Smith: I want to take up the point about the qualitative improvement that you believe will come out of your suggested reforms. To take up the point that Neil Findlay made, if you firmly believe that colleges have different expertise and skills, why are you proposing a one-policy structure rather than allowing individual colleges to decide on their own whether they prefer mergers?

Professor Griggs: Perhaps I have misrepresented what I believe. I do not believe that, given the same chance, all colleges could do the same thing. One issue that we isolated is that a lot of duplication is taking place. In certain areas of Scotland, colleges are doing the same things. If things are put all together in one place, things will be done much better and money will be spent much better. All the evidence suggests that, if resource is focused on a specific subject in a specific place in a geographic area, there will be a much better work line than there would be if it were disseminated across a number of colleges in the same area. That does not stop people coming in at the bottom locally but, as they climb the ladder, they will move.

All colleges will say that, over the piece, there have been challenges with getting students involved in them. Giving students a bigger capacity to get involved means that there will be much better student involvement in colleges. There is a raft of issues, but all the evidence that we looked at should be considered. Where boards have been charged with looking at managing money across a wider geographic area, the output for the student has been better.

Liz Smith: You have talked about managing the money better, but where is the better education in the model that you suggest?

11:15

Professor Griggs: As I have already pointed out, the better education comes through focusing your resource on ensuring the highest quality of learning in whatever specific subject area might be best in that respect. That might be in one place rather than in three.

Liz Smith: Last week, a college chair resigned because he felt that the changes were being pushed through on the basis of a political rather than an educational agenda. That is obviously his view but, to refute that, you will have to come up

with very specific reasons about the educational benefits of this new college change. At the moment, our doubts lie in the fact that, for some colleges, merger on a regional basis is deemed acceptable and a good thing while others, some of which have been alluded to this morning, feel that that is definitely not the case. Is there not scope for greater diversity and autonomy in the system, something that was brought forward in the 1992 reforms?

Professor Griggs: I think so but, if you look back at the 1992 reforms, you will find that autonomy worked well for a little while but, as things have crept forward, it has given rise to many more bad inequalities than good things in the system. Indeed, we list those in the report. For example, I do not think that it is fair that colleges across Scotland have different systems of choosing who they allow in. That is what happens at the moment and I think that that is not to the colleges' benefit.

As you can imagine, I speak to a lot of principals and chairs about this issue and no one has disagreed with the need to focus on spending our money better to ensure that we create centres of excellence. If that means spending it on college A instead of college B, that is what has to be done.

For example, everyone is talking about the world moving towards the renewables marketplace. We need to decide on the three or four colleges in Scotland where we want to spend the real money on renewables. Instead of the current scattergun approach to that, we need a national discussion involving the college chairs and principals. A statement that I have made time and again—and which has not been disputed at all by any principals to whom I have spoken—is that focusing where you spend your money will give better outcomes for students.

Liz Smith: Can you assure us that you do not feel in any way that the Government intends to drive forward reforms because it would like to see a little bit more control of the college sector?

Professor Griggs: I can. I have seen no evidence of that in the conversations that I have had with ministers. That is all I have to say.

Liz Smith: Thank you.

Joan McAlpine: I am grateful to you for outlining certain examples in which duplication has been a problem in the renewables sector. Obviously, that area is evolving, but did you have the opportunity to evaluate the costs of duplication and how much money was being wasted as a result of it?

Professor Griggs: The simple answer is no. We did not have the time to sit down and do those sums. However, as the whole sector will tell you, if

we had the chance to do this all over again not only with renewables but in other areas, we might get a better outcome if we sat down as a nation around the table and discussed what we wanted to do and where we wanted to spend the money.

Interestingly enough, on Monday I was in Northern Ireland, looking at the creative studies place that has been set up in Derry. The new North West Regional College in Derry has about four different colleges but it has just invested a huge amount of money in a state-of-the-art theatre with new recording equipment that can be used as a centre of excellence not just by that part of the country, but by the whole of Northern Ireland. That is a good example of how investing money in one place and spending it on something critical to the area gives a really good outcome. If they had tried to do the same in a whole host of colleges in Northern Ireland, they would not have got anything like the same focus or technical ability.

