



OFFICIAL REPORT
AITHISG OIFIGEIL

Education and Skills Committee

Wednesday 5 September 2018

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 5 September 2018

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EDUCATION AND SKILLS COMMITTEE

21st Meeting 2018, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Johann Lamont (Glasgow) (Lab)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Mary Fee (West Scotland) (Lab)

*Ross Greer (West Scotland) (Green)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

Gillian Martin (Aberdeenshire East) (SNP)

*Oliver Mundell (Dumfriesshire) (Con)

*Tavish Scott (Shetland Islands) (LD)

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Clare Adamson (Motherwell and Wishaw) (SNP) (Committee Substitute)

Larry Flanagan (Educational Institute of Scotland)

Councillor Stephen McCabe (Convention of Scottish Local Authorities)

Janie McManus (Education Scotland)

Jane O'Donnell (Convention of Scottish Local Authorities)

John Swinney (Deputy First Minister and Cabinet Secretary for Education and Skills)

CLERK TO THE COMMITTEE

Roz Thomson

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education and Skills Committee

Wednesday 5 September 2018

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (James Dornan): Good morning, everyone. I welcome you to the 21st meeting in 2018 of the Education and Skills Committee. I remind everyone present to turn mobile phones and other devices to silent for the duration of the meeting. Apologies have been received from Gillian Martin. In addition, Richard Lochhead is no longer a member of the committee, as he has been appointed the Minister for Further Education, Higher Education and Science. I am sure that we all wish Richard well in his new role and thank him for the job that he did as a member of the committee. Clare Adamson is here as a substitute member.

Agenda item 1 is a decision on whether to take agenda items 3 and 4 in private. Are members content to take those items in private?

Members indicated agreement.

Education Reforms

09:30

The Convener: Item 2 is an evidence-taking session on education reforms. The session is to explore in more detail the next steps following the announcement by the Cabinet Secretary for Education and Skills in June that the Scottish Government's education reforms would be progressed through collaboration and without legislation at this stage.

Today, we have two panels. The first panel has representatives from the Convention of Scottish Local Authorities, the Educational Institute of Scotland and Education Scotland. From COSLA, I welcome Councillor Stephen McCabe, who is the spokesperson for children and young people, and Jane O'Donnell, who is the chief officer of the children and young people team. I also welcome Larry Flanagan, who is the general secretary of the EIS, and Janie McManus, who is the strategic director of scrutiny at Education Scotland.

Panel members should indicate to me or the clerks if they want to respond to a question and I will call them to speak. Before I invite questions from my colleagues, I ask a representative from each organisation to set out briefly their position on the Government's decision to progress the implementation of education reforms at this stage as opposed to introducing legislation.

Councillor Stephen McCabe (Convention of Scottish Local Authorities): We are pleased that the Government has decided not to introduce legislation. For the best part of two years, we have been arguing that legislation is not required. We have had detailed discussions with the Government, which have resulted in the agreement that we reached in June. At that time, the presumption was that the legislation would proceed, but the Government has taken the decision not to introduce legislation, and we welcome that fact.

We are concerned that legislation remains on the table. We do not see that as being overly conducive to partnership working, but we recognise why the Government has done what it has. We consider that improvement and changes can be made without the need for legislation.

Larry Flanagan (Educational Institute of Scotland): We, too, welcome the fact that the legislation has been, at the very least, parked for the next year. In most of our discussions with the Scottish Government in the consultation period, we have emphasised the advice that the Scottish Government received from its international council of education advisers that cultural rather than structural change was required in Scottish

education. We were concerned that we would have legislation that was focused on structural change that then had little impact on the classroom—and anything that does not impact on teaching and learning in the classroom is a waste of time and energy.

The Government's collaboration approach is welcome, because it offers the opportunity to involve not only both arms of government but the profession on how to lead from the middle and create leadership at school level and how to impact on teaching and learning, rather than having a diversionary political debate about structural change. What the Government has set out offers a window of opportunity to change the culture of how we deliver education, rather than focusing on the structures of education.

Janie McManus (Education Scotland): Like my colleagues, we welcome the focus on collaboration, which is a key element in creating that cultural change to support further improvement in our education system. We look forward to working with our partners to deliver the joint agreement and the focus on collaboration acting as a model to support sharing and learning and working together to ensure that we can make the changes required to achieve the best possible outcomes for our children and young people.

The Convener: Thank you very much. Tavish Scott has a question.

Tavish Scott (Shetland Islands) (LD): Thank you, convener. I wonder whether Stephen McCabe will clarify what will trigger the use of legislation.

Councillor McCabe: That is really a decision for the Deputy First Minister, so perhaps you need to ask him that question. Our understanding is that he expects to see significant progress on the improvement agenda over the next 10 months. We have signed an agreement with him and are committed to driving forward improvement, working with partners, but it is for the Deputy First Minister to decide whether sufficient progress has been made so that legislation is not required.

Tavish Scott: What is your definition of "significant progress"?

Councillor McCabe: Again, that question is entirely for the Deputy First Minister. Our officers are continuing to engage with partners in Education Scotland and other professional associations to develop the improvement framework—I will bring in Jane O'Donnell to tell you where we are with that—but, as I have said, I think that it is a decision for the Deputy First Minister. My understanding, based on the statement that he made back in June, is that he is going to carry out some sort of independent assessment of progress, and I think that the issue

of how that assessment will be undertaken will be part of the on-going discussions that we will have.

Perhaps Jane O'Donnell can come in here.

Tavish Scott: Before she does, I want to tease out exactly what COSLA's position with the Government is, because I think that it is important for the committee to understand that. Are you still of the view that legislation is not needed?

Councillor McCabe: Absolutely. That is still our view. However, we recognise that, at the time, the Government's intention was to introduce legislation, and through our discussions, we sought to influence that legislation as much as we could. That is set out in the agreement dated 28 June, but at the 12th hour the Deputy First Minister decided not to introduce the legislation. That came as a surprise to us, because we were anticipating legislation being introduced. We are happy that that has not happened, although we are not so happy that it is sitting there on the shelf. As far as we are concerned, the agreement with the Government is as set out in the document dated 28 June, and we will do what we can to implement it.

Tavish Scott: And, therefore, your view would logically be that the work that you have given a brief introduction to today will be enough to ensure that legislation is not needed. In other words, the collaboration that the whole panel has described this morning will be adequate to ensure that the Deputy First Minister does not need to trigger the use of legislation.

Councillor McCabe: I am certainly hopeful of that. There will be no lack of commitment on the part of Scottish local government. We would argue that this is not being forced on us—we are committed to the improvement agenda. We represent communities the length and breadth of Scotland; we interact with the education system and young people on a day-to-day basis; and we see the difference that education can make to our children's lives. I have children at school myself. We want improvement, and we want every young person to get the opportunity to fulfil their potential.

We have a passionate commitment to the improvement agenda, and we believe that the cultural change that Larry Flanagan referred to is better made in partnership rather than imposed. Often there is a case for making legislation, but we think that, in this instance, there is no such case. Partnership working and a real focus and determination with regard to closing the poverty-related attainment gap and giving young people with additional support needs the best opportunities in life are what is required, and structural change is just a distraction.

Tavish Scott: I appreciate all those comments.

When I was at home in Shetland at the weekend, two headteachers said to me, “This is still hanging over us. Laws could still be passed to introduce a headteachers charter that was backed up by law and all the rest of it.” Given that you are a parent like me, I presume that you are very well aware of the pressure on teachers caused by, as some would see it, the threat of another law being imposed on them.

Councillor McCabe: Absolutely. Obviously, Larry Flanagan can answer for his members, but the headteachers with whom I have engaged over the past couple of years have certainly been concerned about the potential implications of legislation and its effect on their role. The Government might tell a different story with regard to its interactions with headteachers, but certainly my interactions with headteachers in my authority suggest that they, too, have those concerns. However, the onus is on all of us in the education system to try to keep the focus on our young people and on improving outcomes for them.

Tavish Scott: Thank you.

Oliver Mundell (Dumfriesshire) (Con): Councillor McCabe, you said that you think that this is the right approach. Why, then, do you think that it has taken the best part of two years to get to this point?

Councillor McCabe: Again, I think that you might need to ask that question of the Deputy First Minister. We have been arguing consistently for two years—as have the EIS and other professional associations—that legislation is not required. We went through various consultations and made various submissions. In a sense, even on 28 June when that agreement was made and was endorsed by council leaders, there was still an expectation that legislation would be introduced, but the Government decided not to do so. I hope that that was a result of the passionate way that local government officers and elected members demonstrated the commitment on the part of local government to drive forward change—I do not know whether the parliamentary arithmetic had something to do with it. However, that is a question that you might want to put to the Deputy First Minister.

