



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EDUCATION AND CULTURE COMMITTEE

Tuesday 28 May 2013

Session 4

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EDUCATION AND CULTURE COMMITTEE

17th Meeting 2013, Session 4

CONVENER

*Stewart Maxwell (West Scotland) (SNP)

DEPUTY CONVENER

*Neil Findlay (Lothian) (Lab)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Clare Adamson (Central Scotland) (SNP)

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Neil Bibby (West Scotland) (Lab)

*Joan McAlpine (South Scotland) (SNP)

*Liam McArthur (Orkney Islands) (LD)

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Mark Ballard (Barnardo's Scotland)

Marco Biagi (Edinburgh Central) (SNP)

Matt Forde (National Society for the Prevention of Cruelty to Children Scotland)

Barbara Hudson (British Association for Adoption and Fostering)

Tom McGhee (Scottish Children's Services Coalition)

Michael Russell (Cabinet Secretary for Education and Lifelong Learning)

Ruth Stark (Scottish Association of Social Work)

John Stevenson (Unison)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

Committee Room 6

Scottish Parliament

Education and Culture Committee

Tuesday 28 May 2013

[The Convener *opened the meeting at 09:32*]

Decision on Taking Business in Private

The Convener (Stewart Maxwell): Good morning and welcome to the 17th meeting in 2013 of the Education and Culture Committee. I remind everyone present to keep all electronic devices, particularly phones, switched off at all times, as they interfere with the sound system.

Agenda item 1 is to consider whether to take in private item 4, which is consideration of our annual report. Do members agree to take that in private?

Members *indicated agreement.*

Taking Children into Care Inquiry

09:32

The Convener: Our next item is an oral evidence-taking session for our inquiry into decision making on whether to take children into care. The themes of the session are neglect and permanence, which might cover more specific issues such as joint decision making, partnership working and, of course, different placement options.

I welcome to the committee Tom McGhee, managing director, Spark of Genius, Scottish children's services coalition; Matt Forde, director, National Society for the Prevention of Cruelty to Children Scotland; Mark Ballard, head of policy, Barnardo's Scotland; Barbara Hudson, director, British Association for Adoption and Fostering; John Stevenson from Unison's social work issues group; and Ruth Stark, manager, Scottish Association of Social Work.

This will be our final oral evidence session before our event in Parliament on 17 June, and the minister will give evidence towards the end of June. Having reached this point in the proceedings, I hope that we will focus on solutions rather than problems—that is a bit of a hint; we are seeking your help—but, apart from that, we have time this morning to cover the main issues, and I hope that we can get through quite a lot.

I remind panel members that they do not have to answer every question and do not have to speak if they have nothing specific to add; that will help us to get through the issues. If anyone wishes to contribute, they should indicate as much and I will call them to speak.

I will start with a question that takes us back to the fundamental reasons for undertaking the inquiry and which relates to the time that it takes for a child or young person to be taken into care. When we spoke to young people about their experiences of the care system, they—almost universally, if not all—said that it took far too long from the point when they had initial contact with professionals and it was identified that they had family problems to the point when they were taken into care. Is the balance about right between the rights of the child and of the parent and the time that it takes to remove someone from a parental home, or do you agree with the young people who said that that takes far too long?

Tom McGhee (Scottish Children's Services Coalition): We should be pushing for early intervention. Most people here would probably agree with that. We see a lot of pressure on local authorities at different levels not to take children into care or place them in what are often

expensive residential solutions. That funding pressure is becoming more prevalent, if anything. Local authorities seek to place the young person in the best situation possible but, because of funding constraints, more and more pressure is placed on everyone in the set-up, from the director of social work downwards. We need to think about that and look for different solutions.

The Convener: Was that a yes or a no?

Tom McGhee: Young people would probably benefit if appropriate placement solutions—which did not change—were found more quickly for them. That would be the way to go. How that is achieved is partly to do with resources and, potentially, partly to do with a change in ethos in local authorities in dealing with day-to-day problems.

Mark Ballard (Barnardo's Scotland): The answer to the question is a clear yes. The children and young people whom we work with have told us the same thing as they have told the committee: that the delays are too long. I am aware that the convener met Barnardo's foster carers, whose first-hand experience is that delays have a negative impact on the children and young people whom they support.

I will jump ahead slightly, as the convener asked for solutions. There are opportunities in the Children and Young People (Scotland) Bill, particularly in the single child's plan process, to have a greater focus on an integrated model of supporting and assessing what is in the best interests of the child and maximising their wellbeing. I hope that that will form part of the solution to the problem.

I highlight the fact that there is good practice in local authorities around Scotland. Barnardo's works closely with Fife Council. We have an assessment tool that we use with the council, which means that, when decisions are being taken, there is a greater focus on the outcomes for the children and young people and their rights, which are central to the matter. Having a supportive home environment is essential to a child but, if birth parents cannot provide that, we must move quickly to find an alternative way of supplying that, because that is a crucial rights issue.

Barbara Hudson (British Association for Adoption and Fostering): There is a great lack of urgency in the system. When concerns are identified about children, services generally move swiftly to intervene to make children safe, under the umbrella of child protection. Sadly, however, once a child has left their family and become looked after and accommodated, there is a degree of drift. That drift emanates from a number of factors, some of which are addressable in the

short term, although others will take medium to long-term solutions.

The committee has asked whether we know about outcomes and whether there is much research. I contend that there is no lack of material and information about what happens to children who have been exposed to drug and alcohol abuse by their mother while in utero or who have suffered separation, loss, abuse and neglect if they are not secured in a reparative, therapeutic environment, whether that is through their own family coming up to the mark or through alternative families or residential provision.

Such an environment needs to be provided as soon as possible and to be provided consistently throughout childhood, adolescence and beyond. Most of us here today are living proof of what children need in terms of a well-resourced childhood and adolescence.

Organisationally, we struggle to address those issues for children with any degree of urgency. Sadly, the younger the child, the more time people think they have to address the issues, so the dreadful approach is taken of giving second and third chances, seeing what can be done and hoping that maybe things will be better.

All my colleagues on the panel have identified in their evidence that there is no shortage of assessment frameworks or knowledge but, somehow, those things appear to be negotiable—people can pick and choose whether to use the material, research and information that are available. There is no clear hand on the tiller for charting a child's progress once they become looked after and accommodated.

A social worker might have 15 or 20 children to care for, but who thinks each night about the children who are looked after and accommodated and wonders what they will experience in the morning? We need to address structurally that lack of a really robust awareness that means that things happen.

John Stevenson (Unison): I agree with almost everything that has been said. We cannot get away from the question of resources. Our members' experience is that, when practice teams and front-line social workers are fully resourced, early intervention comes as a matter of course. Early intervention is often seen as low threshold, but it can often pick up high-threshold cases very early.

The feedback that we have had from many people is that, as staffing got better and they were better resourced on the front line, the number of children coming into care went up. That is because they were spotting problems early and acting more quickly.

However, the next step becomes more difficult, because there is a presumption in law that children should be with their families, and the systems are generally reticent about allowing social workers to take early decisions. I have heard at children's hearings and seen it in safeguarders' reports that a child is young and there is still time. It is difficult to get the argument across that there is not time and that the damage is almost irreparable if we do not manage to act quickly enough. The whole system needs to understand that.

There is an additional logjam when we get further into the legal system. There are problems in local authorities with social work staff having time to complete the complex reports that are required for moving children on to permanency—that has been identified in the Scottish Children's Reporter Administration's research as a resource issue—but there is also an enormous difficulty in the court system. The courts are almost universally reticent about allowing children to be moved during that process, so a child can wait for a very long time to get into the settled placement that has been planned for their future and which is almost inevitable when we look at the evidence. All those things conspire together to create delays in the system.

Ruth Stark (Scottish Association of Social Work): There are some issues about the rights of the child. One of those rights is to know and to be with their family if that is at all possible, and that underpins the law and one of the difficulties that John Stevenson mentioned. The issue is not just about the child coming into care; there have to be checks and balances. When people talk about the need to move speedily on, we sometimes forget that it is also a right of the child to know their parents and, if possible, to be with them. That is in the Convention on the Rights of the Child.

The big issue is that a lot of children are in the care system because there has been a breakdown in their relationship with their parents. The outcome that we plan for those children is that they will be able to form and sustain relationships when they grow up into adulthood, but that is a hugely complex task. One factor that has been identified in recent research from England is that building the ability of children and young people to form relationships is incredibly important, but that can be achieved only if the children have human contact with people such as their social workers and care workers.

09:45

One issue for our members has been the increase in the time that is spent in meetings and on filling in forms. As a safeguarder, I now have to read through long forms for children who are going

through the children's hearings process. What would in years past have been a good and analytical four-page report is now 25 or 30 pages of repetition and narrative.

Somehow, we have moved away from viewing the very important task of the social worker as being to listen to, hear and advocate for the child. That has somehow got lost, and people are having to justify their decision making at all levels in a way that has become disproportionate to the task that we have to do, which is to listen to the children and to the families.

There is a whole stage before the child comes into care that should be about what we can do to prevent that from happening. We need to allow social workers to do the job that they ought to be trained to do, which is to work with very complex situations. That is not happening at present for our association's members.

Matt Forde (National Society for the Prevention of Cruelty to Children Scotland): I agree that children wait too long in situations in which they are experiencing abuse and neglect. I remember that, at the start of the committee's inquiry, a question was posed about whether the pendulum has swung too far in one direction. The answer is that it has swung too far, and that has been driven by a lot of different things, including the huge impact on children of parental substance misuse, alcohol problems and other parental issues.

I will focus on the problems for a minute. A lot of our processes, especially for younger children, involve waiting to see whether we can make things better at a point in a child's life when they can suffer serious long-term harm. They may have an impoverished home situation in which they are experiencing the type of care that marks them for life. A child might have learned not to cry, because if they cry, the consequences are too frightening and unpredictable. It eventually becomes clear, through the child protection processes, that things will not get better and that very young child goes into foster care. They already need seriously skilled care and help, and it is not obvious that that will happen under our current system.

The pendulum has swung too far, but there are well-documented problems with the way in which social workers in particular, and professionals in general, approach families. The committee might have heard the rule of optimism mentioned in evidence: the idea that people look for ways in which a family might make some progress and therefore delay making a decision. In my mind, there is no problem with saying, "Okay—the care is not good enough right now. It may be able to be improved, but right now that child cannot stay there." After that, families need therapeutic help

and every support that they can get to see whether they can come up to the mark.

A child going into care need not be the end of the matter. We know that, even then, we can get it wrong. Research has shown that a huge proportion of children who come into care and go home again go on to suffer further abuse and neglect. That is not an acceptable situation.

We know that social workers have a great deal of knowledge about the sort of things that are important and about different ways of assessing situations. There are plenty of assessment frameworks and tools, but social workers lack confidence in using them: such confidence is not consistently present. We need a much stronger focus on equipping and training social workers and the mandatory use of evidence-based techniques to assess the quality of relationship that a child is experiencing, so that we can be clear that a child is suffering neglect or abuse and we can intervene.

The Convener: That was an exceptionally interesting start to this morning's proceedings. I am sure that we will get to some of the detail now.

Clare Adamson (Central Scotland) (SNP): Good morning. We have already touched on the area that I wanted to ask about—namely, support for families, given the evidence that we have heard about looked-after children at home. My questions also concern children who are taken out of the family situation and then returned without any real work having been on the problems within the family to address what was going wrong. Can we do things better and more consistently in the future? Who are the best people to deliver that support for families?

Matt Forde: We can do many things better. Some ways of doing better have already been touched on. On your first point, families that have the most difficulty in offering good enough care to their children, or families that are mistreating or neglecting their children, quite often have significant problems. The adults—particularly the mothers—are often dealing with the lifelong consequences of their own traumatic and abusive histories, especially in early childhood. We run a service in Glasgow for children in foster care, which is aimed at providing a robust assessment for families. That assessment looks at the quality of the relationship between the infant and the parent, so that the decision on whether the child should go home or into an adoptive placement can be based on the best possible evidence.

We offer every family in those circumstances a programme of treatment after the assessment phase, because those families need help whether or not the child can go home. Those families are also liable to have other children. In our current

system, we all know about the phenomenon of a family that has a child who is eventually taken into care, yet nothing changes and the process is repeated when the family has another child. The local authority often goes through as lengthy a process with that second child. We hear stories of very large numbers of children coming out of the same family; sadly, those stories are not urban myths. That tells us that something needs to be done to address the very real needs of people with significant problems.