Joan McAlpine: Has duplication resulted in people getting a poorer education? For example, does it explain why some courses are not full?

Professor Griggs: It is difficult to say. As somebody once said to me, rivalry is good, but competition can get unhealthy at times. Rivalry between colleges is fine, but I have heard evidence from principals—never mind the evidence that I have seen for myself—to suggest that, over time, competition can be unhealthy when we are competing for renewables or for people. I could not say that it has made the education any worse, but much of the competition and duplication has not been useful in allowing colleges to focus the money where they should do.

Joan McAlpine: In addition to duplication, I understand that high drop-out rates are a big problem in the college sector. How will your reforms address that?

Professor Griggs: That is a challenge. The drop-out rate depends on how open the colleges want to be. At my college, for example, we spend a lot of our time ensuring that we get at the most disadvantaged people—especially young people—in our community. It is a really interesting fact: the more that the college focuses on broadening its agenda, the more likely it is that its retention rate will go down slightly, because those people find it more difficult to manage the education process. The challenges that they face in life are not just to do with education, but with a wide variety of things at home, so that has to be managed too.

Some colleges have a higher retention rate because they have decided not to go as broad as other colleges do. I would hope that the reforms would increase retention rates, but one must always be aware that, in some of the areas that we all want to broaden to bring people into

education, there are big cultural and family challenges that we must deal with, which does not help. For example, we could get into a long and probably pointless discussion on the impact that changes in the benefits system will have on retention in colleges.

The Convener: I will bring in Jean Urquhart.

Jean Urquhart: I want to ask Professor Griggs about the structure of the new boards, and the function of the strategic forum and how it will work with the individual regional boards.

Professor Griggs: I will start by explaining why we ended up with the strategic forum in the first place, which is quite interesting. Part of that came from the view among everyone that we needed to improve the conversation between Government and the college sector on a strategic level. That has not worked very well during the past four or five years—or rather, the past 10 or 15 years—which is as much the fault of the colleges as it is of the Government.

We wanted something in place, because we must make decisions and have good discussions about what we want to do at national level. There are things such as renewables—when they come along—that we will want to sit down as a group and discuss. We felt that Government had to be clearer with the sector—which it has not been—on what it wanted. We needed to put together something that allowed those conversations to happen, and that is where the idea of the strategic forum came from. You will see that Ferdinand von Prondzynski's review of higher education proposes a similar sort of entity.

The chairs of the new governing bodies of the colleges will be part of the strategic forum, which will allow them to have conversations across institutions. I am a great believer in the idea that, by having 41 individual colleges, we have lost people talking to each other across the way rather than up and down the way. We need college A to be talking to college B about what they are doing and how they might share best practice. There is very little sharing of best practice in the college sector, and there must be a lot more. The forum is the type of entity in which those discussions can go on.

As I have said in my review, other issues will come up as we move forward such as how we market ourselves internationally and how we run back-office services such as human resources and finance, which will require wider discussion among the colleges. The strategic forum is a way in which the college sector and Government can work together to look at the big national issues on which we need to take a national view. Those issues will then go back down to the individual college boards. I hope that that answers your question.

Jean Urquhart: I think that it does, but I have a supplementary. Scotland's Colleges would say that it represents all the colleges and that the colleges communicate with one another.

Professor Griggs: I have spent the past four or five years going to lots of chairpersons conventions, principals conventions and other things with Scottish colleges. We could do things a lot better than we currently do them.

Jean Urquhart: I am reminded that I should have declared an interest. I am no longer a member of a college, but I am still a member of the University of the Highlands and Islands.

The Convener: That is on the record. Thank you.

Liam McArthur: I am concerned principally about UHI. Russel Griggs specifically suggested that the new regional board structure will require

“the ‘merger’ (through whatever route) of all the incorporated Colleges within that region.”

The cabinet secretary has talked more about a mixture of collaboration and merger. Do you think that merger is absolutely essential?

Professor Griggs: Let me be clear about what I have said. I believe strongly that there needs to be one governing board for each region. Boards should be given output-driven targets, and I am quite happy for 12 boards to decide to operate in 12 different ways, if they all end up with the same output. I have spent all my life in private business and I have concluded that if someone who is at point A is trying to reach point C there are about three different ways of doing so.