Larry Flanagan: There has been a tension for a number of years between the Scottish Government and local government over who runs Scottish education. I know that the Scottish Government has a certain frustration that delivery across local authorities is not even, as it would see it. Equally, you could say that some of the ambitions for this reform agenda are already practice in a number of local authorities. Across the country we have headteacher members who are supported by the local authority around appointments processes, for example, resourcing

or leading the curriculum. If we want to change the culture and move to a situation where delivery is more even from Shetland to Dumfries, that is about how you support schools.

One of the most recent influences has been the successful establishment of the regional improvement collaboratives. There was a lot of discussion about what they might and might not be, and there was concern that they would just be another layer of bureaucracy or management in a system that was already heavily top down. However, the early experience of the collaboratives has been much more productive. There has been a collaborative and relatively light-touch approach, whereby the collaboratives have been looking to provide the pedagogical leadership support that local authorities have lost through austerity measures over the past decade. That might have been one of the areas where the potential for collaboration was evidenced, given that the collaboratives were brought in before the final decisions on the legislation were taken.

Aside from the point about lobbying within Scotland, the other point that I think is important is that the international council of education advisers has had a significant influence on the cabinet secretary's thinking, given that the advisers are world-renowned experts in collaborative practice and their strong advice was not to legislate when you do not have to. That has had some bearing on the Scottish Government's thinking, and the collaborative approach that has been laid out offers a way forward.

I have a concern about the phrase “sufficient progress.” We are talking about changing the culture. Frankly, the idea that we will do that in a year is fanciful. Changing the culture of Scottish education is a decade-long agenda. Significant progress for me will be that we are all still sitting around the same table in a year's time, because that will mean that we are at least collaborating on the agreed agenda.

It was interesting to hear that the two headteachers who you referenced felt that they had something hanging over them. We need to get rid of the idea that there are threats sitting behind the offer of friendship or collaboration. That in itself inhibits the courage that is needed to develop collegiate and collaborative practice. It would be good if we had an early signal that the collaborative approach is working and that the legislation will not be required. The idea that there is a big stick waiting there is not conducive to collaborative practice. You do not get kids to collaborate in a class by threatening them with detention if they do not collaborate effectively. It would be useful if the big stick were removed.

Oliver Mundell: Given what you said, do you agree that keeping the legislation there

undermines confidence and trust? Why do you think that the cabinet secretary does not trust that you will deliver on the agreement?

09:45

Larry Flanagan: I think that you are inviting me to get involved in the world of politics there, and I would rather not do that. I presume that the motivation is that the cabinet secretary is keen to progress his agenda and feels that, if progress is not being made, he will want to accelerate implementation of a number of his ideas.

My view is that, if we believe in collegiate and collaborative practice, we have to create a framework to allow such practice to flourish, and we trust that such a framework is taken as a given from the start. I do not anticipate the legislation ever coming back to the Scottish Parliament, because I think that enough partners are committed to the agenda to ensure that it makes progress. There are different nuances here and there, but everyone is signed up to the agenda. Frankly, we are in difficulty if all of us in Scottish education cannot collaborate on agreed objectives.

Oliver Mundell: My final question is about process. When did the Scottish Government first approach you with the suggestion of a non-legislative solution? What was the timescale?

Larry Flanagan: I think that we approached the Scottish Government with that agenda; that has been our whole submission over the past year.

Oliver Mundell: When did the Scottish Government give you the first indication that that was its preferred option?

Larry Flanagan: In the context of not introducing the bill?

Oliver Mundell: Yes.

Larry Flanagan: I think that it was shortly before that announcement. We did not really have foreknowledge of it.

Oliver Mundell: You signed up to an agreement to proceed on that basis—

Larry Flanagan: You will see from our submission that one of our concerns was that we were not part of the agreement; the agreement was between COSLA and the Scottish Government. We make the point that, if teachers are not brought on board, all that collaboration is about jurisdiction rather than practice.

Councillor McCabe: We were made aware of the decision not to introduce the bill—or the decision to put the legislation on the shelf—shortly before the announcement was made. If you read the agreement that is dated 28 June, you will see

that it absolutely was predicated on the fact that there would be legislation.

Oliver Mundell: Thank you.

Mary Fee (West Scotland) (Lab): I want to ask about how progress will be measured. Panel members said that there are concerns that legislation is still on the table—the bill is sitting there, waiting to be brought back if progress is not achieved. What discussion has there been, if any, as part of the education reform joint agreement, about how you will resolve disputes? For example, if COSLA thinks that sufficient progress has been made but the Government does not think so, what happens? What happens if the Government thinks that it has made enough progress but COSLA does not think so? Have you discussed how you would go forward?

Councillor McCabe: Following the joint agreement, officers met over the summer and continue to meet to take the agenda forward, so it would be appropriate for Jane O'Donnell and Janie McManus to give a wee bit more detail on that.

Jane O'Donnell (Convention of Scottish Local Authorities): For clarification from an officer perspective, colleagues have been coming together following the announcement in June. It is a constructive process and officers are working well. We are discussing the importance of trying to get a sense of what progress looks like.

The group has just expanded—it used to be just the Scottish Government, Education Scotland and COSLA, but now we are joined by colleagues from the professional associations and trade unions and by the chief social work officer, which I think is a valuable addition that will help us to take a whole-child approach.

Like Larry Flanagan, I am fairly confident that the people in the room are so committed to making the agenda work that we will have mature and sensible discussions at officer level at the earliest possible stage if we think that we are not going to get there. However, we work in a political context, and COSLA leaders and the COSLA children and young people board have full oversight of our actions as officers. We will regularly liaise with politicians and I think that any concerns would be a matter of political discussion between the Deputy First Minister and, in our case, Councillor McCabe. That would happen at the earliest possible stage, because so much rests on this going well.

Mary Fee: Have there been discussions about the criteria for determining what success looks like? As we go forward, it is important that everyone who is involved knows what the circumstances are that will be judged as a

success. We cannot measure something if there is nothing to measure it against.

Jane O'Donnell: Just to clarify the point, the group has confirmed twice that we are fully behind the agreed principles as set out on page 2 of the joint agreement, and they will be our test. As we take forward the charter—which some are calling the headteachers charter, although I think that the EIS is keen to call it a schools charter—we will do so according to the principle of empowering headteachers and other professionals. As senior officers of the council, we will make sure that we focus on the whole child and that we put children at the centre of our decision making. We will also make sure that local authorities' duties with regard to the support that we provide to all our colleagues and children are in place. Those are the principles that we will be checking things against.

As for having a formal process, the answer is no, but that is not the area that we as officers are in. We are in a very collegiate and collaborative place where we are talking actively about how to deliver the principles in the joint agreement.

Mary Fee: Does COSLA have a view on how the principles will empower people? How will things be benchmarked? Perhaps Councillor McCabe can answer that.

Councillor McCabe: Ultimately, the test is whether young people have improved outcomes. This is about processes, but the objective is related to outcomes and to ensuring that more young people, whether they are children who are suffering from poverty or children who have additional support needs, achieve their potential. That is the ultimate objective, and it is the change that we need to drive forward.

As Larry Flanagan has said, cultural change does not happen overnight. However, in schools in my area there is certainly evidence of cultural change happening through, for example, the attainment challenge. The real additional resources that have been provided—I accept that financing them might have meant reductions in other areas of council budgets—have brought a real focus on improvement. As a result, not just schools but partners in the third sector and other council services have focused on supporting children and families and on making a real difference. The evidence from my council is that progress is being made.

I know that Education Scotland has been inspecting attainment challenge authorities; it will be interesting to see the outcome of those inspections, but I think that there is real evidence of cultural change at the focused local level. We need to develop and grow that change nationally.

At the end of the day, however, my fundamental view is that we have to resource our education

system and support councils in delivering it. We talk about empowering headteachers and schools; I would like local authorities also to be empowered. The only way of doing that is to ensure that authorities have the resources that we need in order to do the job that we are being asked to do, and to ensure flexibility in our funding streams. The challenge for you, as elected members of this Parliament, is to ensure that we have the resources that we need to do the job that you are asking us to do.

Janie McManus wants to come in.

Janie McManus: On the question about what empowerment might look like, there are a number of schools in our education system in which there is strong and outstanding practice. Some headteachers are already making decisions for their schools and their schools' communities to suit their needs and context. There are examples of schools in which all the stakeholders, including parents, partners and children, are involved in shaping their visions, their values and their aims. Those are some of the features of empowerment that we can currently see in our schools.