A number of areas can be improved. One such area is the skill and confidence of the workers who deal with those family relationships. A second area concerns access for the adults to skilled therapeutic help. The existence of child protection can be an indicator that mental health needs to be looked at; it is worth exploring the extension of adult mental health services to such families.

We have touched on resources. Workers need time to have a relationship with families. Much of what we do involves surveillance, so that we can assess the elements of support in a child protection plan. Many child protection plans are about assessing, rather than changing, what is going on. The assessment could be much better focused if workers had more time, more skill and more confidence, so that they could look at the relationship.

Families sometimes do not know what they are doing wrong. Professor Brigid Daniel, who I know has given evidence to the committee, spoke recently at an NSPCC conference. She made the point that families that neglect their children often do not understand what the social worker is asking them to change. Social workers need time, and they need to develop relationships with families.

There are some focused areas—around training, confidence, skill and time—in which improvement can be made.

John Stevenson: Assessment, skills and relationships on the front line can all be mobilised with a bit of time. There are some simple, practical supports, and there is a question around their availability to parents through general universal services, especially with regard to drug use, in cases where there is motivation to change on the part of the family but where there is no resource to provide somewhere for the family to go to exercise that change. That is a big issue.

Our members are reporting more and more cases involving mental health issues. We are taking some children into care in cases where, if the proper services had been around and if their parents had received the mental health support in the community that was required, they should not have needed to come into care.

Having said that, it is also the case that social workers often know—they can evidence it and explain it in detail—why a child cannot safely be cared for at home. Often, the person who needs to be convinced is the sheriff. Social workers' evidence in court is not treated with the same legitimacy as evidence from the medical professions, psychologists or a range of other people. We often go through analytical, evidenced reports, which go to court but, despite that, requests are still made to have an independent expert consider the matter. The independent expert will meet the child twice and write a report. The court will pay attention to that, but not to the social worker who has been working with the child for two years and who knows them inside out.

There is an issue around the credibility and relevance that is given to the profession by society as a whole.

Mark Ballard: I agree with much of what Matt Forde and John Stevenson said. Clare Adamson asked what can be done. Matt Forde spoke about families that might already be getting a range of interventions, because of a range of issues. With the single child's plan in the Children and Young People (Scotland) Bill, we have the opportunity to bring together the different agencies that work with the family to ensure that they act in a more coherent fashion, that information is shared effectively, and that issues are worked on collectively rather than separately—for example, a parental mental health problem is dealt with while a social worker simultaneously investigates the issues that are faced by the child.

The bill provides an important opportunity for those things to be joined together and for some of the problems that Matt Forde and John Stevenson highlighted to be dealt with. We need a more consistent approach to supporting families at all stages. It is welcome that community planning partnerships will have early years as one of their four strategic objectives, because there needs to be a universal approach to supporting families before problems reach the stage at which a child's plan might be required. We need a more integrated approach, ensuring that we use universal services more effectively, with targeted, coherent interventions for each family concerned.

Ruth Stark: What has just been described is good practice, and good practice cannot be legislated for. The child protection report, "It's everyone's job to make sure I'm alright" reached exactly the same conclusion. That report highlighted the fact that, when a case is well coordinated—usually by the social worker—a child can be kept in their home safely. That is about good practice; it is not about what might or might not be in a bill. If the bill is not resourced, there will

not be an opportunity to develop the good practice.

10:00

Matt Forde and John Stevenson raised a point about adult mental health. I commend to the committee an extremely good report that has just been published by the Mental Welfare Commission, which is called, "When parents are detained". The report highlights the lack of co-ordination between mental health services and children's services in relation to young people, and is very straightforward about the need to co-ordinate some of the information that we collect in the little silos that we have created.

Despite our having invested, post-1968, in a generic system that was supposed to bridge the information gaps between the various silos, we have somehow gone back into those silos. That might be a better way of trying to manage these things, but it is simply not serving the people who use our services, who have very complex needs. It does not matter whether we are talking about health and social care, children's services or criminal justice, the issue is the same.

Tom McGhee: On Clare Adamson's question about working with families after kids have left care, the biggest problem facing Spark of Genius and such organisations is that the kids are simply too beaten up before they join us. They have had multiple placement breakdowns and other big issues in their lives. I totally take on board Ruth Stark's point about the rights of the child and social workers' ability to keep them with their families—that was absolutely on the money—but this is a massive problem and the single biggest issue that we face. Even when the kids have been with us for a number of years and have been doing incredibly well, they sometimes have to return to the family home. I was really impressed by Matt Forde's project and the way that it works with families after care; indeed, we have tried to do the same thing. I am constantly reminding social work departments that we have an aftercare department and throughcare guys, but they tend to monitor situations.

That was the problem—here is a solution. We think that there needs to be a shake-up and a new way of thinking about looking after these young people. That means strategic commissioning—in other words, looking at the types of kids that we have and where they are coming from, having proper evidence-based information that allows us to plan for the future and, most important, looking at the roles that local authorities can play and encouraging them to seek additional partnerships with different types of people who can deliver different types of solutions. Not too much of that is happening, but that kind of shake-up in the way in

which we do things would help at both ends of the spectrum. The number of young people who join after multiple placement breakdowns would, one hopes, become fewer and the ability to look after families and young people who have been in care after they have left care would be stronger.

We have not actually researched this matter and I should watch what I am saying, but it is almost certain that the services that deal with younger children in residential situations on the whole get better grades from the Care Inspectorate than the homes that might look after a 15 or 16-year-old who has had 12 or 15 placement breakdowns over the past year. After all, even if younger children have been to hell and back, we still have longer to work with them. Early intervention and post-care are crucial, but strategic commissioning is needed to change things in the longer term.

The Convener: I have what I hope will be a brief question that will give rise to brief answers. A 2012 report by the Scottish Children's Reporter Administration looked at children who were on supervision requirements for more than five years and the support services that were put in place for them at home. It concluded:

"The number of children reported as displaying emotional and behavioural difficulties almost doubled whilst on Supervision Requirements at home."

Did that happen because the supervision requirements were wrong or because those children should have been removed from the home earlier? Why did things get twice as bad when the support services were put in place?

John Stevenson: I venture to suggest that children should not be on supervision requirements for five years. Supervision is put in place only in family situations where compulsory measures are required—and if such measures are required for five years, something is going wrong. That supervision ain't working. It is all about decision making, but you cannot tell from the SCRA report whether such decisions are being made at the practitioner end or at the children's hearings end and whether it is a case of people not wanting to grasp the nettle of the recommendations that are made. That is what we need to know more about.

Barbara Hudson: I echo what John Stevenson said. Five years is probably too long, because if a child is subject to supervision, who is responsible for that child? Who does the child experience as the person who is concerned about them and offers care, boundaries and discipline? How does it feel to be a parent when every so often you have to go somewhere for people to see how you are doing and take a view on that? That is a scrutiny process, but it builds unpredictability and insecurity into the system and gives rise to statements such as, "Well, maybe this time they

might make a different decision," or "If this doesn't happen, maybe that will happen." I do not think that any of us would feel comfortable about trying to bring up our children if we constantly had to defer to a forum about what we were doing.

The methods of supervision exist either to empower people to become the parents that their children need and enable them to do the business, or to help parents with their parenting for a limited amount of time. What else is supervision for? It cannot operate to provide year-on-year oversight of children's wellbeing and welfare. Supervision was intended to be only a means to an end and not an end in itself, but that is, sadly, what supervision requirements seem to have become.

Neil Bibby (West Scotland) (Lab): I want to ask about the availability and quality of alternative care placements. There has been concern that a lack of such placements could mean that children do not get the best placement. For example, Glasgow City Council's written submission states:

"We often place children in the only available placement rather than being able to offer a choice of placement options which better meet need."

It has also been suggested that local authorities will look at the price of care rather than the suitability and fit of care. Why do you think that that is the case? What do you think should happen? What factors should be considered and how do we ensure that they are considered and that children get the most suitable care placement?

John Stevenson: I refer you to one of the recommendations of the 1999 Edinburgh inquiry, which was that all council units should operate below their maximum in order to give a choice as to where to place a child. However, that has never happened anywhere; nothing came of that from 1999 onwards. The experience of a front-line social worker is often that they get the placement that is available and not the placement that they choose.

There is also a financial issue, because out-of-authority placements can cost from £100,000 to £400,000 a year. Even an authority the size of Edinburgh needs only three or four kids to be in that position for that to put pressure on its budget. If an authority such as the Borders or Clackmannanshire has a child in that kind of placement, it can take up a third or an eighth of its whole budget. The money is a reality, and our experience is that local authorities look at it when they make placements.

Local authorities look at outcomes, too, and at value for money, because price is not always an indicator of quality. However, price is a reality. Any local authority that says that it does not look at money when making placements is not telling the

truth. Significant sums can be involved. Placements therefore cannot be talked about just in terms of choice, because affordability is an issue as well.

Barbara Hudson: I want to talk a bit about the family placement resources for foster placements, permanent foster placements and adoptive placements. I do not know who said that the price of peace is eternal vigilance, but the price of having enough resources is constant recruitment. You must constantly recruit foster carers in order to have enough to be able to have a choice. John Stevenson talked about residential care. My experience in family-based care has been that I have had a choice of placements very rarely in my career. You have to operate a service with just enough, and you have to constantly recruit carers in order to maintain that. That applies to foster carers and adoptive carers.

There are a number of challenges, the first of which is sustaining the existing foster carers by providing allowances and other more practical forms of support, and by valuing the work that they do. That does not get any easier. You must also get the message out that foster carers are still needed and that people should not rule themselves out, as you need a very wide range of people with skills and capacities.

You also need to have available staff time and energy to prepare, assess and support those people. There is a huge task in simply keeping that resource pool growing. There has been growth in the independent provider sector, which has demonstrated what can be achieved if there is a wraparound service, and local authorities are probably recognising somewhat late in the day that they, too, can provide a wraparound service, as social work departments sit within them and they have housing, education and leisure services available to them. There is a huge challenge in recruiting and sustaining sufficient family-based resources so that they can be offered to children who it is thought will be able to take advantage of them.

Family-based care is not a panacea, and there is no such thing as the right family. Families become the families that children need if they get the right support and training as they go through the piece. That comes not just from social work but from colleagues in health and education. The challenge in securing resources to children is that there must be constant investment in recruitment.

Tom McGhee: Audit Scotland looked at the cost of care in 2010, I think, and the issue never seems to go away. Every social worker whom I have ever met from virtually every local authority wants the best for every child who is placed in a care situation. That is their biggest driver—they want the best outcomes for the kids—but they always

automatically assume that they have to fill the places in their own local authority provision first, regardless of whether the particular home is any good for the kid. I sometimes discuss that with my social work colleagues in local authorities.

That is our point of view, and it is probably fairly accurate. It happens despite the fact that local authorities do not know what their care costs. It almost certainly costs more than that of many external providers. Local authorities do not have the actual figures. They could not come to the committee now, put their hand on their heart and tell members exactly what a care place costs. They might tell members what the direct costs could be, but they forget little things such as education and overheads. External providers have to give what care costs to the penny. Some of those places are very expensive. John Stevenson talks about hundreds of thousands of pounds. There are occasionally such places for particularly needy kids.

The start point of the conversation should be the reality. External providers can point to the reality of what things cost them. Scotland Excel is currently involved in a big procurement exercise that is designed to find out even more about that, if it can. Good luck to it. The 40 per cent of provision for external residential care that local authorities provide is not costed. It is like going to a painter and asking, "How much would it cost to paint my house, mate," and being told, "I'll do it for a hundred quid," but then going to someone in the direct works department of the local authority who says, "I don't know. I'll get back to you on that," and giving him the job anyway. It is ludicrous.

Ruth Stark: I want to raise two points. First, in the dim and distant past, I co-ordinated multidisciplinary assessments for some of the most distressed children in Lothian. One thing that has been lost is the impartial assessment that starts with the views of the person who is caring for and knows the child and ends up, through the teaching staff, the psychiatrists and whoever else, with a co-ordinated assessment of the child's needs. At that time, we had the availability to place children in every residential school in Scotland if we needed to, and we had that oversight. That whole process is missing now.

Secondly, the other demographic that has changed is kinship care. Many more children are now looked after within their extended families, but the resourcing, funding and supporting of that are patchy across the country. That has to be addressed in the resourcing that goes on, because children in kinship care remain in their own families, which complies with the United Nations Convention on the Rights of the Child.