I believe strongly that there needs to be a single regional board and that the regional board needs to be in control—in inverted commas—of what goes on in the region. How that is manifested in the group of colleges that the board is given to govern is up to the board, as long as it achieves the outputs that we have asked it to achieve.

We said clearly that UHI is a much more complicated issue, not just because higher education and further education are mixed in the structure. My team did not really have time to get to the point at which we understood the geography of the area and how people interact—never mind anything else—which puts UHI almost in a unique situation. We had two good sessions—one with the principal from Inverness College UHI and one with a group of all UHI principals—but we did not feel competent to reach a solution on UHI.

Let me be clear. Our team's view is that regional boards are essential; how people organise those boards is up to them, as long as they achieve the outputs that are given to them. On how boards do that, I am prepared to be as flexible as anyone in

the world is, because I am not someone who thinks that there is one way of doing everything. I would not dream of suggesting that 12 people would not find different ways to produce the same output.

Liam McArthur: Your answer was helpful and I appreciate your candour about UHI. To some extent, UHI gives the lie to the suggestion that the sector has shown little desire to come together on a regional basis. Such an approach underpins what has happened across the Highlands and Islands, which is unique—in scale, if for no other reason.

In the executive summary of your report, you said that under the new structure

“there should only be one Regional Board with the power and control to both receive the funding from Government, via the SFC, and decide how to manage what it then controls.”

There is concern that you are driving forward a model of hub and spokes, whereas the rationale for UHI was for it to be—for want of a better image—a doughnut, which would not be driven by an agenda that was dictated in Inverness. I must say that my blood ran cold when I heard you say in response to Elizabeth Smith that things can be done much better if things are put together in one place. In the context of the UHI model, that is simply not the case. If certain functions are removed from Orkney—Shetland and the north Highlands would make the same case—things will not be done better and we will prevent people from accessing courses that they currently access.

Professor Griggs: The area offers a good example of how to deal with differences. Last year I did some work for Alex Neil on registered social landlords. We agreed that there should be a service level agreement for all people who live in social housing. However, that cannot be done, so we have to be flexible. We cannot say to someone who lives on a little island off Orkney that the slater will come to fix their roof within three hours of being called out; the approach has to be melded to the situation. That relates to the point that you made, which is a good one.

11:30

That is why each regional board has to look at the make-up of its distinct geography. For example, the colleges' links with local councils in Orkney are different from those of colleges elsewhere. Without being flippant, my only comment about UHI is that if it is a doughnut, I do not think that anyone has decided yet whether it has jam or custard inside, so the discussions on it need to go on.

The clear picture that emerged is that UHI is a good construct, but that it still needs more work to

get it to a place where everybody is content with it. A board that sat and thought about that a lot of the time and took into account all the different challenges that the geography and other aspects present in that part of the world would be useful. Liam McArthur is right to say that we would not want to take certain things away from Orkney or, indeed, Lewis, but we might want to look at how things might be done differently and in a more focused way in other areas.

Liam McArthur: I do not think that there is any dispute about UHI's willingness in that regard. I think that you would get a similar message from colleges elsewhere in Scotland about looking more innovatively at the nature of collaboration and what they deliver. The concern is that either through the recommendations in your report or through the cabinet secretary's agenda for the college sector—he is on record as saying that he wants to accelerate the process—the Inverness dimension to UHI will have been pretty much gifted all the trump cards. Principals in each of the colleges now feel that their capacity to draw down the funding that they need to deliver the services that they require will be that bit more difficult than it has been hitherto.

Professor Griggs: In that particular case only, there is a conversation to be had in that regard.

Neil Bibby: I want to follow up on the point that Professor Griggs made about student retention and drop-out rates. A number of young people drop out of college or have attendance issues. You said that the report's recommendations could improve student involvement, increase student retention and remove duplication. If you remove duplication, how do you address retention and attendance issues? A young person might want to study a course at their local college, but would have motivational issues about attending if they had to go further to access the same course.