A key element is that we share the building blocks of what is working really well much more widely so that we get in all our schools the consistency that has already been mentioned this morning. As a member of the steering group, I know that there is an evident commitment around the table to working things through together to ensure that we deliver and make a success of the joint agreement for all the children in Scotland.

Mary Fee: Can I ask two very brief follow-up questions, convener?

The Convener: Please be very brief.

Mary Fee: Thank you. Consistency has been mentioned, but is there enough flexibility in the agreement to deal with differences across the country? After all, local authorities are not all the same, and authorities must have a degree of flexibility so that they can say, "We know that we have to meet this and that, but this is why we're not doing so."

Larry Flanagan: I think that there is significant flexibility around how local authorities manage their schools, but there are obvious benchmarks of good practice that we hope to see being replicated through partnership. Yesterday, for example, at the first meeting of the implementation group at which the professional associations were in attendance, we heard about North Ayrshire, where, through the local negotiating committee, it has been agreed that every school should have consultative committees on the curriculum and on pupil equity fund spending. In terms of our ambition around democratic schools, that is a fairly simple idea. It is not commonplace across the

country, as it used to be back in the 1980s, when every school had finance committees with representation.

Disseminating that idea, which exists in a number of local authorities, throughout the country will give us a benchmark for our progress. The ambition to have a headteachers charter, schools charter or whatever it ends up being, is a fairly obvious outcome that we would expect to be put in place over the course of this year, because there is a discussion being had about what it will articulate. The Scottish negotiating committee for teachers has already been asked to give advice on headteachers' involvement in appointment processes, because employment law considerations are part of that. That will not be difficult, because headteachers in a number of local authorities are already involved in school appointments. It is about putting the best practice on the table and looking at how we can disseminate it.

However, other areas will be difficult. Achievement of greater parental involvement, for example, is about more than getting a few parents on a parent council: it is also about how the school engages with the home life of parents. Given the challenges that poverty brings to many families, it will be a longer burn to put in place the required resources. Having home-school link officers in every school will be a step towards that, but we have to seek collaboration across social work services and children's services to ensure that we get a stronger interface. A school council is useful, but the most progress in young people's learning will come through a stronger connection among parents who are involved in their children's education. That requires resources to ensure that parents and teachers have the time to talk to one another about children's progress.

There are issues on which we will not, in a year, be ticking the box that says, "We've overtaken that," but on which we might be able to say that we have established good work. We will be able to articulate quite quickly definite areas of progress towards ambitions in the bill, and in the workstreams that are in train but will take time to materialise.

Mary Fee: Finally, the EIS submission says that "the Education Reform Joint Agreement ... fails to cite a role for professional associations".

I may be picking up on something that Jane O'Donnell said earlier, but can you clarify whether staff associations are involved?

Larry Flanagan: The EIS was invited about a fortnight ago to make nominations for the working group that will look at governance arrangements. We were not involved in the discussions on the agreement with local government, but we are now

involved in the on-going work. We are keen that professional associations are also involved through the pedagogical work that should be part of the process. Although we have expertise as a trade union, our members in schools are teachers rather than trade unionists, so we are keen to see their pedagogical input being harnessed to lead from the middle, as a main workstream in the programme.

Ross Greer (West Scotland) (Green): I would like to explore the headteachers charter more. Given the prominence that it had in yesterday's programme for government announcement, it is obviously still very much a priority for the Government, but both the EIS and COSLA, at the start of the process two years ago and since then, have been clear about their issues with what was originally conceived. Is the direction of travel now towards something that is more like what the EIS outlined—a schools charter—and less about the empowerment, or potential burden, of the "heroic leader" model? Is the trajectory towards something that you see as a positive contribution or are we still heading towards potentially further burdening already overburdened individuals?

10:00

Larry Flanagan: That question is critical for the whole process. The role of formal leadership in Scottish education is very important. Headteachers, depute heads and subject leaders have crucial roles in development and implementation of the curriculum. We talk about leadership at all levels in schools, but when it comes to practical outcomes we always end up talking about headteachers. In a secondary school, the headteacher will be one of an extended leadership team: we are talking about changing the culture. The headteacher will be important in that dynamic, but there will be five or six other people who are crucial to the culture of the school.

In primary schools, the headteacher is quite often the only promoted person: if you do not take a collegiate approach, you are in a very lonely place. People have to work as part of a team.

We are keen to stop talking just about headteachers and to start talking about collegiate practice in schools and democratic accountability. The work that the regional improvement collaboratives are doing on leading from the middle is not about headteachers talking to headteachers, but about an English principal teacher liaising with another school's English principal teacher around curriculum resource. Headteachers are not the subject experts in secondary schools: the curriculum leaders are the experts.

When we speak to the Scottish Government, it acknowledges that the agenda is all about empowering schools. However, the only people who were not cited in the original consultation document were teachers. It talked about headteachers, parents and pupils, but it did not talk about empowering teachers, even though that was the general title of the programme.

One of the things that the international council of education advisers has been very strong on is how we develop pedagogical leadership at school level, which is what makes a difference in the classroom. Appointing the staff and having budget accountability are important, but they are not critical to classroom practice. We have to focus on how we improve teaching in the classroom so that learning is more effective. In our view, that is where collegiate and collaborative schools are much more important than a headteachers charter, which says only what the standard for headship says on the General Teaching Council for Scotland website.

Ross Greer: Is that the direction of travel from where we were roughly two years ago when the consultation processes started, or is the Government still essentially focused on the approach that it proposed two years ago, about which you raised concerns?

Larry Flanagan: There has been some movement towards that broader concept, but I still think that there is overfocus on headteachers. The terms of the headteachers charter have been refined so that it is a bit more manageable and is about leading the curriculum, rather than turning headteachers into human resources specialists, but from our point of view it is still a big agenda for us to pursue in the consultations.

Councillor McCabe: COSLA had concerns about the headteachers charter—essentially, about the lack of checks and balances. We argued that consistently with the Government. We are satisfied with the progress that has been made and that checks and balances have been built into the agreement that we reached.

COSLA endorses the view of the EIS that we should have a wider focus in terms of leadership within schools. That is part of the discussion that has taken place in the working group, so I hope that we can make progress in that direction.

Ross Greer: I return to the point that Mary Fee made about variance. There is variance between local authorities in terms of the level to which headteachers are already empowered; there is also variance between what is and what is not appropriate. How can a single charter be tangible enough to genuinely empower headteachers, but also be applicable in every situation, given the differences between primary, secondary and

special schools and between urban and rural schools, and given the different levels of affluence that affect a school's functioning? Can a single charter be tangible enough to genuinely empower individuals but applicable enough across the board, given the massive variety of school environments that we have?

Larry Flanagan: That will depend very much on what is eventually in the charter. I see the charter—however it ends up being labelled—as setting out the ambitions for collaborative practice in schools. I do not think that the charter will empower headteachers to operate in ways in which they currently cannot operate, because all the things that the charter talks about doing already happen. They may not happen consistently across the country, but they happen in various local authority areas. However, a charter may well be a useful totem to remind us of the ambition of empowering schools and leading from the middle.

The 2001 agreement talked about collegial practice, and at that time we intended that collaborate practice, collegial leadership and distributive leadership would be the hallmarks of Scottish education. When we surveyed our members two years ago and asked about workload and the impact of working in a collegial school, there was a direct correlation between people who thought that their workload was more manageable and collegial schools. However, fewer than half our members said that they worked in a collegial school. That was 15 years after we set out the ambition to have collegial schools.

The charter—if we want to have one—is an opportunity to restate the ambition on how we want our schools to operate, rather than to articulate a subset of powers. Where does the idea come from that a headteacher does not lead the curriculum in a school? That is exactly what the GTCS standard for headship says and it should be the norm. If it is a case of reminding people of what the ambition is, the headteachers charter—or a charter of some kind—might be useful, but I do not see it as being anywhere near as radical as some people have thought.

Ross Greer: Finally, are you confident that teachers will have a voice in developing that as it goes through your organisation, and that the concerns will be taken on board because the process will accommodate them?

Larry Flanagan: Our main workstream in the programme is to ensure that the teacher's professional voice is enabled as part of the process. Frankly, if that does not happen, the whole thing will be—to use a Glasgow term—a pile of mince. If teachers are not empowered and do not feel that they are in a stronger place at the end of the process, all that we will have done is

think about structures. If we do not change practice, we will not improve learning for a single child in the country. It is not just an ambition—it is a prerequisite of success that teachers be part of the process.