10:15

Matt Forde: Foster care is the key to this. We need to think of foster care as mobilising people's ability to offer loving care to children at the time they need it, which is the day when they come into care.

I recognise the picture that Glasgow City Council is painting. I point to two things that could make a difference. First, one thing that imposes pressure on the foster care system is the fact that children go home again unsuccessfully and then come back, so there is churn. A study was done in Glasgow by Helen Minnis and others that showed that two thirds of children who went home came back into care again within a year. There are children who are on a merry-go-round of placements. If there are better decisions, we will reduce some of that churn.

Secondly, if foster carers are trained and supported, they have the ability to help the child to start to recover. We should value that and not see it as a business transaction. We are talking about trying to mobilise that. Some foster carers will go on and provide long-term care and perhaps even adopt children if they are given the opportunity to do that. We need a continual focus on and valuing of good foster care, not just in monetary terms but in terms of its importance in children's lives.

Mark Ballard: When we talk about the cost of care, it is important to recognise the cost of failures of care. The committee started its discussion of the issue by looking at the poor educational outcomes. We know that failures in the care system to provide care at the right time and in the right way can lead to long-term costs in relation to health, education, employment and the justice system. When we talk about cost, we need to balance both those things. It is important to reflect on that.

Ruth Stark: I have met children in my career for whom foster care is not the answer. They have so many family members and people who are rooting for them but cannot care for them that to put them in foster care confuses them because they feel guilty about that additional relationship. For them, residential care is a much more appropriate alternative.

Neil Bibby: The whole issue is linked to resources. A number of issues have been raised so far, including training, support for foster carers, kinship care, support for families and parents, and rehabilitation, and it has been suggested that there is a lack of resources in all those areas. Given the current financial situation, what would you prioritise for extra resources?

Ruth Stark: Kinship care.

Matt Forde: I would prioritise intervention in the early years. People say to me, "There's been an awful lot of focus on younger children. Isn't it time we focused on older children?" However, the fact remains that the reason why we have a raft of children aged 10, 12 or 14 with huge difficulties is that they suffered difficulties in their very young lives that were not spotted and not changed and they have been set on the wrong trajectory for life.

Some of the work that we are doing with families with young children also includes health economics evaluations, because we want to be able to demonstrate in Scotland what has been demonstrated in many international studies—that the failure to give children care and prevent maltreatment at a very young age is costly in terms of specialist education, therapeutic health interventions and addressing children's behavioural problems, and ultimately in terms of their consumption of all sorts of services and their failure to contribute economically. There is huge pressure on our education system and on our health system, often as a result of children's difficulties not having been tackled early on.

The Convener: Does anybody disagree with that?

John Stevenson: It depends what we mean by that early stage. I hear nursery staff saying that they can identify a child who will have difficulties when they are 11 or 12. What do we do about that then? Sometimes we do nothing and sometimes we put in extra childcare or support, but we do not make a co-ordinated assessment at that stage. I would argue that the investment needs to be in front-line social workers, because they are the people who will identify and co-ordinate those things. There is some evidence from London and anecdotal evidence from around Scotland that, when there are fully staffed and operational front-line teams, the early intervention comes with them, because that is what they do.

Neil Findlay (Lothian) (Lab): My question is specifically for Ruth Stark and John Stevenson. At a time of increasing pressures on local government, are your members also under increased pressure as budgets get tighter?

John Stevenson: Investment in front-line social work varies throughout Scotland. As we state in our submission, it would be good to have some research on thresholds and levels of service across Scotland and on whether there is a difference between authorities where there has been an inquiry and ones where there has not, because an inquiry focuses the political mind greatly.

In my local authority, Edinburgh, there has been considerable investment in front-line practice team social work. That is now being bitten into and it

leaves no leeway. People have tasted what it can be like to do the job properly and now they are under the cosh again and they find it even harder. That is what social work staff are experiencing around Scotland.

Neil Findlay: You say that they have tasted what it is like to do it properly. Were they more able to do the therapeutic and rehabilitative work that they are trained to do?

Ruth Stark: Absolutely.

Neil Findlay: And now that that is gone?

John Stevenson: The system is under pressure again. The trouble is that, when people look at outcomes, they may take the view that doing something about looked-after children stops the increase in the number of looked-after and accommodated children and stops them progressing along that road. That is a common view throughout Scotland at the moment, but the reality is that looked-after children tend not to progress along that road in the way that people think, and many children become looked after and accommodated without having been looked after in the first place.

That investment in the front line was meant to reduce pressure on the resources for children coming into care, but what it did in the first instance was to bring more children, and younger children, into care, because of early intervention and spotting problems and dealing with them before damage occurred. I believe that the numbers will level out in future, but some of the spending plans that local authorities made were based on an assumption that increasing front-line resources would reduce the number of children who need to be in care. That did not happen, and it will not happen very often. There is evidence from London about evening out, which suggests that the more money you put into the area, the more throughput you will get. The issue is not just putting money in or cutting money but the rationale with which money is being allocated.

Ruth Stark: The other thing that I have noticed is the variation in the number of home visits that social workers are able to do. When there is a social worker who goes into the home and is familiar with what is going on there, the likelihood of that child coming into the care system reduces. When the social worker feels under pressure and does not have the time to make that kind of contact and to build up a relationship, work becomes contracted out for other people to do, and social workers become case managers. That is a danger, because that is when children are escalated into the care system.

There are some real issues to do with how people are deployed at the front line. I support John Stevenson's suggestion that there needs to

be an audit of what is happening in different parts of the country. The other thing that people need to take into account is that a solution in Glasgow or Edinburgh is not necessarily a solution in the Western Isles, Orkney, Shetland or the Highlands. We have to find different ways to deal with difficult family situations with very different levels of resources.

Neil Findlay: Does anyone on the panel disagree with the assertion that the job of social workers is getting much more difficult in the current climate?

Barbara Hudson: It is perhaps important to think about other things round the edges that impact on the job. Social work is probably more mobile now—social workers stay in the sector for less time and there is a higher turnaround. Traditionally, more experienced and senior staff would be there as a part of the team. They would be able to support and mentor members of the team so that people's confidence grew. Those opportunities are no longer there.

Sadly, the move towards mobile, agile working, in which people do not have a secure working base, militates against people discussing what is going on. People do not have the opportunity to say, "What you are talking about sounds a bit scary to me. Would you like me to go and do a visit with you? How about the two of us do that?" There is a sense that, in an attempt to become more streamlined, we have lost some of the relational stuff, which is important not just to the families that social workers work with but in valuing the staff whom we are asking to do a complex job.

I cannot speak authoritatively about it, but I also query how that is for colleagues in, say, health. I am not dissenting in any way from the previous observations about early intervention, but there is a period of nine months before children appear in the world. There is time then to identify difficulties that are arising for the mum and to start to predict what some of those things might be. We are talking here about what can be done for children who are children now, but we also have to do stuff in parallel to think about unborn children and whether people will be available to respond there.

I absolutely endorse what other witnesses have said. We must also think about the way that structurally we are militating against workers being able to do the job that they are sort-of trained for—although training and developing those skills is another aspect.

Ruth Stark: Our members have commented that training departments have disappeared as a result of the cuts that have happened to local government. Post-qualification training, which is so essential in this very complex area, is now

disappearing. That is a danger signal. We should be building something more robust on continuing professional development and that kind of thing.

Neil Findlay: Earlier, several people mentioned the drift and delay in decision making. Should we move from a position in which we have an optimistic approach to parental capacity for change, to a default position of pessimism, so that we turn the whole thing on its head? Would that take us a step too far, or is that where we should go, if we are putting the child at the centre?

Matt Forde: We should equip the professionals who make the assessments with the tools that will help them to make the right assessments. When we look at the interaction between a parent and child, we can tell when it is not good enough, because we know what a healthy relationship with a child—especially with a very young child—looks like. The survey that we did showed that front-line social workers are aware of those issues but do not feel confident in making assessments. As has been pointed out to the committee previously, we do not need so much to do more research and get more knowledge as we need to apply the existing knowledge. That is where the gap is.

10:30

Outside the professional processes—for example, in the children’s hearing room—there is a lot of confusion about balancing the parent’s point of view against that of the social worker, rather than focusing on the needs of the child, so the knowledge and research flies out the window at that point. We need to shift the default not in favour of pessimism but in favour of accurate and well-founded evidence from staff who have the necessary skills, knowledge and confidence and who are well supported and well supervised. We need a model of supervision that lets people sit down and explore what they have seen in a family and test that out with a highly experienced colleague who can help them to formulate a judgment that will be strong enough for a sheriff or children’s hearing to go with.

Barbara Hudson: I do not dissent from anything that Matt Forde has said. The trick or challenge is about where the child is while that process is happening. What happens is that children are in one place while we are trying to reach a decision, but they then have to go to another place—perhaps because the decision is taking longer than planned. Therefore, children are repeatedly moved through the system. Every time, that is a serious experience for the child.

The challenge is whether we can create placements where it would be possible for children to stay without having to move until it is absolutely clear that the next place that they move to will be

their keeping placement. For younger children, that requires some quite challenging practice in identifying family-based resources that have the potential to take children in, in an emergency, to work with a reunification and rehabilitation programme and to accept that, if things do not work out, the child could stay with them. That is hugely challenging because it gives the message that we are somehow pre-empting the decisions and that we are operating with a rule of pessimism.

However, the current system causes huge distress and pain to children; the impacts and consequences of drift and delay in our decision making are felt by the child. If there is one message that we want to give today, it is that the person who bears the wounds of drift and delay is the child. Therefore, we need to think about ways of mitigating the wounds that they experience from changes of placement. As well as looking at particular schemes, we need to create fostering resources that are flexible enough to withstand the drift, delay and reversals so that we minimise the uncertainty that children will experience. Given the need that colleagues have mentioned to test things out in a robust way, we will never be able to make quick and instant decisions, but we must try to ensure that children experience continuity of care.

Ruth Stark: I am struggling with the word “pessimistic” because, as a social worker, I think that people can change, and that is one of my value bases.

What happens in the process is that you start to work with the parents and children and you go on a journey together. On that journey together, you analyse the situation to see whether you can achieve that change. If you are working with the parents, they will understand all the way along the line what you are trying to do. If you get to a point where that change has not happened, good practice will mean that the parents acknowledge the decision—they may not be able to make the decision themselves—by other people that the child will not be going back to them. The process in that journey is really important.

It is not about being pessimistic when we start that journey, but about being optimistic. If the journey is not successful, we have to stop and explain that we have to take action. By that stage, if we have to go down the difficult line of taking legal action, we have evidence that should be robust enough for a children’s hearing and a court.

Neil Findlay: From what we have heard, for some families the journey appears to be over before the next bus stop is reached, but they stay on the bus for the whole journey, until the bus crashes over the cliff.

Ruth Stark: Yes—but we need to give the professionals time. If people are bogged down in meetings and bureaucracy, they have less time to think about what they are doing with supervision, for example. That is key.

Mark Ballard: We need to recognise and challenge drift and not be overoptimistic about the possibility of reuniting a family. The counterpoint to that is not pessimism, but effective universal early years work. In supporting families, we should not start when the child is three, but from birth or even pre-birth. We need much stronger and more effective targeted early intervention that comes at an earlier stage to support families. When we recognise that that early intervention is not working, we need to act more decisively.

On the planning drift that Barbara Hudson mentioned, once a child has been taken into care, to some extent the focus moves on to the next child who is in crisis. The child who is in a foster placement does not get the attention—the hand on the tiller that Barbara Hudson described—that they need, and which ensures that, although the child is safe now, we do not fail to focus attention on finding permanency for that child. We need to focus on intervening in the early and very early years, to recognise when that early intervention is not working and act decisively and to continue that process through a child's life to a permanent solution.

Therefore, it is not that we are pessimistic; we just need to have a system that integrates in the right way, all along the line.

Liz Smith (Mid Scotland and Fife) (Con): Mr Stevenson said in response to an earlier question that he has concerns about undervaluing of social workers in comparison with professionals such as medics or teachers. You feel that social workers may work with a child for a very long period, but somebody else can come in and write a report based on having seen the child on just two occasions. What do we have to do to address that?

John Stevenson: There are two main things. One concerns the view of the general public and the ability of the media to charge down on social work in a way that they very rarely do to our other professions. I am not sure how we can change that.