Professor Griggs: There is a very simple answer to that question. Evidence shows that when people move up the scale in learning—that is, not when they come into it initially, but at years 2 and 3—travelling is not an issue; people are prepared to travel reasonably long distances to access courses and accept that they must do so to access the best learning. For example, there is no evidence of retention levels going down for people who may have moved to Forth Valley College from Falkirk, Stirling or Fife. All the evidence, from here and elsewhere, suggests that as long as we allow people to go initially to their local colleges to do the courses that they want, retention is not an issue when they want to gain access to more knowledge higher up the ladder.

Neil Bibby: We will need to see what happens in that regard. I suggest that travelling from

Greenock to Clydebank by public transport, for example, is not the easiest journey to make.

Professor Griggs: Neither is travelling from Methil to Glenrothes the easiest journey, but it seems to work.

Neil Bibby: We will see.

It is recommended that any reserves over 10 per cent be shared across the whole college sector. Are you concerned that that might reduce competition and the ability of colleges to act independently and operate efficiently at local level?

Professor Griggs: No—and I will tell you why we even discussed the issue of reserves. If we had thought that every competently managed college in Scotland had exactly the same opportunity to have reserves, we would not have had the discussion, but—I am sad to say—that is not the case. Their having reserves has nothing to do with management; in a lot of cases, it is about accidents of geography and industry. The fact is that certain colleges have more opportunity to set aside reserves.

Given that our starting point was to ensure that we spend the money in the best place and according to priorities for learners, we had to discuss how to access what is quite a lot of money. For example, if Aberdeen College—I stress that I use it only as an example—had put a lot of money in the bank for whatever purpose but we had decided that, nationally, the real challenge for learners was in Clydebank College, which did not have any money, the question was whether we should be able to access that excess capital for spending on priorities. It is all about using the available money best for learners in the highest-priority areas; it is not about telling colleges that they should not be competitive.

It is interesting that, in Northern Ireland, that is done in a kind of underground way—they do it, but not openly—and there is no evidence that it has stopped competition or stopped colleges growing reserves. Colleges understand that a college might say to another down the road, "Look, we know you've got some extra money in the bank. Would you like to give it to us so that we can do this or that?" and the other college will quite happily give the money.

The point that I want to make quite firmly—which is one of the reasons why I was happy to give evidence this morning—is that we would never have discussed reserves if we had thought that every college in Scotland had the same opportunity to set them aside. The fact is that they do not.

Neil Bibby: You have cited a number of hypothetical examples. How many colleges in

Scotland have reserves of more than 10 per cent of their annual revenue?

Professor Griggs: I cannot remember the exact number off the top of my head, but the figure was quite significant. As we make clear in the report, the challenge is not reserves as such, but cash reserves. To get those, you have to unpick from the overall reserves the elements for pension funds, the capital reserves and the bits that are not real but are notional reserves. To be perfectly honest, although I cannot remember the figure, we would not have made the recommendation if we did not think that some colleges had quite a lot of money stashed away. It all comes back to the fact that in the past year, as people have tried to find money, some colleges have used reserves to do things that other colleges have not had the opportunity to do.

Neil Findlay: All this makes me think back to the time when local authorities had to rush to spend their cash before the end of the year. Might we get into a similar situation? A college that has an extra 10 per cent might say, "Let's just buy A, B or C piece of equipment" rather than have the cash taken by another college a couple of hundred miles away.

Professor Griggs: I would be really disappointed if that happened.

Neil Findlay: Would you be surprised if it happened?

Professor Griggs: Yes, I would be surprised, because that would mean that we had picked the wrong people to be chairpersons of colleges. As we say in the report, we want people who want not only to be part of the benefits that further education can bring to their local areas, but to be part of a wider discussion about how further education works in Scotland. If a chairperson did not understand that part of that wider discussion includes finding the best way of using available money in the highest priority areas, I would have some challenges for the people who had picked the person for that role. We must always strike a balance between what is good for students across Scotland and what is good for students in our own areas.

Neil Findlay: I would be interested to see the same principle applied to local government.

Professor Griggs: I concur with you on that.

Liz Smith: Is it the Government's job to pick the chairpersons of colleges?