Liz Smith (Mid Scotland and Fife) (Con): Councillor McCabe, this time last year, both the First Minister and John Swinney himself said very forcibly and unequivocally that the bill was absolutely essential in driving Scottish education forward, and that was repeated in committee and in the chamber many times. What factors do you think were at play to make the cabinet secretary and the First Minister change their minds?

Councillor McCabe: Only the cabinet secretary and the First Minister can answer that question. Certainly, I would hope that they have listened to the representations that have been made by local government, trade unions, parents and professional associations and have reflected on them and come to the conclusion that the agenda could be taken forward in partnership.

Liz Smith: You have signed an agreement with the Scottish Government. Surely there was some discussion about the reasons for the complete climb down on the issue. You must be aware of what the Scottish Government was saying were the reasons for making a big U-turn.

Councillor McCabe: The Deputy First Minister issued a joint statement with me when the agreement was published, and I believe that he also made a statement to Parliament and outlined his views. You need to refer to the parliamentary record, but my understanding is that he felt that the improvement agenda could be taken forward quicker by working in partnership and collaboration rather than by waiting to go through a parliamentary process. You really need to pose that question to him.

Liz Smith: I am much more interested in what the agreement actually says. To pick up on Mary Fee's line of questioning, there must have been discussion about the belief that the improvements in Scottish education could now be taken forward without legislation. I would hope, therefore, that there was some discussion about the criteria that would be used to measure that, because the cabinet secretary has kept the legislation in the back room for now, and if the improvements are not delivered and we do not get the change that we require, that legislation will presumably come forward. I am interested in what discussion took place between COSLA and the cabinet secretary about the necessary reforms that would be required, without legislation, to ensure progress. What exactly will you be measuring and what will you be telling parents about whether you are succeeding?

Councillor McCabe: On the agreement that we reached in June and the cabinet secretary's decision not to proceed with legislation at that stage, he said to me exactly what he said in the public domain, which was that he expected to see substantial progress, which would be measured. How it would be measured was not made clear at that time, which is why a working group of officers from the Government, local government and the professional associations are engaged in a process to establish the criteria by which the cabinet secretary will decide whether he wishes to introduce legislation. Those discussions are ongoing. Jane O'Donnell can give you a bit more detail on them.

Liz Smith: I want to establish the timescale. Parents around Scotland want to know exactly what criteria will be used to measure whether we are making progress. What is the timescale for finishing the work to put in place the criteria that will allow you and the cabinet secretary to decide whether Scotland is making progress?

Councillor McCabe: The decision will be the cabinet secretary's; I do not think that I will have a say in that. It is his decision—and the Government's decision—whether to introduce legislation. We have officers on the working group to which I referred. We hope to bring forward a proposal in the next few months.

Jane O'Donnell: It is probably helpful to clarify that there is a process to go through whereby we look at the joint principles and try to work out how they look on the ground. The contributions of our colleagues in the professional associations and trade unions are vital in giving a sense of the reality on the ground to those of us who work in policy areas. Rightly, we did not identify what the timescale would look like without having heard the contributions of colleagues who have only just joined us—the meeting with them took place yesterday.

There is pace behind this and an expectation that we will report to our politicians at national and local level about how we are getting on with it. COSLA leaders agreed fundamentally with all the principles in the joint agreement. As officers, we will be held accountable to make sure that we are delivering on those principles and that they take cognisance of important COSLA principles of not inhibiting local decision making and having asymmetry where it is required in rural and remote areas and areas of high deprivation. That is the process.

Rightly, we are taking an outcomes-based approach for children and young people. We will not be able to identify a difference in outcomes in 10 months. It is important that we are honest about that, and officers are clear about that. It is a process. If it works, parents in communities should

have headteachers approaching them saying, “We need to improve our parental involvement and pupil participation.” They should hopefully get some sense of how that is changing for their headteacher if they talk to them at their parent council. That will happen in the next 10 months, but outcomes cover a much longer period. We as officers are all clear about what we are tasked with at the moment.

Liz Smith: I understand that some outcomes might take longer. Are we measuring literacy and numeracy? Are we measuring changes to pupil equity funding? What criteria will be used to measure whether there is progress next year on this year and over the long term? What are the factors? Every parent across Scotland wants to know what will be better this time next year and beyond.

Jane O'Donnell: In addition to those high-level processes, our colleagues in Education Scotland are undertaking work on a sense of readiness for school empowerment in their school inspection timetable over the next few months. They will feed that into the working group to give us a sense of where we are as a baseline. Janie McManus can give you a sense of what that looks like from an Education Scotland perspective.

Janie McManus: Over the next academic year we will carry out three thematic inspections around the elements of empowerment. The first one will look at the current elements. We will focus on the principles that are outlined in the joint agreement.

We will engage with staff in local authorities and in schools to get a sense of the current picture—of the ways in which they feel empowered and how they act on that. We will bring that back to the steering group as a national overview of what is working well and the areas that we need to focus on.

10:15

What is more important is that we can share examples of strong practice more widely for people to learn from. On parental engagement, for example, we want to see which schools are delivering really well on reaching hard-to-reach parents and how they do that. The intention is for local authorities and schools to learn from each other and focus on the collaborative approach.

Liz Smith: I am sorry to cut through all that, but will our children be able to read, write and count better by this time next year? That is what this is all about for most parents across Scotland. We all want our standards to be raised. I appreciate all that you said about the processes, but the bottom line is whether, by not having the education bill, we can raise standards in the way that we have to. That is what I want to know.

Councillor McCabe: Whether or not we have the education bill will make no difference to the long-term objective that you mentioned. The focus of the improvement agenda is on ensuring that young people who are from impoverished backgrounds and young people with additional support needs get the support that they need.

For a number of years, there has been a political debate in the country and in the Parliament about Scottish education, which people can be accused of talking down. Fundamentally, Scotland has a good education system, but it could be better. The approach is about making it better and ensuring that young people have better opportunities in life.

When I became the leader of Inverclyde Council in 2007, we had an on-going debate about reprovisioning in our school estate—some people wanted to keep schools open while others wanted to close schools to allow investment elsewhere, and whether to use public-private partnerships was a question. That debate was far too politicised, and we lost sight of the objective of improving our young people's opportunities. However, we ended the political bickering and agreed a plan, which we delivered. That investment in our schools is providing high-quality learning environments in which young people can achieve their potential. There is far too much politicking about Scottish education; we need to cut that out and focus on our young people.

We need partnership working in which we all get together to try to make a difference. We will not make a difference here this morning; we will do it on the ground through everybody focusing on improvement. As I said, the evidence from the attainment challenge is that focusing on improving attainment and providing the necessary resources make a difference. My plea to members as elected politicians is to ensure that, when you set the Scottish budget next February, we have the level of resources that we need to do the job.

The Convener: You have hit the nail on the head—whether we have a bill in place will not matter to improvement in the next year, because you are all working together collaboratively. Is the relationship between education authorities, the Government and schools better than it was two years ago? Is best practice being spread and recognised more? You seem to be working together more closely. Is that providing a benefit, and will it be of benefit in the future?

Councillor McCabe: I can comment only politically; I leave it to others to speak at the officer and strategic levels. I think that relationships are improving, not just in education but across the board.

I hope that the Government now has greater recognition of the contribution that local government can make and a greater respect for our democratic mandate. If we can build on the partnership work in education, it could make a real difference. At the end of the day, I know that everyone in the room, the cabinet secretary, the First Minister and the Government are absolutely committed to improving the life chances of young people in Scotland, but so am I and so are the hundreds of councillors across Scotland.

Over the past year and a half, I have been the spokesperson for COSLA and the chair of the children and young people board, so I have had the opportunity to engage with councillors from across Scotland of all political persuasions. They are absolutely committed to trying to improve the life chances of our young people. They are frustrated that we do not have the resources to do that and that we are constantly focused on cutting back on resources.

It is nice to get additional resources from programmes such as the attainment challenge or the pupil equity fund, but those are simply substitutes for resources that have been systematically stripped out of the system over the past 10 years and continue to be stripped from other areas of council budgets. If we believe that poverty really is the principal cause of the poverty-related attainment gap, although putting money into the attainment challenge and focusing it on pupil equity will help to a certain extent, it will not help if you are stripping money out from other parts of the system and if families do not have support to lift themselves out of poverty.

The Convener: I would say that you need to speak to the Westminster Parliament about that.

Larry Flanagan: The EIS has been highly critical of Education Scotland for most of that body's existence. One effect of the new arrangements has been a reboot of Education Scotland, which has restructured to align itself with the regional improvement collaboratives, so that it has a much stronger focus on providing pedagogical support to schools. That is critical.