Another aspect concerns the confidence that has been spoken about and the time to put together good reports and assessments. Sometimes the information is all there; it is just the way that it is laid out, or that the evidence is used, that mean that reports are not made in the same form as others, and are not as digestible. That is something on which my colleagues are working at the moment.

Those are important issues. Another is that, strangely, if a psychologist's report in court talks about the child and the child's needs, attention is very often paid to that. That is good. If a social worker's report deals with the same case, it is the practicalities that lead in evidence. For instance, "Did mum not visit four times?", or, "Has the family not done such-and-such?" Tragically, we get to a position still where we have to send a child home, not because we think that he or she should go home, but to prove that family care is failing. Therefore the issues are about society in general, courts and all the other the processes, and social workers having the time to do good reports and assessments.

Liz Smith: Is there evidence that there is less of a problem in local authorities that are further advanced in terms of joined-up services, and that it is understood that social workers have a very valuable role to play and things are moving in the right direction?

John Stevenson: I do not know of any such evidence.

Ruth Stark: There is no such evidence anywhere.

John Stevenson: I know that it changes attitudes on the ground enormously when police, social work and health work together locally. The misconceptions that people have about each other's roles are enormous. I still get phone calls from hospitals asking whether a social worker can arrange a taxi for somebody to come to hospital or whether a social worker can come and pick someone up. That is because people just do not know what the role is. A number of years ago, the Edinburgh *Evening News* published a story stating that we had 2,000 children and families social workers; we had 197 at the time; most of my teaching colleagues were astonished that there were even that many. When you start getting the getting it right for every child stuff working on the ground, you break down some of the barriers and you start to understand each other, which changes things.

Liz Smith: One of the biggest dilemmas that the committee faces is that there is a call for consistency in decision making, while at the same time we are being told by professionals on the ground that there is no need for consistency because every situation is different and they are trying to do the best in every situation. To what extent do we have to worry about the consistency of decision making across local authorities and across Scotland?

John Stevenson: There is a need to understand and to articulate in evidence consistency of principle, rather than necessarily on the nuts and bolts. The principles should be about

the rights of a child and the list of things that a child should have in his or her life. They should be ticked off and if a child is not getting them there should be consistency in what we do about that.

However, it is difficult to get consistency in relation to families. One parent might be using drugs but might otherwise have potential if you can do the other bits with them. You might get another parent whose drug use might not make very much difference to whether they could care for a child. The principles are about children's rights and what we as a country feel that we should provide for children. That is where we need consistency.

Tom McGhee: Liz Smith's point about consistency is well made. I do not think that there is enough consistency across local authorities. We deal with the vast bulk in Scotland and a lot in the north-east of England and they are mostly different. In one authority, a director or head of service along with two or three key people—a specific committee—might decide what will happen to a child and where the child will go, based on a lot of research. There might be in the authority next to it a steering group that operates in a different manner.

We have to figure out who to talk to in such circumstances, but there is a lack of consistency. It would help if it was clearly understood who specifically was responsible and who made the key decisions. Ruth Stark talked earlier about a system that vanished some years ago whereby in any referral-to-care situations someone could sit down and look at the entire menu of available options. Something like that would be enormously useful.

Mark Ballard: On consistency, best practice is being developed in local authorities around the country. Consistency should be about ensuring that best practice is disseminated and that the evidence is assessed. I highlighted before the good work that Barnardo's is doing in Fife on the risk assessment framework. A national risk assessment framework based on evidence and best practice in local authorities, with guidance to support that kind of consistent tool, will help deliver better outcomes. There are things that could be done more consistently to take advantage of the good work that is being done in different places in Scotland.

Barbara Hudson: I put in a plea for post-qualifying training. There is a wide range of frameworks and assessment tools, but unless people understand what they are trying to do when they use them, it will only ever be a tick-box exercise. People have no credibility as professionals in any setting if they cannot speak to the information that they have provided.

10:45

Ruth Stark: As a safeguarder, I see social workers giving evidence in court. I can tell which ones did the Dundee child protection course and which ones did not. That is an example of what we need to invest in.

Colin Beattie (Midlothian North and Musselburgh) (SNP): Clearly, the assessment of whether a child should stay with his or her family requires a high level of skills and experience. The Care Inspectorate has indicated that only a third of assessments are good enough, which implies that two thirds are not. How do we tackle low-quality assessments? How do we deal with training? How can we possibly hope to have good practice established across the country when we are dealing with that low quality?

Matt Forde: We have touched on a number of important elements of the answer to that in our responses to other questions; for example, we have talked about training. I want to go back to post-qualifying training and to make an observation about the social work profession, in particular.

We need to focus more on post-qualifying training that is entirely about applied skills. At present, the post-qualifying training for social workers, such as the masters courses, is often quite theoretical. We do not need people to have richer theoretical frameworks without the skills to apply them. The NSPCC certainly perceives a gap, based on our experience.

We are trying to test out some really sophisticated interventions that require a high level of skill. We are discovering that, when we recruit social workers into those services, we have to invest heavily in additional skills-based training in order for them to be able to do the work. There is a contrast between what we have to do for some social workers and the position of people who come from, for example, clinical psychology or psychiatry, who have done skills-based training throughout their post-qualifying professional development and are used to working with families in such a way that it is filmed and another professional looks at and comments on the effectiveness of the intervention. They are used to that level of professional skills-based operation.

When a social worker starts to become a really good and effective social worker through experience, the next step for them is to become a manager. I have the privilege of working beside a consultant child and adolescent psychiatrist, who is nearing the end of his career. He is at the pinnacle of his profession, and he still sees families every day. The most distinguished social workers tend to have last seen a family 25 years ago, because they have been a manager for that

time. We do not invest in and value the core of what a social worker can do, which is about helping families through relationships, through the application of their social work skills. There needs to be a refocusing on that element of what we can do for children and families. Skills are the core; they are not an add-on. That is my main plea in response to the question about what can be done.

Ruth Stark: That is one of the reasons why I am still a safeguarder. I still knock on people's doors. However, it is not just about that. It is also about having time for reflective practice. One model that the committee might want to look at is in Northern Ireland, where there are consultant social workers who are paid at the same level as managers and who are there to promote post-qualification skills development. There is a slightly different structure in the way in which departments are organised. It would be worth the committee's while to examine how Northern Ireland has managed to extend post-qualifying skills development.

John Stevenson: I agree entirely with what has just been said, because there is no career structure in social work, other than to not do social work any more but instead to manage it. However, there is an issue about what an assessment is and exactly what is meant by saying that two thirds are not good enough, or whatever. We had a big debate for getting it right for every child about the single shared assessment. However, what it came down to in many local authority areas was a single form that everybody could agree on: just a single bit of paper that the assessment could be put on. However, that gave an assessment that was not an assessment; it was a list of things that a child needed, which had to be kept very simple so that it did not complicate matters for education and social work. We need to think carefully about what we mean by a single shared assessment, because it is not just a form. However, so much of the debate has just created a form.

Colin Beattie: I am not sure that I got a full answer there, but I will go on to my second question.

I have been struck by the sheer number of organisations and people involved. Does that inhibit or, indeed, prohibit the spread of good practice?

On bringing in training, all the training that I have heard about is just for one piece here or one piece there, with nothing across the board. Is it possible to have a uniform approach, given the number of organisations that you deal with?

Barbara Hudson: I will try to respond to that challenge. The BAAF is one of the plethora of organisations, but we have been around for quite a long time. We can offer training to single

employer groups, as it were, but we aspire to having an ethos of providing training across professional groups for a multidisciplinary approach. I think that people increasingly realise the value of that.

However, one of the huge challenges that we face is about how to ensure that people who are not paid but whose responsibilities extend to children can enjoy the range of training and knowledge that the rest of us have. Those people make up the children's hearings system. We have talked about their decision making, but they make decisions about the same children whom we work with and provide assessments on, so the depth of understanding about some quite complex areas needs to be made available to those people.

Tom McGhee has talked about the strategic commissioning of resources for children. Local authorities are by far most responsible for the children—they have the legal responsibility. They have also the responsibility for commissioning a range of training opportunities and for thinking about how they can maximise that. Ruth Stark has talked about the fact that, because of cuts in resources, training sections in local authorities have been decimated. That means that there is inevitably a rather piecemeal process of commissioning training from different providers, so there is not always the capacity to evaluate whether the training has helped people to do what they need to do and how the training services can be better commissioned and reviewed.

There is therefore no shortage of people with ideas, experience, expertise and knowledge out there who are available to help with post-qualifying material. However, ensuring that there is a co-ordinated approach is a challenge, so the committee has hit on one of the difficulties in that regard.

John Stevenson: The committee is hearing our remarkable unanimity on the issue. There might be a plethora of organisations, but we all agree; there are only small points of difference between us. That should make it not too difficult to create what is required. There is a role for the Scottish Government to co-ordinate that work, which in fact it does in some instances. Not only do lot of things go on in different local authorities that are not shared, but things go on within local authorities that are not shared. That is one of the issues that I am always banging the drum about, so some co-ordination in that respect would be very welcome.

Matt Forde: People need to be equipped with knowledge about children's needs and development, attachment and healthy carer-child relationships, and they need to know how to assess and promote those things.

Among the plethora of organisations, a pretty good place to start would be with the universal health visiting service and midwifery provision, which covers all families. The Scottish attachment in action group carried out a survey on the number of services in Scotland that can demonstrate through their training that they understand the concept of attachment. Models have been built around that, and the survey noted that, in the whole health visitor qualification process, there is only one lecture on child development. I do not know whether that assessment is entirely fair, but there could be a greater focus on child development in the process.

Secondly, we should look at local authority front-line services. If we did that and then used the information for strategic commissioning, that would pretty much take care of the sector.

The Convener: That is a bold claim, but we will see.

Ruth Stark: I have an observation with regard to our members who commission continuing professional development seminars from us. We have been impressed in the past six months—and probably in the past year—by the number of requests that we have received to run workshops on ethical decision making. That says something about the state in which the practitioners find themselves in trying to make very difficult recommendations on assessments, especially when there is a complex issue involving different family members' needs or human rights issues.

Again, I refer to the Mental Welfare Commission report on parents who are detained. Although the report contains an awful lot about training and assessment and all the rest, it also addresses the issue of how we, as the people who are charged by society with making recommendations to courts and children's hearings, go about making those complex ethical recommendations.

The issue is not just the assessment of children, but the need to acknowledge that there is another level where we have to, with heart and soul, say to the court, "This is the best recommendation for this child."

George Adam (Paisley) (SNP): An issue that keeps on coming up—we have touched on it this morning and the Association of Directors of Social Work has mentioned it—is the problem of keeping experienced social workers on the front line. Is that happening because, as Matt Forde said, we are promoting them all? That goes against what happens in most industries: if people are very good at working on the front line, they usually do not get a promotion. Is it happening because, given some of the things that we have mentioned and the pressure of the job, social workers want to do more positive and therapeutic work elsewhere?

Do you have any practical ideas on how we could change the situation? When those people are promoted, do they become part of the problem and put pressure on those who are working on the front line?

I have given you quite a broad spectrum of questions.

Ruth Stark: We have done some work with the ADSW on middle managers and first-time managers. One issue for those managers is that they get caught in the middle: they are trying to support their front-line staff in promoting ethical practice while trying to implement the budget cuts or whatever it is that is going on.

What really surprised us about that group of managers was that when we asked them about the most positive thing that they had done, we found that they were quietly developing neighbourhood services. There is a real role for the front-line practitioner who moves into a middle-management slot to look at and tackle the wider issues in their neighbourhood. However, that work was being dealt with as a sideline because those people were so busy with managing and trying to bring together front-line workers and senior management. People go for those middle-management jobs because they want to do something a bit more than just work on the front line. However, when they get there, they discover that it is a difficult place to be.

The other problem that is highlighted by the work that we are doing on the subject is that there is no proper career structure in social work. Once a person has got to the top of their main grade posting, if they want to stay in practice, that is where they will stay for the next 40 years, which is not much of a prospect.

11:00

Matt Forde: A front-line social worker in a children and families team can go to social work posts in other care groups. People do that—I know from experience that people say, "Well, I've done my time." There is a perception that people can only sustain the job for so long because of the pressure. People see other care groups as being less demanding. There are push factors that mean that it is hard to build a career and a profile and to have those valued in the system, with people staying in the same place. These days, it is an exception for someone to stay in one team in one area for 20 years.

There is a need to value the front-line work and reflect that in our professional development processes so that there is tangible and evidenced gathering of skill and expertise. It is clear that that work must be recognised and given status.