Professor Griggs: No it is not, and I have not said that it should. I have simply said that it should endorse the appointments. All that I am recommending is what already happens in the majority of public bodies. For example, when I sat on the boards of Scottish Enterprise and

VisitScotland, the minister endorsed appointments. The Government would not pick candidates; there would be an appointments process with an independent chair and an appointments committee and, at the end of the process, a name would simply go to ministers for endorsement.

If we want the strategic forum to work properly and we want the Government and colleges to be bound together in driving a way forward for the further education sector, that odd little link between a chair and the minister is important.

Liz Smith: What specific role would you envisage for the Scottish Further and Higher Education Funding Council, given that money would no longer be allocated to individual colleges but would be allocated through the regional boards?

Professor Griggs: That is a really interesting discussion that we need to have. If the Government goes ahead with putting all my recommendations in place, the funding council's role will be lessened. If we have an output-driven model that involves giving college boards a list of things that they must achieve and then examining whether they have achieved those things, there is a big debate to be had about whether the funding council, Audit Scotland or Education Scotland should be involved in that. That opens up a different discussion about the importance of the role that governance plays in the academic environment and about how much A is driven by B, although I do not want to get involved in that.

Throughout the review, we spoke to Audit Scotland, the funding council and Education Scotland about how their roles would change if we moved to the output-driven model and about who would do what in auditing and ensuring that the colleges do their job. We recommended that we need to go away and have a think in a room about who does what. If the proposals were to go ahead, I guess that the funding council would have not a lesser role but a different role.

Liz Smith: What was the funding council's response to the suggestion?

Professor Griggs: The funding council was fine about the suggestion and understands that if a different system were to be put in place, we would need to sit around the table to discuss it. We also spoke to Audit Scotland, because it does 41 primarily financial audits of colleges. If we were to move to an output-driven system, should the auditor be more involved—as it is in other parts of life—in looking at process issues and at how governors deliver? Should the external audit team rather than the funding council do such work? We need to discuss that.

Liz Smith: Would such an audit look at educational outcomes or more at an administrative and financial organisation?

Professor Griggs: I think that the audit would look more at administrative and financial organisation. Through the inspectorate, Education Scotland would still have a big role in respect of educational outcomes; otherwise, we would wander into murky territory, although there is obviously a link. That is another reason why I would like Audit Scotland, Education Scotland and the SFC to sit in a room and discuss which would be the best organisation to do what.

Liam McArthur: I will follow up Liz Smith's question about the ministerial role in appointing college chairs. You will be aware that focus in the recent budget process—in the committee and across Parliament—was on, among other things, the proposed cuts to the college funding settlement, which elicited a fairly robust response from a number of college principals and chairs, among others. We are aware that full and frank exchanges took place between the minister, officials and college principals and chairs over weeks and months. Would the role, which you described, of ministers in sanctioning the appointment of college chairs make such full and frank exchanges more or less imbalanced?

Professor Griggs: I hope that such a process would make the college side stronger. I see no evidence from other parts of public life, in which such a process applies, that board members or chairs of public bodies are frightened to have a robust discussion with ministers and cabinet secretaries about anything. From time to time, I fall out with ministers and cabinet secretaries on boards to which I have been appointed, because we are there to do that—we are there to challenge the Government as much as to challenge each other on the board.

I hope that, because we would have the strategic forum, we would engage in discussion a bit earlier and that people would understand where those discussions went. I do not see evidence in any part of public life that board members or chairs of bodies who go through the public appointments system are not very robust in discussions with the Government and ministerial departments when they need to be.

11:45

Clare Adamson: You highlighted the transitional costs that would be incurred during the process. Since the report was published, the cabinet secretary has committed £15 million to the transformation fund. Did you cost the transitional process?

Professor Griggs: No. My friend behind me in the public gallery will perhaps remind me, but if my memory is correct, we took the figure that the sector had worked out; we did not get our calculators out to do that. The cost was not the issue for us. We wanted to allow sufficient time to go through the process properly. I see that my friend is nodding, so my answer is correct.

Clare Adamson: Recommendation 34 says that a new national management information system should be established. Would the cost of that be part of the transitional costs or would it be an additional cost?