In the past, too much education policy has been driven by civil servants, rather than by educationists. Although it is not an immediate part of the governance consultation, the potential of the work that is being done by the RICs in promoting the leading from the middle agenda is that there will be an immediate step forward in the classroom, because it focuses on how to provide support to practitioners in the classroom and how practitioners support other practitioners in the classroom. That is how we will achieve improvements in literacy and numeracy. We will not achieve those improvements because of who is in charge of budget lines—although I agree with

the point about increased resources—but by looking at what changes practice.

The evidence that all the international advisers have brought to the discussion focuses on what makes pedagogical improvements in the classroom. That must be the focus if we want to deliver improved outcomes. I do not want to start another discussion but, for example, if we spent half the time and energy on promoting formative assessment practice in our schools that we have spent on promoting the Scottish national standardised assessments we would be in a much better place in terms of assessment practice in our schools.

We need to focus on pedagogical improvements if we want to deliver improvements in learning, and that approach has been missing. It has been missing since the regions left, we lost advisers and the quality improvement officer networks were stripped out because of budget concerns. That is a large part of what is offered by the empowerment of leading from the middle—it is a chance to revitalise that pedagogical support to schools, which is what will ultimately make the difference.

Johann Lamont (Glasgow) (Lab): You have spoken about a shared agenda and collaboration in delivering the aims of the legislation, and Larry Flanagan said that there was nuance in that, but it seems to me that there is more than just nuance—there is difference. The Scottish Government is saying that it is going to get what it wanted by a different route, but COSLA, the EIS and the other teaching unions did not agree with what was being proposed. For example, COSLA talks about the critical role of local government and so would presumably resist the devolution of too much power to schools. Equally, the EIS says that it would not call the charter a headteachers charter because change is delivered at the school level, on a collegiate basis, and that by giving the charter such a name we misunderstand the role of headteachers, who are anxious about burdens that have been placed on them.

Therefore, when you go into the room with the Deputy First Minister and Cabinet Secretary for Education and Skills and he says that we have a shared agenda, what is that agenda? Has John Swinney agreed that the headteachers charter is not appropriate? Has he agreed that there is a fundamental role for local government? Yesterday, in response to questions, the First Minister simply asked why people would resist what is happening, because we will get what we want more quickly. What bit of the improvement agenda that you were opposed to have you been able to agree with John Swinney? To what extent has he acknowledged the very serious concerns about the impact of the proposals that were in the legislation on headteachers and their accountability? Which bits

of the legislation on improvement do you still disagree with? Are there bits that you agree with? Has COSLA changed its position on the role of local authorities?

Councillor McCabe: COSLA's position is as agreed in the document that is dated 28 June. The legislation sits to one side and is gathering dust on a shelf, as I understand it. For all intents and purposes, that legislation does not exist. What exists is our joint agreement, which is a joint commitment to drive forward improvement in Scottish education and improve outcomes for young people. We will try to take forward that agreement in partnership. That is what officers are doing at this point in time. They are trying to put meat on the bones of the principles of that document. I am pleased that the trade unions and professional associations are around the table, and I hope that they will shape and evolve our plans.

COSLA agrees that headteachers have a critical role in schools; we believe all staff have a critical role in schools. If we can evolve the headteachers charter into a teachers charter, we would be comfortable with that direction of travel.

Johann Lamont: I agree that everybody is committed to improvement, but the question is the means by which improvement is achieved. COSLA did not agree with the means by which improvement would be achieved, as identified in the legislation, and neither did the EIS. What is the journey of improvement? My view is that the Scottish Government is saying that the means by which we improve remain the same, but that we are going to use a different vehicle for that improvement. That does not address the concerns that were identified by people who understood the importance of local government and other services in young people's lives, or the Mr Chips notion in which we just give all the powers to headteachers and think that everything will be fantastic. Anybody who has worked in a school will know that it is much more complex than that.

Councillor McCabe: In the two years from the first consultation being introduced to the agreement that was reached with the Government on 28 June, there has been change in the Government's position. Naturally, there has been movement in our position, too. However, we believe that we stuck to our fundamental principles. Jane O'Donnell will be able to give more detail, but one example is the headteachers charter. We did not believe that the original proposals had sufficient checks and balances to ensure that headteachers remained accountable to their employers. Headteachers are senior local government officers and, like every local government officer, they are accountable to their councils through their line management structure.

We are now satisfied, through the principles that are outlined in the agreement, that there are sufficient checks and balances. That is why we could sign up to it. If those concerns had not been addressed, we would not have reached any agreement with the Government.

As I said, the legislation sits to one side at this point in time and is not part of the discussion. It might hang there as a bit of a threat, which is not necessarily conducive to good partnership working, but we are focused on implementing, and working on the detail of, the 28 June agreement. That is what the officers in Education Scotland, COSLA, professional associations, trade unions and the Scottish Government are focused on, and they are working towards producing more detail.

Johann Lamont: The legislation is in contradiction of your view of how to improve education.

Councillor McCabe: Fundamentally, we do not believe that the legislation is required or would be helpful.

Johann Lamont: That is a separate point. It is not so much whether it is required; it is that you do not agree with the proposals that are in place in the draft bill—you have already said that—and, therefore, any suggestion that we are getting the aims of the legislation by different means is not true, because you do not agree that powers should be devolved right down to schools—

10:30

Councillor McCabe: That is not true. Jane O'Donnell will keep me right here, but I do not think that there is anything in the agreement dated 28 June that is different from what is in the draft bill. However, we do not feel that legislation is required.

Larry Flanagan: The four aims of the legislation, as articulated, remain the four aims of the agreement. I will come back to the headteachers charter in a minute, but the aim to enhance pedagogical support to practitioners is an agreed agenda, as are the aims to enhance parental involvement in children's education and to enhance pupil participation.

Our main concern was that, if the Government tried to achieve those aims by legislation, we would fail to get any buy-in to them from the education community. That is because, once again, they would be something that was being done to schools rather than something that schools were being allowed to do.

Our disagreement around the legislation has primarily been around the use of legislation as a means to deliver the objectives. The ideas of empowering schools, leading from the middle and

improving pedagogical practice are shared agendas, and we are keen to exploit the opportunity.

There was more fundamental disagreement about the headteachers charter, because of the variations in what it meant. We were clear that the idea of headteachers hiring and firing staff, around which there was some loose talk early on, was completely unacceptable because it would breach employment legislation and guidelines around equity and ensuring antidiscriminatory practice. I think that the position of the Scottish Government on that has refined as the Government realised that it would be totally inappropriate in any circumstances for a headteacher to make appointments, because of all of the employment-legislation concerns around that.

However, the idea that a headteacher should be involved in the appointments in their school is something that a number of authorities accept, and that is already done in those places. In the 1980s, it was common practice. As a principal teacher of English, I was always involved in the appointment of staff, and councillors used to be involved in the process, too. The principle of involving various people in appointments is not a difficult one to put forward. However, the practice that developed arose because of teacher shortages and the need to stop schools competing against one another to get staff or sign up the best probationers. There was a certain rationale around not having student teachers going to 39 different interviews in 39 different schools in Glasgow to try to get a job.

If the headteachers charter had been brought in via legislation, that would have been more problematic. However, I think that the proposed legislation establishes the principle and then refers the matter to the SNCT for negotiation. That change has come about because there has been a recognition that you cannot just legislate when existing arrangements are in place.

We have said strongly to the Deputy First Minister that if he wants an example of how legislation does not help he can look at the named-person policy. That took a fairly simple concept involving multi-agency support for vulnerable children and managed to turn it into the situation that we find ourselves in now. Six years on, we still do not have legislation, although, thankfully, there is collaboration between agencies at school level.

Our view is that, if you want to successfully deliver the ambition of empowering schools, legislation is the least effective way of doing that. That is why we have been opposed to it all along.

Johann Lamont: My understanding is that the National Parent Forum of Scotland and others

think that the charter should be called a schools charter. Otherwise, it is just a job description.

Larry Flanagan: We are really keen that it should become a schools charter—we have been using the phrase “democratic schools”. Basically, the charter should become a reminder of what collaborative and collegiate approaches to education are. It should be as much about empowering the voices of teachers, pupils and parents as it is about empowering headteachers. That is the agenda that we will be pursuing in the discussions. Hopefully, we will have an agreement at the end of that.

Johann Lamont: I have a question for Janie McManus on that.

The Convener: Let us hear from Jane O'Donnell first.