In health professions, professional governance is separated from other forms of management. Someone would not spend a bit of time being a psychiatrist and then become a senior psychiatrist who does not see families any more. People are managed—there is a management system—but perhaps there are ways in which to value the front line more.

We have touched on reflective practice and the need for supervision. We are talking about families in which relationships are under pressure because of needs. In such cases, it is all about the ability of the people who support those families to understand and make relationships. We make people effective by supporting them really well. Our investment should go into front-line practice, and how that practice is valued should be reflected in that investment.

John Stevenson: I am children's practice team manager—I am not sure whether I am considered successful or not, given the discussion. [*Laughter.*]

A number of years ago, we used to have people such as casework consultants. There is a huge issue about the profession recognising interpersonal skills and direct work with children and families. It used to be the case that four years into the job, people would stop doing that work because they were looking for a senior social job. In many authorities, there is a structure for senior practitioners that takes them a bit beyond that level, but which does not recognise or give people the skills. For example, I manage and supervise people and go through supportive reflective discussions with them on many issues, and their training is far more up to date than mine. There is a huge gap there. There is a need for strategic management and leadership training so that there is effective management at the local level, but there is also a need for that professional support to be recognised as a skill that people can carry on doing.

The Convener: We are slightly over time, but Neil Findlay has a brief question.

Neil Findlay: I have a comment rather than a question. I see an analogy with teachers because the same issues apply. Good teachers end up sitting in offices. The Scottish chartered teacher programme was introduced to deal with that, but that has been scrapped.

The Convener: I express the committee's thanks to all the witnesses who have come along this morning to help us with our inquiry. As I said at the beginning of the meeting, this is our last main oral evidence session before our event in June and the session with the minister at the end of June.

11:04

Meeting suspended.

11:08

On resuming—

Post-16 Education (Scotland) Bill: Stage 2

The Convener: Item 3 is continued consideration of the Post-16 Education (Scotland) Bill at stage 2. We will consider all the remaining amendments today.

I welcome to the committee the Cabinet Secretary for Education and Lifelong Learning, Mike Russell, his accompanying officials, and Marco Biagi, who has joined us again this morning.

Everyone should have a copy of the bill, the third marshalled list of amendments, and the third groupings of amendments. We will pick up where we left off last week.

Section 8—Regional strategic bodies

The Convener: The first group of amendments is on the assignation of colleges. Amendment 169, in the name of the cabinet secretary, is grouped with amendments 170 and 171.

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): Amendments 169 and 170 relate to the role of regional strategic bodies in proposing or approving colleges that are being assigned to them that have not previously been listed as fundable bodies in schedule 2 to the Further and Higher Education (Scotland) Act 2005 or which have not already been assigned to a regional strategic body. As the bill stands, the regional strategic body could only propose to ministers that a college be assigned to it after it has assessed whether the college meets the fundable body criteria specified in section 7(2) of the 2005 act.

On reflection, and having listened to the views of stakeholders at stage 1, we think that there is merit in transferring those functions from regional strategic bodies to the Scottish Further and Higher Education Funding Council. That would ensure that a consistent approach is taken nationally in assessing whether colleges meet the fundable body criteria. That would be more efficient and would relieve the pressure on regional strategic bodies to resource themselves to fulfil that function. For those reasons, I invite the committee to support amendments 169 and 170.

Amendment 171 is linked to giving the Scottish funding council the role that I have just outlined and to a related amendment that I will move in a later group regarding the SFC's role in informing ministers if assigned colleges no longer meet the fundable body criteria. Given those

responsibilities, there is a value in relation to good governance in giving the SFC a complementary duty to review whether assigned colleges continue to meet the fundable body criteria. Amendment 171 achieves that.

It would be for the funding council to determine when it was appropriate to conduct such a review. After carrying out any review, the funding council will be required to report to ministers, setting out its conclusions and making any recommendations. I therefore invite the committee to support amendment 171.

I move amendment 169.

Liam McArthur (Orkney Islands) (LD): I am perfectly content with amendments 169 and 170.

On the face of it, I cannot see anything that is provided for by amendment 171 that would not already be done as a matter of course. I would be interested to hear the cabinet secretary set out the deficiency that exists regarding the powers that are currently available to the funding council that makes the amendment necessary. In what circumstances does he envisage such powers being used that differ from what happens at present?

In light of comments that I made last week about the structure that applies in the Highlands and Islands, is there something in the possible future structure of the University of the Highlands and Islands that might be at the root of this? Either way, I would welcome some additional clarification.

Liz Smith: I, too, am very happy with amendments 169 and 170.

It would be helpful, cabinet secretary, if you could assure us that amendment 171 addresses some of the concerns that have been raised by the colleges within UHI.

Michael Russell: On the powers that amendment 171 gives that do not exist at present, I can tell Liam McArthur that there will not be powers over assigned colleges unless the amendment is agreed to. That is the difference—that is why it is required.

On UHI, I recognise the position of Liz Smith and Liam McArthur. It is fair to say that I have had further representations from Highlands and Islands MSPs over the weekend, arising from a meeting that I think was held at North Highland College. As a result, I have copied to members the correspondence, and I am happy to meet Liz Smith and Liam McArthur, along with Highlands and Islands members, to ensure that we take the matter forward. I think that a solution is possible. I have spoken to James Fraser about the situation, but I would wish to discuss the matter in detail with members before returning to it at stage 3. That

offer remains open. Members will have had an email from me yesterday, confirming that—I hope that they have, anyway.

Amendment 169 agreed to.

Amendment 170 moved—[Michael Russell]—and agreed to.

Amendment 85 moved—[Michael Russell].

The Convener: The question is, that amendment 85 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)

Against

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

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

Amendment 85 agreed to.

Amendments 86 and 171 moved—[Michael Russell]—and agreed to.

Section 8, as amended, agreed to.

Section 9—Funding of and by regional strategic bodies

Amendment 137 moved—[Liz Smith].

The Convener: The question is, that amendment 137 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 137 disagreed to.

Section 9 agreed to.

After section 9

Amendment 43 not moved.

Section 10—Regional strategic bodies: functions

11:15

The Convener: Amendment 138, in the name of the cabinet secretary, is grouped with amendment 139.

Michael Russell: New section 23E of the 2005 act as inserted by section 10 of the bill will require the regional strategic body to monitor the performance of the colleges assigned to it, and provides that such performance monitoring might include assessing the quality of fundable further and higher education. However, section 13 of the 2005 act also imposes a duty on the funding council to secure the making of provision for assessing the quality of fundable further and higher education provided by post-16 education bodies.

As the explanatory notes to the bill make clear, the SFC currently relies on the services of Education Scotland to review colleges, and our intention is that the activities of the funding council and regional strategic bodies should be complementary with regard to performance monitoring. Concerns have been expressed that the bill creates scope for duplication and, to prevent that, I have lodged amendment 139, which seeks to require regional strategic bodies to

“have regard to the desirability of preventing any unnecessary duplication”

with the actions of ministers or the SFC in relation to the performance of assigned colleges.

Amendment 138 seeks to build on that by adding the word “monitoring” to new section 23E(2)(a) of the 2005 act, as inserted by section 10 of the bill, and making it clear that in monitoring the performance of its colleges the regional strategic body does not have to arrange its own assessment of the quality of education provided by its colleges but can instead rely on assessments carried out by the SFC in the exercise of its duties under section 13 of the 2005 act.

I hope that it is clear that the amendments will be helpful in clarifying the role of regional strategic bodies in relation to performance monitoring, and I ask the committee to support them on that basis.

I move amendment 138.

Neil Findlay: We have concerns about amendment 138, which appears to extend the role of regional strategic bodies to give them an assessment and monitoring function with regard to the HE and FE provided in assigned colleges. We

believe that the regional strategic bodies' role is to work with and support assigned colleges instead of assessing and monitoring them, and we question how that would work in practice and how the relationship with the SFC would operate.

Michael Russell: Amendment 138 actually seeks to do almost the opposite of what Mr Findlay has claimed. It will mean that the regional strategic body does not have to undertake its own assessment. Monitoring already exists; the body does not have to do it, but can rely on the assessments of the SFC, which, of course, relies on the services of Education Scotland. Instead of increasing the monitoring and assessment role, the amendment actually reduces it because the body would not have to undertake the task and could rely on the SFC and Education Scotland. I think that such a move is helpful rather than unhelpful.

The Convener: The question is, that amendment 138 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)

Against

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

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

Amendment 138 agreed to.

Amendment 139 moved—[Michael Russell]—and agreed to.

The Convener: Amendment 172, in the name of Neil Bibby, is grouped with amendments 173, 174 and 180.

Neil Bibby: Amendments 172 to 174 and 180, which are similar to the amendments that I moved last week on regional colleges, seek to ensure that colleges support economic regeneration, social inclusion and cohesion in their areas. On amendments 172 and 173, which focus on economic and social regeneration in college localities, I said last week that, at a time of such high youth unemployment, colleges must play a key role in supporting young people into work.

Colleges also play an important role in supporting older learners who want to retrain for employment and in giving people a second chance in life. As we discussed previously, they also

support economic and social regeneration in our communities. As I said last week, colleges are important for Scotland's economic needs, and the bill lacks a specific regional focus. Different regions face different challenges and have different needs and priorities. A regional focus allows for a tailored approach to the different challenges that each area faces.

There has been a focus on widening access to higher education, but we need to ensure that social inclusion in further education is also promoted, which is what amendments 174 and 180 are about. Learners might face challenging circumstances, so we need to ensure that colleges do all that they can and continue the good work that they already do to encourage people from disadvantaged backgrounds to take advantage of the training and retraining opportunities that are available.

As I said last week in discussing regional colleges' responsibilities, local and regional economic issues are important, and they are as important, if not more so, in the context of regional strategic bodies' responsibilities. The widening access agenda should be a priority for our colleges, which should promote social inclusion and cohesion in the communities that they serve. We should also take into account access for groups that are protected under the Equality Act 2012.

I move amendment 172.

Joan McAlpine (South Scotland) (SNP): In principle, most of us would have a great deal of sympathy with what the member has said. However, I am not sure that his amendments 172 to 174 and 180 are the way to achieve aims on which we all agree. I am interested in what the cabinet secretary says in response.

Michael Russell: Neil Bibby's amendments 172 to 174 are similar to those that we discussed last week when we covered the regional colleges' functions. The amendments helpfully stress the important role of regional bodies in economic and social regeneration and in reducing social exclusion in the areas where their colleges are situated, so I am sympathetic to them. However, similarly to when we debated the issues in relation to regional colleges, I make it clear that, although I recognise and accept the points that are being made and I am more than willing to consider an amendment at stage 3 to seek to capture the spirit of Neil Bibby's amendments, I cannot agree to the amendments themselves. I therefore ask him to withdraw amendment 172 and not to move amendments 173 and 174, and to work with us.

The same is true of amendment 180. I agree with the principle underlying it and I am entirely happy with the concept that the college sector, as

well as the university sector and schools, should engage in efforts to widen access. Regional strategic bodies will have an important role to play, but there are technical difficulties with amendment 180. It lacks specificity and does not make clear who has the duty to identify those who are socially excluded. The term “socially excluded” presents difficulties, as it is inconsistent with the terminology elsewhere in the bill and its exact meaning is not made clear. Crucially, amendment 180 does not refer to underrepresentation, which is of course the core problem that all widening access efforts are intended to address.

Members will recall that, on the first day of stage 2, in response to Marco Biagi’s amendment 60, I gave a commitment to develop a stage 3 amendment that will establish widening access to further or higher education as one of the key matters to which the Scottish Further and Higher Education Funding Council must have regard in the exercise of its functions. I believe that that would satisfy the overall aim of Mr Bibby’s amendment 180 while avoiding the difficulties that I have highlighted.

Therefore, I ask Mr Bibby not to move amendments 180, 173 and 174 and to withdraw amendment 172, and to work with the Government to ensure that we get the right amendments that carry the spirit of what he is trying to achieve.

The Convener: I call Neil Bibby to wind up and to inform us whether he wishes to press or withdraw amendment 172.

Neil Bibby: I do not have much to add to what I said earlier. I am content with the wording of the amendments and where they are placed in the bill, so I intend to press them.

The Convener: The question is, that amendment 172 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 172 disagreed to.

Amendment 173 moved—[Neil Bibby].

The Convener: The question is, that amendment 173 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 173 disagreed to.

Amendment 174 moved—[Neil Bibby].