Professor Griggs: I suspect that that would be an additional cost. We suggested a national MI system because—as with local authorities—one of the challenges is that everybody uses different systems, which seems to be a bit silly. If we are to share best practice, it is useful for people to be able to look at that in an MI system. However, that would be an additional cost.

Clare Adamson: A management information system is dependent on the required outputs and inputs. Given that those are not defined at present, is it important that they come to the fore as quickly as possible if people are considering sharing resources? We are considering possible cost savings from sharing resources across regions, but for many of the functions the economies of scale at national level would be even better. Do you envisage regions coming together to provide back-office functions and savings?

Professor Griggs: The answer to the first question is yes. On the second question, that is a good discussion to have. However, I want things to be done because they are the right thing to do, which is why we have not recommended any back-office services being brought together among regions. That is for the regions to discuss, but that would be a healthy discussion to have. I agree entirely that we need to get some of the easy things out of the road early on. Strangely enough, a national MIS is one of those easy things. We should have that discussion.

Joan McAlpine: You recommend that we move away from the system of local bargaining for pay and conditions towards a national pay bargaining system. What would be the likely effect of such a move on pay and conditions in the sector?

Professor Griggs: In terms of what?

Joan McAlpine: What would be the likely effect on lecturers' current pay and conditions?

Professor Griggs: I hope that we would get a much more even system across Scotland. There are challenges in that there are great variations in pay for the same job, and in local industrial relations, which are good in some colleges but not

in others. In the discussions that the team had with the union, there was a recognition that, in moving from where we are now to where we want to be—national bargaining—we might have to do a lot of redefinition, if that is the right word, in getting a more regularised approach, although that is not to say that we would pay the same everywhere in Scotland for a job. I think that we all agreed that a banding system is probably the right way to go. I hope that it would be cost neutral, because it would not mean that everybody would move to the top of the ladder, rather than to somewhere else on the ladder. There was general agreement that we might have to redefine and do job evaluations to consider how salaries came together. That is why we recommend that we do it first at regional level, then at national level.

Joan McAlpine: How long do you think that will take?

Professor Griggs: If I remember rightly, we suggested in the report that the process would run through to 2014, but that is for discussion, as are other things. The good thing is that in discussions with EIS we all agreed on where we want to get to. I do not think that anyone will be bothered if it takes six months longer to get to that place, if we get there properly. It will be about two or three years before we get there.

Marco Biagi: You have not been the only person who has been writing a review; there has been a parallel review of higher education governance. Do the two reviews complement each other? How do they interact in their visions of education?

Professor Griggs: I would not dream of commenting on Ferdinand von Prondzynski's review. We talked to each other during the process—not to have done so would have been silly. I will not speak for Ferdinand and the aspects of his report that he regards as important, but there are bits of commonality and I am sure that if he was sitting here he would tell you that he hopes that we will move at the same pace.

Marco Biagi: Do you envisage the higher and further education systems working well together after they have been reformed along the lines that he and you recommended?

Professor Griggs: I very much envisage that. There is a need for the two sectors to talk to each other more formally than they currently do, which is why each sector wants to bring the other into its strategic forum. Ferdinand von Prondzynski and I talked about our reviews leading to a better-organised—if I can put it that way—tertiary education sector.

Liam McArthur: The two reviews have been going on in tandem. There have also been marked differences between the higher education and FE

sectors in their experiences in the recent budget process. Is it fair to say that the notion of parity of esteem between the college and university sectors is alive and well, or are the sectors experiencing very different perception and treatment?

Professor Griggs: I am thinking about the right way to answer your question about parity of esteem. I think that each sector regards itself as being important, although we have some work to do to bring together what we do. For example, I think that my college, Dumfries and Galloway College, is the only college in Scotland that has a university library as part of its campus; as part of our new building on the Crichton campus there is a single library for our college, the University of Glasgow and the University of the West of Scotland. We also manage all the student resource for all three entities. The approach was not without its challenges, but we all learned a lot and we now work together much better. It is good to find practical areas in which HE and FE can work together. I think that there is the desire for mutual esteem. That is the fairest way to answer your question.