Jane O'Donnell: We were asked why COSLA had signed up to the joint agreement. Some of the content from the Scottish Government on the policy areas was fundamentally different two years ago from what it is now. COSLA leaders were clear that there had to continue to be local democratic accountability for education. We secured that.

We will not be dictated to on regional collaboration. COSLA would agree to collaborate and then it would be for local authorities to decide the best partnerships to be in. Local authorities would retain their role on best value and efficiency and effectiveness in supporting headteachers on funding.

On the headteachers charter, the draft bill states that headteachers are empowered but, should any of their actions impede a local authority's:

“statutory duty or contractual obligation”

we have the responsibility to intervene.

Those were our red lines at the start, when the content and discussion was quite different. It is a sign of where we have reached in the partnership approach that now exists that what we have now is much more reflective of a whole-system approach. That is why we have signed up to it.

Johann Lamont: When did Education Scotland take the view that it was a good idea to drop the legislation?

Janie McManus: Our focus is always on what is going to achieve the best outcomes for our children and young people from what happens in the classroom. Our focus has been on collaborative working as a way of creating culture change. Where there is best practice and highly effective practice that is delivering well for our children and young people, we want to share that more widely across the system. We have been focusing on the way to do that.

Johann Lamont: That is not what I asked. I asked when you came to the view that the legislation was a hindrance rather than a help.

Janie McManus: My role in the group is to look at how we can support delivery of the joint agreement.

Johann Lamont: Have you done an assessment of the benefits of Education Scotland increasing its staff significantly, as you say in your submission, as against the resourcing of schools? Larry Flanagan talked about the 1980s. I taught in the 1980s and, in some ways, I had more support as a classroom teacher than a lot of young teachers have now.

Has there been an impact assessment on the financing and the benefits of significantly increasing the staffing of Education Scotland, as against the issues that Councillor McCabe flagged up around resources for the core budget to deliver education in our schools?

Janie McManus: In the context of our remit and our work to consider our delivery model going forward, an element has been to look at how staff carry out different functions and consider the workforce that we need to deliver those.

Johann Lamont: Did you do an impact assessment on the benefits of what your submission says was

“recruiting for a significant increase in staff”,

as opposed to advocating for increased resources for the core business of education? Funding streams are one thing, but what is fundamental is whether the number of support staff and home-link teachers in a school is going down. Did Education Scotland do an assessment on that?

Janie McManus: What we are looking at is the budget as it was set, and I do not have the budget figures with me. I would be happy to get those for the committee.

Johann Lamont: The submission says that there was a “significant increase”, as if that were by definition a good thing. Were alternatives looked at for how resources might best be spent?

The Convener: Janie McManus, you said that you had that information. Will you send it to the committee?

Janie McManus: I will send it.

Johann Lamont: I am interested in the panel's view on the implications of regional improvement collaboratives. As argued by Larry Flanagan, there is a compelling argument for supporting people to develop their capacities in schools. With faculties at secondary school level, there might be even more need for that as individual subject specialisms might be weakened.

Are you confident that regional collaboratives will not become bodies that suck up power from schools and local authorities? Do you still have concerns and, if so, how should they be addressed?

Councillor McCabe: Regional collaboratives are not bodies. They are officers from councils and Education Scotland coming together to look at how we take forward the improvement agenda, and they are about adding value. We do not see them replicating or replacing what happens at a local level. It is about building on that, adding value and perhaps, as Larry Flanagan suggested, replacing some of the capacity that has been lost in the system over the years.

Some of that capacity will come from the Education Scotland resource that you have been talking about. The Government is providing an additional resource to local authorities through a bid process. COSLA is not particularly happy about that process, but that is the Government's decision, and the additional resource will obviously augment the resources that we have. At the moment, we are putting resources into the regional collaboratives from existing resources, so it is our existing staff who are doing that work. That is why it is important that, if we commit existing resource, we get added value out of it and do not end up with duplication.

It is about sharing good practice, and it is about collaborative working in delivering particular aspects of training, but we are very much in the early days. It is too early to say whether we have achieved any positive outcomes so far, but, in principle, collaboration can only be a good thing.

Johann Lamont: Collaboration is a good thing, but if it creates a body on a level that has a life of its own and is producing improvement plans, do you have a concern about that?

Will you also comment on what you would have preferred to the process that is now in place? You talked about a bidding system. What would you have preferred to happen?

Councillor McCabe: In local government, we prefer an allocation process using existing mechanisms for allocating funding, so we would have preferred to use that mechanism and for each council to be allocated funding based on the allocation methodology, with each council aggregating that funding into their individual collaboratives.

The regional collaboratives are about added value, as I said. One of the concerns that we originally had was about the proposal from the Government to remove the requirement for local authorities to produce their own improvement plan, so that there would be the school plan, the regional plan and the national plan. We argued

strongly that councils should retain their role in improvement planning, and that the school plan should inform and be informed by the local plan, the local plan should then inform the regional plan, and the regional plan should complement and add value to the local plan. The Government has obviously taken that on board, and we will continue to produce our local plans.

Johann Lamont: If it is about collaboration and best practice, is there really any need for a regional plan?

Councillor McCabe: It is a plan for delivering that collaboration and the added value. As has been alluded to in the paperwork, and as I am sure that Education Scotland will confirm, the plans from the regional collaboratives are all different, and different approaches are being taken in each area. That is how it should be.

My council is obviously part of the west collaborative, and our circumstances are quite different from those of the northern alliance. In the west collaborative, there are a number of councils that are attainment-challenge councils, and we are obviously focused on particular aspects of improvement through that, so we are not seeking to replicate that at regional level. However, there are aspects that can be co-ordinated regionally, and good practice can be shared regionally as well.

We are heading for the second iteration of the plan, but the first iteration of the west plan was a fairly concise document, which is as it should be. It should not be a detailed plan that replicates what we are planning to do at a local level.

Larry Flanagan: The collaboratives present an opportunity around the agenda of pedagogical leadership, but the EIS certainly had the concern that Johann Lamont expressed about the potential for them to become entities and create another layer of bureaucracy. There is a watching brief on that, because although the early iterations have avoided that there is always the potential to slip into that mode, particularly because a number of local authorities, unfortunately, no longer carry directors of education in their senior management teams. That is part of the difficulty. Education is not a discretely-led agenda in all local authorities, so you can see how some of this might slip to the RICs a little bit.

We are keen that the RICs develop their current workstream, which is around collaboration on support in schools and how to get scale, given that some local authorities are quite small. There is a need for some scale that allows delivery of the programmes to teaching staff and sharing of good practice that might otherwise be beyond the local authority.

10:45

The RICs also allow some breaking down of the boundaries between schools so that it becomes easier for practitioners in one school to move across boundaries into other schools that might have a shared agenda around particular pedagogical improvement.

There has to be capacity for all that. There is some additional funding but that was one of the reasons why Education Scotland recruited additional staff—it has decentralised itself so it has people attached to the collaboratives to promote pedagogical input.

The case about regional improvement that was articulated was one of the areas about which we raised serious concerns. We asked how many improvement plans a school has to comply with and when it will be able to find time to actually do anything if it has to tick all those boxes—Stephen McCabe alluded to that. What is called the regional improvement plan is, in effect, more a workstream around how support is provided to local authorities and schools and the improvement plans that have been established there. The regional improvement plan does not go through the collaborative process that a school improvement plan should go through, with staff being involved in discussing school priorities—it is more about how the workstream is managed. However, this is a good example of how things can grow arms and legs very quickly, if there is suddenly a regional improvement plan and local authority staff are telling schools that they have to comply with it. We are fairly clear—although perhaps not all schools are clear—that the regional improvement plan is about how support is provided rather than how workstreams are created for schools.

To be fair, some of that is still being teased out and things are slightly different in different areas, because the dynamics in some of the collaboratives are entirely different, given scale and the particular challenges that they face.

The Convener: Clare Adamson has the final question.

Clare Adamson (Motherwell and Wishaw) (SNP): Thank you, convener. I tried to get in with this question earlier in the discussion, but it is pertinent that it should be the final theme we look at today. It is to do with parental and pupil participation, about which Larry Flanagan and Councillor McCabe have talked. I am interested in how engagement will work, particularly as parents are not involved in the implementation process. How are you engaging with them during your work on that?

I am a substitute member of the committee and have not followed the topic right through, so I am

sorry if this has been discussed earlier. Talking about parental engagement could send a message to some people who have the care of young people that this is not for them. I want to know what thought has been put into including foster carers, kinship carers or those who care for looked-after children either in the third sector or council establishments.