The Convener: The question is, that amendment 174 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 174 disagreed to.

Amendment 140 moved—[Liz Smith].

The Convener: The question is, that amendment 140 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

Abstentions

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

The Convener: The result of the division is: For 2, Against 5, Abstentions 2.

Amendment 140 disagreed to.

Amendment 175 moved—[Neil Bibby].

The Convener: The question is, that amendment 175 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 175 disagreed to.

Amendment 176 moved—[Neil Bibby].

The Convener: The question is, that amendment 176 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 176 disagreed to.

Amendment 177 moved—[Neil Bibby].

The Convener: The question is, that amendment 177 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 177 disagreed to.

Amendments 87 and 88 moved—[Michael Russell]—and agreed to.

Amendment 178 moved—[George Adam]—and agreed to.

Amendment 179 moved—[Neil Bibby].

The Convener: The question is, that amendment 179 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 179 disagreed to.

Amendments 89 and 90 moved—[Michael Russell]—and agreed to.

Amendment 180 moved—[Neil Bibby].

The Convener: The question is, that amendment 180 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 180 disagreed to.

11:30

Amendment 141 moved—[Liz Smith].

The Convener: The question is, that amendment 141 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

Abstentions

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

The Convener: The result of the division is: For 2, Against 5, Abstentions 2.

Amendment 141 disagreed to.

The Convener: Amendment 44, in the name of Liz Smith, is grouped with amendments 45, 46, 142, 47, 48, 144, 49 to 52, 145 and 53.

Liz Smith: One aspect of the bill that has created some confusion is that which addresses lines of responsibility and accountability. In several key passages of the bill, there is an implication that regional strategic bodies—except UHI—could require assigned colleges to move staff or assets as they see fit. That raises some issues, particularly with it seeming that one body would have control over staff contracts and the movement of assets while the lines of accountability would lie elsewhere.

The amendments in my name in this group, amendments 45 to 53, are aimed at ensuring that there is clarity on the issue, and at achieving agreement between institutions rather than an imposed arrangement that raises questions of accountability or conflict of interest. I am also content with amendments 142, 144 and 145 in the name of Neil Findlay.

I move amendment 44.

Neil Findlay: Amendment 142 removes the ability to transfer staff between regions, as we believe that the distances involved fall outside reasonable commuting distances and would make those transfers problematic. There is established employment law on the matter, so, although the

Government might have the right to put such a provision in the bill, it would be difficult to apply in practice. We therefore believe that a straight deletion is best.

Amendment 144 is consequential on amendment 142. There is no need to consult other regional strategic bodies if no power is transferred to them.

Amendment 145 refers to the Transfer of Undertakings (Protection of Employment) Regulations 2006 and would introduce a practice similar to that in the Water Industry (Scotland) Act 2002 in relation to transfer of staff. The power to transfer staff by regional board is widely drafted, and we want a reminder in the bill that employment law and contractual rights exist. After all, the regional board is not the employer.

George Adam: Once again, I can see what the amendments in this group are trying to do, but I do not think that they achieve it. Throughout the whole process, there must be negotiations and discussions among the bodies involved, and there must be someone who makes a decision at the end of the day. I have some sympathy with the amendments, but maybe there is a way of working out something better for the future.

Michael Russell: I broadly agree with George Adam. The intention behind the amendments is good, but I do not think that they achieve the results that they want, and I shall explain why that is in a moment in particular reference to one of them.

Essentially, I am saying that it would be best if the amendments were withdrawn and there was constructive discussion between now and stage 3 so that we can get similar amendments that work. That is a point that I keep making: as I have said throughout the process, I am happy to have that constructive discussion.

The basic policy intention behind the staff transfer provisions in the bill is twofold. The provisions assist in the sharing of services and ensure that, in multicollege regions, the regional strategic body has the power to give effect to its duty to plan for delivering coherent provision in the region. The judgment to be made in multicollege regions is in balancing the autonomy of the institutions with the ability of a regional body to pursue its regional plans.

Amendments 44 to 48, 50 and 52 would not achieve that balance, because they would remove all references in new section 23L to the terms “require” or “requirement” and replace them with the term “request”. The effect of amendments 49, 51 and 53 would require every transfer under section 23L to be binding only with the consent of the colleges.

The bill makes such a provision for UHI because of UHI's unique geography. It would be inappropriate for such transfers in the UHI region to be decided without consent, but I am not completely persuaded that a requirement for there to be consent in every case would strike the right balance. However, I am happy to consider the issues carefully again and to return with amendments at stage 3. There is a balance to be struck, and it may well be that it lies between the two positions.

On amendments 142 and 143, there are cases in which transfer to a regional college or regional strategic body might be appropriate in supporting the delivery of shared services across two regions. It is something that, for example, the Glasgow and Lanarkshire regional boards might want to consider, given their close proximity. However, I am willing to reflect on whether those sorts of transfer need to be covered in the bill. I will do so in the context of my consideration around the provisions relating to transfer of staff and property ahead of stage 3.

I have a lot of sympathy for amendment 145. I want TUPE to apply to transfers made under section 23L. I am content to reflect further on whether such provision should be made in the bill, and I am happy to enter into discussions on that in the lead-up to stage 3.

My offer, therefore, is to look at the issues with the members involved and to have discussions to try to find a way forward. If the members wish to withdraw their amendments at this stage, we can come back with something that works.

Liz Smith: I hear what the cabinet secretary says. My biggest concern—particularly regarding a lot of the rationalisation of colleges and the new structure that they will work under—is that we should have an agreement between the relevant institutions, rather than any hint that something might be imposed. That is why I will press my amendments.

I will press amendment 44.

The Convener: The question is, that amendment 44 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)

Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 44 disagreed to.

Amendment 45 moved—[Liz Smith].

The Convener: The question is, that amendment 45 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 45 disagreed to.

Amendment 46 moved—[Liz Smith].

The Convener: The question is, that amendment 46 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 46 disagreed to.

Amendment 142 moved—[Neil Findlay].

The Convener: The question is, that amendment 142 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 142 disagreed to.

Amendment 47 moved—[Liz Smith].

The Convener: The question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 47 disagreed to.

Amendment 48 moved—[Liz Smith].

The Convener: The question is, that amendment 48 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 48 disagreed to.

Amendment 143 moved—[Liz Smith].

The Convener: The question is, that amendment 143 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

Abstentions

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

The Convener: The result of the division is: For 2, Against 5, Abstentions 2.

Amendment 143 disagreed to.

Amendment 144 moved—[Neil Findlay].

The Convener: The question is, that amendment 144 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 144 disagreed to.

Amendment 49 moved—[Liz Smith].

The Convener: The question is, that amendment 49 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 49 disagreed to.

Amendment 50 moved—[Liz Smith].

The Convener: The question is, that amendment 50 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 50 disagreed to.

Amendment 51 moved—[Liz Smith].

The Convener: The question is, that amendment 51 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 51 disagreed to.

Amendment 52 moved—[Liz Smith].

The Convener: The question is, that amendment 52 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)

Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 52 disagreed to.

Amendment 145 moved—[Neil Findlay].

The Convener: The question is, that amendment 145 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 145 disagreed to.

Amendment 53 moved—[Liz Smith].

The Convener: The question is, that amendment 53 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 53 disagreed to.

Amendment 91 moved—[Michael Russell]—and agreed to.

Section 10, as amended, agreed to.

11:45

Section 11—Regional boards: constitution

Amendments 92 and 93 moved—[Michael Russell]—and agreed to.

Amendment 146 moved—[Neil Findlay].

The Convener: The question is, that amendment 146 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 146 disagreed to.

Amendment 147 moved—[Neil Findlay].

The Convener: The question is, that amendment 147 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 147 disagreed to.

Amendment 71 not moved.

Amendment 94 moved—[Michael Russell]—and agreed to.

Amendment 181 moved—[Neil Bibby].

The Convener: The question is, that amendment 181 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)

Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

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

Amendment 181 disagreed to.

Amendment 95 moved—[Michael Russell]—and agreed to.

Amendment 96 moved—[Michael Russell].

The Convener: The question is, that amendment 96 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

Against

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

Abstentions

McArthur, Liam (Orkney Islands) (LD)

The Convener: The result of the division is: For 7, Against 1, Abstentions 1.

Amendment 96 agreed to.

Amendment 54 moved—[Liz Smith].

The Convener: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 54 disagreed to.

Amendment 97 moved—[Michael Russell]—and agreed to.

Amendment 148 moved—[Neil Findlay].

The Convener: The question is, that amendment 148 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 148 disagreed to.

Amendment 182 moved—[Marco Biagi].

The Convener: The question is, that amendment 182 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

Against

McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

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

Amendment 182 agreed to.

Amendment 55 moved—[Liz Smith].

The Convener: The question is, that amendment 55 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 55 disagreed to.

Amendments 98 to 102 moved—[Michael Russell]—and agreed to.

The Convener: The next group of amendments is on “Employee terms and conditions”. Amendment 149, in the name of Neil Findlay, is grouped with amendments 183, 153, 193, 194, 154 and 195. If amendment 193 is agreed to, I cannot call amendments 194 and 195 because of pre-emption rules.

I call Neil Findlay to move amendment 149 and speak to other amendments in the group.

Neil Findlay: The cabinet secretary has spoken for some time of his desire to reinstate national pay bargaining, as did Professor Griggs in his report and, I believe, in his evidence to the committee. Amendments 149, 153 and 154 seek to take us along that route. If the cabinet secretary and the Government want to convince us that they want to move towards national pay bargaining, I certainly hope that they will agree to these three amendments.

I move amendment 149.

The Convener: I call Neil Bibby to speak to amendment 183 and other amendments in the group.

Neil Bibby: I will speak only about my amendment 183, but I also support amendments 149, 153 and 154 in the name of Neil Findlay.

I believe that it is unnecessary and overly bureaucratic to create a new pension scheme. The existing scheme should continue to be accessed. We know that resources are tight and college staff are under a great deal of pressure at the moment. Setting up a new pension scheme would take a considerable volume of work and a significant amount of time that would be better spent focusing on the needs of college staff and students in our communities.

It is possible to become an admitted member of existing schemes—I understand that the police service recently joined the Strathclyde pension fund. Why can colleges not do the same and join existing schemes?

The Convener: I call the cabinet secretary to speak to amendment 193 and other amendments in the group.

Michael Russell: Amendment 193 is particularly crucial. The role of the principal is pivotal. That is as much the case in the context of assigned colleges as elsewhere. In multicollge regions, principals will have a particularly key role in establishing a productive working relationship

with their regional strategic body, which will be responsible for strategic planning in the region.

I am therefore pleased that Colleges Scotland has acknowledged the role that regional strategic bodies ought to play in the appointment of principals of assigned colleges, which is why I am happy to propose amendment 193 to reposition the role of regional strategic bodies to approve rather than make the appointment of the principal and the associated terms and conditions. I know that that was much sought at stage 1 and I think that it will be welcomed by the sector.

Amendment 194 is unnecessary. It makes provision for a regional college board to appoint a person as principal on such terms and conditions as it thinks fit. That is already the effect of existing paragraph 16 of schedule 2 to the Further and Higher Education (Scotland) Act 1992. Amendment 195 would remove new paragraph 17(1A) of schedule 2 to the 1992 act. I agree that that should be done, which is why amendment 193 does it. Amendment 194 is therefore redundant.

Unlike amendment 193, amendment 195 does not recognise the appropriate role that the regional strategic body will play in the appointment of the principal. That is now recognised by Colleges Scotland. I therefore invite the committee to support amendment 193, and I invite Mr McArthur to not move his amendments 194 and 195 because the issue is dealt with in amendment 193.

Amendment 183 would remove the ability of a regional board to establish a new pension scheme. There is a difference—I put this argument to Mr Bibby—between encouraging access to existing pension schemes, which I would agree with, and removing the ability of a regional board to have any say in the matter at all, including whether to establish a new pension scheme if it wished to do so. Amendment 183 would actually prevent a regional board from establishing a pension scheme on better terms and conditions. Therefore, amendment 183 as drafted would not achieve its intention and would be a retrograde step.

I want to confirm to Mr Findlay, as I have done many times, that I am absolutely committed to a system of national bargaining for terms and conditions for colleges. I intend that to go into place—perhaps unlike my predecessors in previous Administrations up to 2007—and the regional leads have already established a framework for negotiation with the relevant trade unions. That process is on-going.