Liam McArthur: There is no doubt that both sectors recognise their importance and acknowledge that they deliver different things in different ways. The issue is more that as a result of your review and some of the messages from the Cabinet Secretary for Education and Lifelong Learning about the pace at which he wants to carry forward reforms, and as a result of the budget settlement, the college sector is perhaps feeling a degree of bruising and is feeling that it is not necessarily regarded as being of equivalent importance.

Professor Griggs: I would not dream of commenting on that.

Neil Findlay: You said that you think that people often start by going to their local college and then have to travel further as they move up the system. The emphasis is currently on getting people into vocational courses that will help them to move into employment, and I think that the number of courses that are not employment based will reduce significantly, although such courses might suit students who have learning or physical disabilities and other vulnerable students. The reduction in courses might also mean that students have to travel further, which will give rise to a load of challenges and might ultimately exclude them from taking up opportunities in further education.

Professor Griggs: That is a good point, but I hope that it will not happen. Part of the challenge for college boards is to consider the diverse nature of the students that they have and will have in the future, and to figure out how students' individual

needs can be met, to secure the same outcome. That is a challenge for local and regional boards.

My college covers 120 miles from east to west and 60 miles from north to south, which presents challenges about how we look after the students that you are talking about and move them around. We have to figure that out. I think that we do that quite well and I hope that other colleges will come to do the same, as time goes on.

The Convener: If there are no further questions, I thank Professor Griggs. Your evidence has been most helpful and we appreciate your giving up your time.

11:55

Meeting suspended.

11:58

On resuming—

Petition

Further Education Funding (PE1414)

The Convener: Item 4 is consideration of PE1414, which calls on the Scottish Parliament to urge the Scottish Government to reconsider its proposed budget in relation to the further education sector. Members have received a background briefing on the petition along with their papers. Do members have any comments on the petition?

Liam McArthur: It rather appears that the petition has been overtaken by events. It would be fair to say that the representations from Angus throughout the debate on the FE aspect of the budget were fairly influential in applying pressure and persuading ministers to look again at the budget settlement, but I am not sure what more we can do with the petition now that the budget has been approved.

12:00

Neil Bibby: Obviously the budget has been passed, and the petition has come to us after that decision has been made. The petition refers to £74 million of cuts. My understanding is that, although that figure has reduced in financial terms, there will still be a significant cut to college budgets over the next four years. With that in mind, I suggest that we get back in contact with the Unison further education sector to see what it makes of the changes that have been made to the budget, and to find out whether it still has concerns. The petition relates to something that was proposed a few weeks ago; changes have been made since then, but significant cuts will still be made. It would be right and proper to get back in touch with the petitioner to ascertain their views on the subsequent changes.

Clare Adamson: I concur with what Liam McArthur said about the petition being overtaken. The issue has been dealt with through the budget process. The petition asks us to revisit a budget decision with regard to one particular sector, but our area of consideration is the bigger picture. In the current climate, given the Westminster cuts, we could not do anything in response to a petition of this type anyway. I recommend that we close it.

Marco Biagi: It is fair to say that the committee has been over college funding in great depth so far, in our budget scrutiny and in follow-up work such as this, which continues the scrutiny as we said that we would. We will almost certainly look at college funding in the coming years, because it is likely to be of similar political salience in successive budgets to what it has been this year.

I am therefore not sure what else we can do beyond what we are doing already. We will go back to Unison as part of the budget processes in coming years. In light of the fact that the issue has essentially been dealt with this year, and as closure has been reached in the decision, I agree with Clare Adamson that we should close the petition. If Unison wants to make representations to us in our future budget rounds, there will be ample opportunities for it to do so.

Neil Findlay: It is only courteous and fair that we go back to the petitioner, given that events have moved on. I certainly take issue with Clare Adamson's view that there is nothing we can do—of course there are things that we can do. The Government controls the budget; it can put the money into whatever it likes. It is only right, irrespective of who the petitioner is, that we go back to them and ask them how they see the petition proceeding.

Jean Urquhart: I concur with Clare Adamson. There is no doubt that the light is shining on this sector now, and we have heard about some of the developments that may take place. More than anything, we are all anxious to know that Scotland has a good college sector.