Larry Flanagan: That whole area highlights the importance of looking at practice at school level rather than looking at structural change at a higher level. We can do whatever we like at the higher level, but if the school does not have a teacher who can spend an afternoon working with a group of parents on their children's learning, or a home-school liaison person, or an educational psychologist who can be brought in to support a family in crisis, all the ambition around engaging parents comes to nothing. It has to be resourced.

That is particularly true if you are working with parents who are not inclined to—or do not feel as though they can—work as effectively with the school as other parents do, perhaps because they are facing challenges in their own lives.

All of that is labour intensive. It is about having networks and one-to-one discussions. There are lots of good examples where schools have worked really well with local communities to involve parents in a meaningful way. Sometimes that is by having parents in the classroom and sometimes it is by having classes for parents that help them to support their children's learning. The issue is to try to establish that much more coherently.

People whose children are going through secondary school at the moment probably experienced a different system. Take qualifications, for example—people still talk about O-levels. A lot of parents are slightly frustrated because they would like to be more hands-on in supporting their children but find it quite difficult. It is about finding the time for teachers to talk to parents meaningfully, as opposed to having 20 minutes at a parents night once a year. It is about finding ways for the school to engage parents. That is an agenda that has to be resourced. That is where the local authority, the getting it right for every child approach and multi-agency considerations are really important.

Pupil voice is also very important. We are in favour of pupil voice, although a motion at our annual general meeting urged caution about it. For example, there are concerns about pupils being involved in the appointment process. That process might be internal, and employees have certain rights to confidentiality.

Pupil voice has to be exercised in a way that is meaningful for young people, so that they feel that they are being listened to—rather than just having

a pupil council meeting, sending the minutes to the headteacher and then finding that school uniform is still in place even though the pupil council does not want it. I think that the most effective approach to pupil voice is to ask pupils their thoughts on particular subjects and lessons, or on whether their school's timetable could be improved and, if so, how they get the right information about how to do that. It is quite easy to say these things and tick a box that says that we are in favour of something; the practicalities of delivering it are quite time consuming and resource is needed.

Councillor McCabe: In its widest sense, parental engagement involves carers, foster carers and so on. We have signed up to the national joint action plan. It is about disseminating that good practice. Only yesterday, my council approved a new parental engagement strategy. It is not simply about getting people along to parent councils; it is about how we engage parents and carers and so on in their children's learning in its widest sense, and how we break down barriers.

One of the issues highlighted in the discussion yesterday was that not many male parents engage in their children's education. Obviously, lots of families face huge barriers. What specific measures can we take to address that? It is part of the remit of Education Scotland to carry out thematic inspection and try to ensure that good practice is widely disseminated. Engaging parents and carers in children's education is a crucial part of that agenda.

The Convener: That brings us to the end of the questions for this panel of witnesses. I thank you all for coming along and giving evidence today. It was very useful. We will suspend for a couple of minutes to allow the witnesses to change over.

10:53

Meeting suspended.

10:59

On resuming—

The Convener: I welcome John Swinney, the Cabinet Secretary for Education and Skills, and Clare Hicks and Andrew Bruce, who are both deputy directors in the learning directorate at the Scottish Government. I understand that the cabinet secretary will make a short opening statement.

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): Thank you, convener. I welcome the opportunity to discuss school empowerment with the committee. It forms part of the Government's agenda to improve education and the life chances of our children and young people. We believe that

the approach that is taken in the empowering schools agenda is critical to ensuring that young people are able to have access to the high-quality learning and teaching that is necessary to deliver improvements in Scottish education.

We have consulted extensively on how best to empower and support our schools. We have listened carefully to education professionals, local authorities, parents and pupils, who told us that they strongly support the principle of empowering schools.

We took careful account of the impact and input of the international council of education advisers, who said that legislation could create a distraction from some of the central agendas that the Government is pursuing to improve education and, as a consequence, we came to the conclusion, in consultation with our local authority partners and after extensive joint working, that we could take an alternative and quicker route to school empowerment by working jointly with local government and other partners in that respect.

Our landmark agreement with local government will see meaningful school empowerment through the headteachers charter, together with improved parental involvement and pupil participation, commencing around Scotland during this school year.

We know that that collaborative approach can work. We have worked extensively with local government to reach an agreement to establish regional improvement collaboratives, and the 2018-19 regional improvement plans have been delivered this week and are currently being assessed by Education Scotland. That has been achieved at pace and in partnership and without new legislation. Our partners have made clear their commitment to empowering our schools right across the education system and we are committed to putting our trust into the power of partnership working.

We have always recognised that legislation alone would not drive the improvements that we need. That will take a balanced combination of changes to culture and practice, enhanced capacity and a supporting structure. We will continue to work closely with local government, teacher unions and other stakeholders to ensure that that balanced approach is developed and implemented with pace and purpose. We are putting in place additional resources and enhanced capacity and support to ensure that the principles of school empowerment are fully implemented.

We have published the education bill in draft so that stakeholders can see our clear policy intention and detailed proposals. We will carefully monitor progress during the current academic year and will

return to Parliament with legislation if meaningful empowerment is not being delivered. I remain confident that the agreement that we have reached with local government provides us with an effective route to ensure the empowerment of our schools, and I look forward to working with partners to deliver that agenda.

The Convener: Thank you, cabinet secretary. I invite questions from committee members.

Tavish Scott: Just now, you again said that if there was no meaningful empowerment by, I guess, June 2019 you would reintroduce legislation. Will you define for the committee what “meaningful empowerment” means?

John Swinney: Meaningful empowerment will be progressed to implement the agreement that we reached with local government, which I published back in June. I welcome the fact that the constructive dialogue that we took forward with local authorities resulted in that agreement, which addresses the policy agenda and consideration that I brought to the debate.

I will make an assessment in the latter part of this year as to whether sufficient progress has been made. I must say at the outset that I do not consider that everything has to be achieved within 12 months—that would be unreasonable. However, I have to see signs of good progress in implementing the agreement that has been reached with local government to inform my decision at that time.

Tavish Scott: Are those signs of progress about the principles in the agreement or are they about practical measures that we as a committee and, more to the point, teachers and parents can understand?

John Swinney: They will be a bit of both. Some further thinking about that has to go into the definition of some of the concepts in the agreement. One of the points that I made in my opening remarks, which I also made in my parliamentary statement, is that when the Government consulted on school empowerment, there was pretty broad agreement about the principle and the desirability of school empowerment and the flexibility that that would bring, but there was disagreement about some of the Government’s practical propositions.

Part of my rationale in taking the approach that I have taken has been to accept that in-principle agreement about the advantages of empowerment and what it can do to improve learning and teaching in schools, and to work actively with partners to make sure that the agreed propositions address all the inevitable practical issues that arise when we are taking forward principles of that nature.

The agreement that we have reached sets out a very clear direction of travel, but it does not prescribe or define every detail of the journey. That is essentially what we need to work on with our partners. I am very pleased with the progress that has been made in advancing that discussion over the summer.

Tavish Scott: That is helpful, because earlier COSLA said that there was a meeting yesterday at officer level that involved Education Scotland and other partners—I assume that it involved Scottish Government civil servants. That was the first meeting at which the staff associations—including the EIS—had been present. Do you recognise that if any of this is to be meaningful for teachers, the EIS and other staff associations must be part of the process?

John Swinney: That is why they are there.

Tavish Scott: Why were they not there before?

John Swinney: We had to get things in the proper order—

Tavish Scott: Is not having the staff involved at the start the proper order?

John Swinney: Let me work my way through my answer to Mr Scott. The proper order was for the Government to come to an agreement with those responsible in statute for the running of our education system, which is our local authorities. I have invested significant amounts of time in making sure that we got to a point of agreement, so that we could proceed with a shared agenda with local government. In that process we have obviously had constant input from our staff associations and professional associations.

Once we got an agreement with local authorities, I wanted to ensure that we then got the professional associations involved in taking forward that agenda. That is the process that started yesterday.

Tavish Scott: Indeed. Jane O'Donnell from COSLA told us earlier—I hope that I am quoting her reasonably accurately—that it will not be possible to get accurate measures of progress within 10 months. That was her assessment as an officer working with your colleagues in other parts of the Government. Do you agree with it?

John Swinney: I understand the point that Jane O'Donnell made, but it is not a requirement that I am applying to the system. I said in my original answer to Mr Scott that I would make a judgment based on the amount of progress that we are making on developing and agreeing an in-principle agenda.