Having considered the matter, I think that Mr Findlay's amendments would not actually give effect to national pay bargaining, which is already happening in the framework for negotiation. If there is a need to deal with the matter in the bill, I

am willing to consider with Mr Findlay what words should be used, but the amendments in his name would not provide that. The framework that is being discussed—

Neil Findlay: Will the cabinet secretary take an intervention?

Michael Russell: Let me finish, please.

That framework is in place, so allowing those negotiations to take place would be the best thing.

I am happy to take Mr Findlay's intervention now.

Neil Findlay: Can the cabinet secretary give some indication as to when that framework will bear fruit? When will we see national pay bargaining?

Michael Russell: That is in the hands of those who are negotiating on those matters, which is the proper thing to happen. The trade unions are engaged in that framework, which will produce the results. I am very keen that that process moves forward. The matter is complex and difficult, but I have given a commitment to national pay bargaining on many occasions and repeat it now.

If Mr Findlay wants the issue to be dealt with in the bill, I am happy to work with him to find a way in which we can insert a reference to national pay bargaining. However, the three amendments in his name will not achieve that effect and will not help matters. Therefore, I encourage Neil Findlay not to press his amendments but to work with us to ensure that that happens.

Liam McArthur: The cabinet secretary has already set the background to my amendments 194 and 195, which seek to address the potential conflict that would arise if the terms and conditions for the principal of an assigned college were set by the regional board while he or she was an employee of the assigned college and line managed accordingly.

Amendments 194 and 195 would avoid setting the strange precedent in which an employee of one legal entity has terms and conditions that are set by another legal entity. As a result of the bill, the board of an assigned college would be required to accept those terms and conditions, which might be different from those otherwise used in the college.

Obviously, the cabinet secretary has recognised that potential problem by lodging amendment 193, which appears to do much the same thing as my amendments 194 and 195. Perhaps the principal shortcoming of amendment 193 is that it pre-empts both the amendments in my name, but on this occasion I am prepared to commit hara-kiri by voting for amendment 193.

The Convener: No other members have indicated that they wish to speak. I call Neil Findlay to wind up the debate and to indicate whether he will press or withdraw amendment 149.

Neil Findlay: I will press amendment 149.

The Convener: The question is, that amendment 149 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

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

Amendment 149 disagreed to.

Amendment 183 moved—[Neil Bibby].

The Convener: The question is, that amendment 183 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

Abstentions

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

The Convener: The result of the division is: For 3, Against 5, Abstentions 1.

Amendment 183 disagreed to.

Amendment 184 moved—[Neil Bibby].

The Convener: The question is, that amendment 184 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

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

Amendment 184 disagreed to.

12:00

Amendment 185 moved—[Neil Bibby].

The Convener: The question is, that amendment 185 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

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

Amendment 185 disagreed to.

The Convener: The next group of amendments is on "Regional boards: general powers". Amendment 186, in the name of Neil Bibby, is grouped with amendments 187 and 188.

Neil Bibby: The reason behind amendment 186 is not to expose colleges to the potential consequences of indemnifying third parties. I understand that the 1992 act states that no form of indemnification can be given without Scottish funding council permission. The bill as it stands refers to property. We should be opposed to any form of indemnification, as it would grant potentially unlimited guarantees to third parties that could potentially make colleges insolvent. If the granting of general contractual indemnification is to stay, it should be with the formal agreement of the Scottish funding council.

Amendment 188, which runs on from amendment 186, seeks to ensure that the boards acquire adequate insurance cover. The acquisition of adequate insurance cover should enable colleges to negotiate indemnification clauses out of most contracts that they are offered to sign—hence the amendment.

Amendment 187, in the name of Colin Beattie, would give general powers to form companies. Colleges have commercial activities, so I understand where the amendment is coming from, but I will allow Colin Beattie to speak to it in more detail.

I move amendment 186.

Colin Beattie: Amendment 187 is quite a minor amendment, in fact. Incorporated colleges already have the power to form and promote companies. The amendment clarifies that a regional board's general power includes the ability to form and promote companies. That power could be used to support the delivery of shared services in their regions, for example. It is really just a clarification.

Liz Smith: There is a question about why amendment 186 is necessary. I cannot see any reason to underpin the issue with legislation.

I would welcome clarification on the impact of amendment 188, as it appears to limit the board's ability to guarantee or give indemnity.

Amendment 187 would give regional boards the powers to form and promote companies. I am a little unclear about some of the implications of that, given that regional strategic bodies are primarily funding bodies.

Michael Russell: This group of amendments concerns the general powers of regional boards. The power that gives regional boards, like colleges, explicit powers to form or promote companies is sensible, and I can see no difficulty in doing so. Any funding body may wish to find opportunities on a regional basis to take its work forward by that means. Therefore, I support amendment 187.

Liz Smith is right about amendment 186. It seems rather odd to do what it proposes. I do not see why we should seek to legislate for such a level of prescription as we do not do so for other bodies. Therefore, I can see no reason to support the amendment.

Amendment 188 seeks to amend paragraph 14 of proposed new schedule 2B to the Further and Higher Education (Scotland) Act 2005 so that, in addition to property, a regional board will be unable to give a guarantee or indemnity over or in respect of any other matter without the written consent of ministers.

Paragraph 14 seeks to place regional boards, the SFC and incorporated colleges on the same legislative footing; the provisions will be common to all. I see no reason why we should differentiate between them, which the amendment would do. I understand the concern that Mr Bibby has expressed, but I do not think that it is a necessary precaution to make. Therefore, I invite the committee to reject amendment 188.

The Convener: I call Neil Bibby to wind up and indicate whether he wishes to press or withdraw amendment 186.

Neil Bibby: I will press it.

The Convener: The question is, that amendment 186 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

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

Amendment 186 disagreed to.

Amendment 187 moved—[Colin Beattie]—and agreed to.

Amendment 188 moved—[Neil Bibby].

The Convener: The question is, that amendment 188 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

The Convener: The result is: For 2, Against 7, Abstentions 0.

Amendment 188 disagreed to.

Section 11, as amended, agreed to.

Section 12—Regional boards: mismanagement

Amendment 189 moved—[Michael Russell].

The Convener: The question is, that amendment 189 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)

Against

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

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

Amendment 189 agreed to.

Amendment 56 moved—[Liz Smith].

The Convener: The question is, that amendment 56 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 56 disagreed to.

Section 12, as amended, agreed to.

Section 13—Establishment and abolition of regional boards: supplemental

Amendment 57 moved—[Liz Smith].

The Convener: The question is, that amendment 57 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 57 disagreed to.

Section 13 agreed to.

After section 13

Amendment 150 moved—[Michael Russell]—and agreed to.

Amendments 151 and 152 not moved.

Section 14—Review of further and higher education

The Convener: Amendment 190, in the name of the cabinet secretary, is grouped with amendments 191, 192 and 11.

Michael Russell: Section 14 inserts into the Further and Higher Education (Scotland) Act 2005 new section 14A, the purpose of which is to give the SFC a power, with the consent of ministers, to review the extent to which fundable further or higher education is being provided by colleges and universities in a coherent manner. I acknowledge the genuine concerns of the sector, particularly those of Universities Scotland, about the effect that the provision might have on individual courses and institutions. I must point out that this section is not and never has been about eroding institutional autonomy and, indeed, throughout the bill's consideration I have made it clear that I wholeheartedly support the concept of responsible autonomy.

There is a need for the SFC to take a more proactive and coherent view of both sectors to ensure that we get the best value from our highly significant investment in further and higher education. That is of critical importance if we are to be able to satisfy ourselves that that investment is delivering the best possible outcomes for learners and for the public purse, and I do not intend to step back from that.

However, following discussions with sector representatives, I have lodged amendments 190 to 192 to achieve three things. Amendment 190 seeks to change the structure and content of new section 14A(2) of the 2005 act, which sets out particular matters to which a review under section 14A(1) may relate. It will not alter the scope of the section 14A(1) review power. Section 14A(1) of the 2005 act confers on the SFC a power to conduct a review and a duty to report to ministers on that review—and no more. As I see things working in practice, the ultimate responsibility to respond to any review would, rightly, be on institutions and regional strategic bodies.

Amendment 191 seeks to introduce a specific duty for the SFC to consult relevant staff, students

and institutions in any review. That should give all concerned reassurance that any review would be open, transparent and consultative.

Amendment 192 seeks to make provision for the final review to be presented to ministers and the relevant post-16 bodies and regional strategic bodies. That is important because, as I said, in practice the post-16 bodies and regional strategic bodies will be responsible for delivering and implementing any recommendations.

New section 14A of the 2005 act is not, and never has been, about eroding institutional autonomy. It provides a further mechanism for ensuring proper accountability for our significant public investment. Amendments 190 to 192 improve that, but do not impinge on institutional autonomy in any way, and I invite the committee to support them.

The remaining amendment in the group—Joan McAlpine's amendment 11—raises an important issue. I fully recognise the unique role that the Crichton campus plays in the delivery of further and higher education in Dumfries and Galloway, and I am happy to put on record my continued and long-standing commitment to it. It is essential that local needs continue to be recognised by the funding council as a core part of the outcome agreement process. What the Crichton campus does is unique and extremely significant in a regional and a national context, so I support the aims of amendment 11, but I cannot accept the amendment as presented. I have concerns about the precedent that would be set by legislating for a particular local authority area, and I feel that the general review power that is contained in section 14 will allow the SFC to achieve those ends.

In January this year, I issued specific guidance to the funding council to ask it to put in place processes to develop a consolidated outcome agreement for the Crichton campus. That will include a consolidated widening access agreement, which is an extremely useful step forward. I think that that is the right approach to securing a sustainable future for the campus as a whole. On that basis, I ask Joan McAlpine not to move amendment 11, and I invite the committee to accept amendments 190 to 192.

I move amendment 190.

Joan McAlpine: I appreciate the cabinet secretary's comments about the Crichton campus, which is a highly innovative and diverse campus that encapsulates a number of higher and further education institutions. It is a unique centre of learning and an important asset to the area.

The purpose of amendment 11 is to ensure that the involvement of all relevant partners in the Crichton campus is placed firmly at the centre of planning of further and higher education in

Dumfries and Galloway. It seeks to make specific provision to require the SFC, when it considers it appropriate, to review the delivery of further and higher education in Dumfries and Galloway through consultation with the relevant partners on the Crichton campus.

However, given the minister's recognition of the campus's importance and the measures that he has put in place to consult all the relevant parties, I will be happy not to move amendment 11.

Liz Smith: I think that amendments 190 to 192 are correct. Universities Scotland was adamant about the fact that higher education teaching needs to be coherent throughout Scotland as a whole and within the regions, so I think that it is appropriate for the funding council to have a role in providing an overview.

Amendment 190 strikes the right balance between the powers of the institutions and the powers of the funding council. The existing provision would have given the funding council specific powers to review individual courses or the number of fundable higher education bodies in existence, which—as we discussed last week—would have been contrary to the concept of responsible autonomy. Amendments 191 and 192 continue that theme, most especially by stating that there must be full consultation with the governing bodies in conducting any review and that the university must be fully involved in the reporting process.

I cannot accept amendment 11 as it is unnecessary, particularly if amendment 191 is agreed to. It is overly prescriptive with regard to one area of Scotland, which could lead to unintended consequences.

12:15

Liam McArthur: Similarly, I welcome amendment 190, which strikes a better balance between the relative roles and responsibilities. Likewise, amendments 191 and 192 enhance and broaden the level of consultation, which is to be welcomed.

Amendment 11 shows a lack of confidence in the cabinet secretary's bill. As Liz Smith indicated, it is overly prescriptive, and the objectives that it seeks to achieve will be achieved through the bill.

Neil Findlay: We support amendments 190 to 192.

We could all make the case for the uniqueness of education provision in our areas and there is a fear that, if we go down the route that amendment 11 proposes, we might have another 31 amendments to follow, with each claiming that a local authority area has a certain uniqueness and must be included in the bill.

Given that amendment 11 aims to widen the consultation process, I am a bit surprised that the member who lodged it did not support Neil Bibby's amendments that sought to include community planning partners, transport providers and all the rest in the consideration of education in specific areas.

Clare Adamson: Will the member take an intervention?

Neil Findlay: I have finished.

Michael Russell: There seems to be agreement on the changes that are set out in amendments 190 to 192. I am grateful for that, and I pay tribute to the members who have said that they agree and to Universities Scotland and other stakeholders who have negotiated the issue in a productive way.