There is no point in going back, because that would give false hope at a time when a huge review is going on and when there has been a clear declaration in everything that has been said that the most important people are the students. Given that there are cuts, we would be giving false hope if we said that we would somehow make the case to overturn that decision. Things have moved on, and the petition is out of date already.

Liz Smith: Is there not a factual point here? Events have moved on, and therefore a decision has been taken. We should write back to the petitioner, because it is important that we do so, and make clear that there was a considerable amount of lobbying to reduce the £74 million of cuts, and that that has to some extent been achieved. We should also make clear that we are still exercised as a committee about the fact that there are further cuts to be made.

Neil Findlay is absolutely right. There are plenty of procedures, in the chamber and in committee—we have followed one such procedure today—for scrutinising what happens to our colleges. We must make Unison aware that we will continue to scrutinise a lot of the issues that are raised in the petition.

The Convener: I concur with the comments about time having moved on. The petition asked the Government to reconsider its proposals, and that has happened—there was a reconsideration. We have correspondence from the Cabinet Secretary for Education and Lifelong Learning,

and we had the debate and eventually stage 3 of the Budget (Scotland) Bill, as well as the evidence that the committee took. There is the transformation fund of £15 million, and we have had the two announcements of £11.4 million for student support and the additional £13.1 million.

We must, of course, write back to the petitioner, and explain the nature of this discussion, the changes since the petition was submitted, and the on-going opportunities through the committee and other parts of the Parliament both to monitor what is happening this year and to influence and lobby for what will happen in future years. I certainly agree that things have moved on, and it would be reasonable to close the petition.

Neil Findlay: There is no urgency to make the decision today. It would be only right to consult the petitioner, and if they were content we could make the decision next time. We must bear in mind that the petition refers to the next four academic sessions, not just to this year.

The Convener: There is no urgency in that sense. We could leave things lying for an indeterminate length of time, but that would not be reasonable. I do not want to put words into people's mouths, but I think that the point being made is that the budget decision has now been taken and that the petition has been overtaken by events. It is not up to petitioners to decide whether the committee closes a petition or takes a particular action. The committee has the evidence, and it is up to us to decide what action we take. We have two proposals, one to close the petition, suggested first by Clare Adamson, and one from Neil Bibby, supported by Neil Findlay, to keep it open until we seek further comment from the petitioner. Is that a fair summary?

Neil Bibby: Yes.

The Convener: May I ask members what position they wish to take? I will go around the table. That is only reasonable. If possible, I do not want to have a vote, but I want to get the balance of opinion.

Liz Smith: I would close the petition, but it is important to go back to the petitioner to ask for comment.

The Convener: Yes, I am happy to do that.

Joan McAlpine: I would close the petition.

Clare Adamson: I would close the petition.

Liam McArthur: I support Liz Smith's view. It re-emphasised the point about the changes that have been made. It would not be unreasonable to point to the fact that Angus College was repeatedly cited in the debate and would have had an influence on those changes.

Jean Urquhart: I would close it.

Marco Biagi: I would close the petition.

Neil Bibby: I would keep the petition open to ascertain the views of the petitioner on the changes made.

Neil Findlay: As would I.

The Convener: I agree with Liz Smith's suggestion. I think that the balance of opinion is with that, so unless someone wishes to force a formal vote it would be preferable to close the petition and write to the petitioner along the lines that she indicated.

Neil Findlay: I am sorry, convener, but I think that we should move to a formal vote.

The Convener: A formal vote has been requested. The question is, that we should close the petition and write to the petitioner, along the lines proposed by Liz Smith. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adamson, Clare (Central Scotland) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)
Urquhart, Jean (Highlands and Islands) (SNP)

Against

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)

Liz Smith: Convener, can we please add that we should have sight of the communication that goes to the petitioner?

The Convener: I am happy for a draft to be circulated before it is sent.

Liz Smith: Thank you. That would be helpful.

The Convener: The result of the division is: For 7, Against 2, Abstentions 0. The petition will be closed.

Neil Findlay: May I request that that detail is included in our communication with the petitioner?

The Convener: A draft will be circulated, and I am happy for members to comment on it.

Given our earlier discussion, I close the public part of this meeting and we move into private session.

12:09

Meeting continued in private until 12:26.

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