On amendment 11, I believe, as a strong and long-term supporter of the Crichton campus and Elizabeth Crichton's vision for the site, that it is important that we recognise how unique it is. Those who do not know the campus well should go and have a look at it. However, I have indicated the difficulty with placing the site in the bill, and I am glad that the member has accepted that. The Crichton campus deserves to be understood as a special intervention in Scotland and one that should encourage us in bringing together on a single site a number of institutions that retain their identity but are able to work together for educational purposes. That is quite unique in Scotland.

Amendment 190 agreed to.

Amendments 191 and 192 moved—[Michael Russell]—and agreed to.

Amendment 11 not moved.

Section 14, as amended, agreed to.

After section 14

Amendments 60 and 61 not moved.

Section 15—Duty to provide information to Skills Development Scotland

Amendment 103 moved—[Michael Russell].

The Convener: The question is, that amendment 103 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Abstentions

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

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

Amendment 103 agreed to.

The Convener: Amendment 104, in the name of the cabinet secretary, is grouped with amendments 106 to 108 and 62. If amendment 108 is agreed to, amendment 62 will be pre-empted.

Michael Russell: The bill allows ministers to require by order any person to provide information about a young person to SDS. However, I have been persuaded by SDS's view that it makes sense for ministers to have a similar power to require SDS itself to share data. It may be, for example, that SDS holds data about a young person and could assist a college to support that person. Amendment 104 gives ministers the power by order to require SDS to share information of that nature.

Amendments 106 to 108 all address points that the Subordinate Legislation Committee has helpfully raised. Amendment 106 clarifies the powers of ministers to substitute or amend references to the Skills Development Scotland Company Ltd in section 15 of the bill. Amendment 107 deletes section 15(7)(b). Amendment 108 makes orders that are made under section 15(1) subject to affirmative rather than negative procedure. It also provides that the new power that is being added at section 15(2)(a) by amendment 104 is subject to the same affirmative procedure.

Orders under new section 15(5)(b)—ministers' power to substitute references to SDS in section 15 for references to a different person—will be subject to the negative procedure. Orders under new section 15(5)(a)—ministers' power to change references to SDS, or any person who is substituted for SDS in section 15 in the event of a change of name of the person—will be subject to no procedure.

Liam McArthur's amendment 62 does not, alas, meet the Subordinate Legislation Committee's recommendation by making all orders that are made under section 15 subject to affirmative procedure except those that are the consequence of a change of name. Given that amendment 108 amends section 15 to meet the Subordinate Legislation Committee's recommendation on the types of procedure that will attach to orders made under section 15, I see no reason why amendment 62 is necessary, and I invite Mr McArthur not to move it if it is not pre-empted.

I move amendment 104.

Liam McArthur: One of the few upsides to the travel disruption that I encountered earlier this year was that I missed the evidence session with SDS, although I have read the *Official Report* of the meeting and I know from speaking to colleagues that that issue was a unifying force for the committee, even if very few others were.

I am reassured on some of the initial concerns about the powers that are being sought, as those powers are not as wide ranging as we initially feared and are not seeking to create some kind of uber-database. Nevertheless, my initial attempt at lodging an amendment that would have removed those powers entirely was considered to be a wrecking amendment. I know that the cabinet secretary would consider it entirely uncharacteristic that I would be so bold as to lodge a wrecking amendment, so I sought another way to achieve the same end.

I recognise that amendment 108, in the name of the cabinet secretary, achieves much the same as I seek to achieve, but there is a need for additional scrutiny on top of what is in the bill at present. On that basis, I am inclined to support amendment 108, which will pre-empt my amendment 62.

The Convener: Does the cabinet secretary wish to wind up?

Michael Russell: I have made all the points that I possibly can.

The Convener: The question is, that amendment 104 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Abstentions

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

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

Amendment 104 agreed to.

The Convener: Does any member object to a single question being put on amendments 105 to 108?

Neil Findlay: Yes.

Neil Bibby: Yes.

The Convener: We will go through the amendments individually.

Amendment 105 moved—[Michael Russell].

The Convener: The question is, that amendment 105 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Abstentions

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

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

Amendment 105 agreed to.

Amendment 106 moved—[Mike Russell].

The Convener: The question is, that amendment 106 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Abstentions

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

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

Amendment 106 agreed to.

Amendment 107 moved—[Mike Russell].

The Convener: The question is, that amendment 107 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Abstentions

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

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

Amendment 107 agreed to.

Amendment 108 moved—[Mike Russell].

The Convener: The question is, that amendment 108 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Abstentions

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

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

Amendment 108 agreed to.

Section 15, as amended, agreed to.

Section 16 agreed to.

Schedule—Modification of enactments

Amendments 109 and 110 moved—[Mike Russell]—and agreed to.

The Convener: Amendment 111, in the name of the cabinet secretary, is grouped with amendments 126 to 128.

Michael Russell: I shall come on to amendment 111 in a moment. Amendment 126 fulfils a commitment that was given to the Subordinate Legislation Committee by providing that an order to establish a regional board or designate a fundable post-16 education body as a regional strategic body will be subject to the affirmative procedure. An affirmative order will also be required if an order seeks to remove a regional strategic body from schedule 2A to the 2005 act, except if such an order is required simply because a body has closed or ceased to exist.

Amendment 128 also fulfils a commitment that was given to the Subordinate Legislation Committee, as it amends section 34 of the 2005 act to provide that an order under paragraph 18 of schedule 2B to that act to vary the constitution or general powers of a regional board will be subject to the affirmative procedure, except when it does no more than vary the minimum or maximum

board size, in which case the negative procedure will apply.

Given the Subordinate Legislation Committee's comments on regional boards and its concerns about amending primary legislation by the negative procedure, amendment 111 is required to provide consistency in the procedure for varying the constitution of incorporated college boards as set out in the 1992 act. The amendment alters the procedures so that such orders are subject to the affirmative procedure, except when they do no more than amend the minimum or maximum board size, in which case the negative procedure will continue to apply.

I hope that providing for such additional scrutiny is welcome. I intend to lodge an amendment at stage 3 so that orders that amend the powers of colleges in section 12(2) of the Further and Higher Education (Scotland) Act 1992 are subject to the affirmative procedure as well.

Amendment 127 also addresses a concern raised by the Subordinate Legislation Committee. It is about the order-making powers under section 4 of the bill and a tuition fees cap. That committee did not feel that the negative procedure represented an appropriate level of scrutiny for the exercise of the power and suggested that the affirmative procedure would be more appropriate if fees were being raised by a level that exceeded real-terms increases. Amendment 127 will amend section 34 of the 2005 act to achieve that.

Accordingly, I invite the committee to support amendments 126, 128, 111 and 127. I move amendment 111.

12:30

Liam McArthur: I know from the Colleges Scotland briefing that it has taken legal advice on amendments 111 and 127. I have no problem with amendment 126, but concern has been expressed about the measure in amendment 128 not being subject to the affirmative procedure, and I would be grateful if the cabinet secretary clarified the issue.

I wonder whether the cabinet secretary might be inclined to make the same offer as he made in relation to earlier amendments and withdraw amendments 111 and 127, reflect further on the matter and come back with amendments at stage 3, subject to the legal advice that Colleges Scotland receives in the interim.

Michael Russell: I have seen no such legal advice from Colleges Scotland; indeed, we have received no such communication from it. However, I give the commitment that, if the amendments are agreed to and the legal advice that has been mentioned subsequently comes forward, I will

consider the matter again and will lodge at stage 3 any amendments that are required. As I have said, I am completely unsighted on the information that Mr McArthur has referred to. I want to proceed with amendments 111 and 127, in the light of the Subordinate Legislation Committee's recommendations.

Amendment 111 agreed to.

Amendment 112 moved—[Michael Russell]—and agreed to.

Amendments 63 to 65 moved—[Liz Smith]—and agreed to.

Amendment 113 moved—[Michael Russell]—and agreed to.

The Convener: I remind members that, if amendment 114 is agreed to, amendments 66 and 67 will be pre-empted.

Amendments 114 and 115 moved—[Michael Russell]—and agreed to.

Amendment 68 moved—[Liz Smith].

The Convener: The question is, that amendment 68 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Bibby, Neil (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 68 disagreed to.

Amendment 69 moved—[Liz Smith]—and agreed to.

Amendment 116 moved—[Michael Russell]—and agreed to.

The Convener: I remind members that, if amendment 117 is agreed to, amendment 70 will be pre-empted.

Amendment 117 moved—[Michael Russell]—and agreed to.

Amendment 153 moved—[Neil Findlay].

The Convener: The question is, that amendment 153 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

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

Amendment 153 disagreed to.

The Convener: I remind members that, if amendment 193 is agreed to, amendments 194 and 195 will be pre-empted.

Amendment 193 moved—[Michael Russell].

The Convener: The question is, that amendment 193 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)

Against

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

Abstentions

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

The Convener: The result of the division is: For 6, Against 2, Abstentions 1.

Amendment 193 agreed to.

Amendment 154 moved—[Neil Findlay].

The Convener: The question is, that amendment 154 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

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

Amendment 154 disagreed to.

The Convener: The next group is on public appointments. Amendment 118, in the name of the cabinet secretary, is grouped with amendment 196.

Michael Russell: Amendment 118 achieves regulation of the ministerial appointment of chairs of regional colleges and regional boards under the public appointments code by providing for the bill to add those offices to schedule 2 to the Public Appointments and Public Bodies etc (Scotland) Act 2003. That is highly appropriate and a central element of improving accountability.

It is necessary that the chairs of regional colleges and regional boards are ministerial appointments. There is precedent for that across public bodies in Scotland. It is essential that a fair and open process underpins those appointments, and regulation under the public appointments code provides that assurance. My officials have shared our proposals with the Public Appointments Commissioner's office. I am therefore pleased to present amendment 118.

I thank Mr Bibby for his related amendment 196, which seeks to add the chairs of colleges assigned to regional strategic bodies to the list of offices in the same schedule 2 to the 2003 act. However, the amendment is technically deficient, given that, under that act, only ministerial appointments can fall within the Public Appointments Commissioner's remit. The bill provides that the chair of an assigned college that is an incorporated college will, subject to limited exceptions, be appointed by the regional strategic body, not by ministers. The bill makes no provision on the appointment of the chair of an assigned college that is not an incorporated college; that will be dealt with by the relevant college's constitution. Therefore, I cannot support amendment 196.

I move amendment 118.

Neil Bibby: I will keep my remarks brief, as there are only two amendments in this last group.

Amendment 118 supports the public appointments procedure for the appointment of chairs of regional college boards. I agree with the cabinet secretary that openness and transparency are vital. My amendment 196 would make that apply to assigned colleges, which is important. As for the cabinet secretary's remark that amendment 196 is deficient, I do not know whether he does irony, but I suggest that the bill is deficient, never mind my amendment. I will press amendment 196.

Michael Russell: I have made my points. Regrettably, amendment 196 is technically deficient: ministerial appointments can be made

only in the way that I have described. I cannot avoid that; it is simply a fact.

Amendment 118 agreed to.

Amendment 196 moved—[Neil Bibby].

The Convener: The question is, that amendment 196 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

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

Amendment 196 disagreed to.

Amendment 119 moved—[Michael Russell].

The Convener: The question is, that amendment 119 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Abstentions

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

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

Amendment 119 agreed to.

Amendment 120 moved—[Michael Russell].

The Convener: The question is, that amendment 120 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)

McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Abstentions

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

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

Amendment 120 agreed to.

Amendment 121 moved—[Michael Russell].

The Convener: The question is, that amendment 121 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Abstentions

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

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

Amendment 121 agreed to.

Amendments 122, 155 and 10 moved—[Michael Russell]—and agreed to.

Amendment 6 not moved.

Amendments 123 and 124 moved—[Michael Russell]—and agreed to.

Amendment 125 moved—[Michael Russell].

The Convener: The question is, that amendment 125 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

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

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

Amendment 125 agreed to.

Amendments 126 to 130 moved—[Michael Russell]—and agreed to.

Schedule, as amended, agreed to.

Sections 17 to 19 agreed to.

Long title agreed to.

The Convener: Members will be delighted to know that that ends stage 2 consideration of the bill. The bill will be reprinted as amended and will be available tomorrow. The Parliament has not yet determined when stage 3 will take place, but members can now lodge stage 3 amendments with the legislation team. Members will be informed of the final deadline for amendments once the stage 3 date has been determined.

12:45

Meeting continued in private until 12:52.

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

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