The framework for measuring the progress that we want to make in education was set out clearly when we published the national improvement

framework last December, which includes the monitoring framework that is in place to assess the progress that we are making on improving outcomes for young people and in closing the poverty-related attainment gap. There is a measurement framework in place to assess the progress that we are making on improving performance and securing our objectives in Scottish education. The assessment of the progress that we are making on empowering schools will be a process in which I assess the amount of work that can be undertaken and implemented as a consequence of the partnership agreement that we have put in place. Those are two rather different things.

Tavish Scott: So, how children are doing at school is very different from the empowerment agenda.

John Swinney: No. We have a framework in place to assess how young people are doing at school and what progress they are making. I believe that the empowerment agenda contributes to that, which is why we are taking the route that we are taking to implement these measures in this fashion.

Tavish Scott: Forgive me for being stupid, but I am just trying to understand how you will measure—and therefore how Parliament will judge—how much progress is being made by next summer. You are effectively saying that if you do not think that enough progress is being made, you will introduce the bill formally to Parliament. I hope that you appreciate that we as a committee need to know what criteria you will use.

John Swinney: I would set out my rationale to Parliament once we got to that point, but I do not think it would be fair for me to prejudge the process and say that we have to get to a certain point by the end of June next year. I am saying that we have an agreement here between national and local government. I am very pleased that we have reached that point. I welcome the commitments to the agenda that have been made by local government and I want to make as much progress as we can on it as swiftly as we possibly can. In my opinion, that is a shared objective with our local government partners.

It would be wrong for me to say that this benchmark or that benchmark must be reached in this school year. I will see how much progress can be made and will make a judgment on that, which I will share with Parliament in a transparent way when the time comes.

Tavish Scott: Earlier, Councillor Stephen McCabe told us that these matters were all ones for you rather than him to make a judgment on. I am trying to understand what the criteria are on which you will make the judgment. As a

committee, it is very difficult for us to come to an objective assessment if we do not know what the criteria are.

John Swinney: I think that it would be wrong for me to specify the criteria. We have an in-principle agreement, and we want it to be implemented.

Tavish Scott: I understand that.

John Swinney: I want as much progress as possible to be made. There might be practical issues that we need to spend more time working on, and some of them might take longer to work through than we expect. I could say, "You've got to reach this landmark by the end of June next year," but, as we go through the work, we might find some technical issues that could take us four months rather than two months to work our way through, which would make that deadline difficult to meet. There could be a perfectly rational and reasonable explanation for that. I do not want to prejudge matters; I want to proceed in the spirit of partnership that has encapsulated our work and to make as much progress as we can. I will make a judgment about whether enough progress has been made and whether enough good will has been displayed towards advancing the agenda. I am confident that such good will exists among our local government partners.

Tavish Scott: That is fine, but, as of now—the first week of September—is it fair to say that, as a parliamentary committee, we do not know what criteria will be used to judge the process?

John Swinney: I think that the committee can take it that the judgment will be based on the agreement that has been formulated between national and local government.

Tavish Scott: That is at the level of principle.

John Swinney: Yes. The committee can see that—it has been published openly. Like me, the committee can look at the progress that has been made in developing and implementing the agreement and can ask for the evidence on that and make a judgment on how much progress has been made.

It would be wrong for me to lay down milestones that must be reached within a 12-month period, because I think that that would run contrary to the spirit of joint collaborative working that we are advancing.

Tavish Scott: Larry Flanagan of the EIS and Councillor Stephen McCabe of COSLA both said that they think that it is unhelpful to have legislation that is being held in reserve. They do not think that that is consistent with the sound principle of collaboration that you have just enunciated. Would it not be a good idea just to drop the legislation altogether?

John Swinney: No. It is there as an option that I can bring forward if necessary.

Tavish Scott: I do not think that Larry Flanagan and Stephen McCabe think that it is an option; they think that it is something rather worse than that. They said that to the committee earlier.

John Swinney: It remains an option that I can bring forward if sufficient progress is not made.

The Convener: A number of members have supplementaries. I ask them to ask just one question and to make it short. Otherwise, they should wait their turn, because they will cut across other members' time.

Ross Greer: Deputy First Minister, you have said that you will explain your rationale to the committee and to Parliament in 10 months' time. The school year has started. Teachers and pupils are aware that they will be judged over the next 10 months, but they do not know what they will be judged on. Is that fair?

John Swinney: I do not accept that characterisation, because the judgment in question is not about schools; it is about the way in which our partners progress the agreement that has been reached. The agreement envisages the formulation of a headteachers charter, which is a case of us doing the work, with the various partners involved, to develop that concept. It does not involve us judging the performance of individual schools in the process.

Ross Greer: But—

The Convener: I said that we would have one question and one answer before moving on.

John Swinney: In my response to Mr Scott, I said that there is a very clear measurement framework in place for considering and measuring the closure of the poverty-related attainment gap. That was published last December, and it is not changing. That framework is publicly known about and understood. Across the country, I see schools that are highly focused on the task of closing the poverty-related attainment gap, which is what the crucial measurement framework in Scottish education measures.

The Convener: If Mr Greer would like to follow up on that, he can do so when he asks his other questions.

11:15

Mary Fee: You said that the framework for measuring attainment is separate from the empowerment agenda and that that will not change. However, you also said that the empowerment and improvement agenda will have an impact on that framework. Will you still not revisit that framework throughout the year?

John Swinney: No, I will not because that framework is about identifying the range of factors—on which we consulted extensively—that will give us a rounded assessment of whether the poverty-related attainment gap is closing. The empowerment agenda contributes to that task and that is all consistent with our policy agenda. Our objective is to close the poverty-related attainment gap. We have a measurement framework to assess how we perform on that challenge and all the measures and reforms contribute towards advancing that agenda. It is measured by the framework that was published last December, which, after extensive consultation, commands widespread confidence across the education system.

Johann Lamont: In nine or 10 months, you will make a judgment on progress but you have not established any criteria for that. How will COSLA know what councils should do to ensure that you do not decide in 10 months that not enough progress is being made?

John Swinney: It is pretty obvious that—

Johann Lamont: If it was obvious, I would not ask the question.

The Convener: Ask one question. The cabinet secretary can respond.

John Swinney: It is pretty obvious that the Government and local government are working well together on the agenda. I approached the matter in a spirit of partnership to advance an agreement that takes a different approach from the one that the Government set out. I have been criticised for changing tack on that, but I changed tack because I listened to people.

I am committed to making the judgment about progress in the same spirit that has led us to a valuable agreement that advances the reform agenda in Scottish education. At the end of the year, after dialogue and consultation with COSLA, I will set out my rationale for the judgment about how much progress has been made. I will not do it without that dialogue. I will also clearly communicate to Parliament my decisions and consideration.

Oliver Mundell: I have a question on the back of what you just said and the reference to the proper order of things that you made in your response to Mr Scott. Have you got the approach to the reforms right so far?

John Swinney: Yes.

Oliver Mundell: Usually, Governments try non-legislative measures and collaboration first. Why have we spent a significant amount of time considering a piece of legislation that you no longer feel is required?

John Swinney: We have not been considering a piece of legislation because—

Oliver Mundell: Well, proposed legislation.

John Swinney: That is an important point. We have been having a debate about the policy intention of empowering schools to be more influential in designing the education of children and young people throughout the country. That is the policy objective in which I have been interested and the Government has consulted on the possibility of implementing that through legislation. The Government's policy intention has not changed. We have made progress on a dialogue with our local authority partners that enables us to advance that approach in a spirit of partnership without the requirement to legislate. I recognise that the concept of empowering schools is not simply created by legislation. It needs a change of culture in our education system and legislation does not routinely deliver a change of culture.

Oliver Mundell: If that is your belief and the policy intention has not changed, why did we not start with creating that dialogue? Under your assessment, the time that has been spent consulting on potential legislation has been wasted.

John Swinney: No, it has not. The time spent has, in my opinion, been very beneficial. We have had an extensive debate on how we take forward the concept of school empowerment. As I said in answer to Mr Scott, what came forward very clearly from the consultation exercises that we undertook was support and backing in principle for the concept of school empowerment, but there were a number of issues about the detail and the practicalities of how we might do that. Essentially, the conclusion that I have come to is this: if there is widespread support in the education system for empowering schools, let us work together and deal with the detail in a collaborative way to ensure that the approach works effectively and that children and young people in Scotland swiftly feel its benefit in the education system. That is why we have ended up with this position.

The Government has quite clearly listened to the opinions of other people, and I have tried to work in partnership. We have made good progress on the establishment of regional improvement collaboratives, despite initial resistance to some of those concepts, and I think that their benefits are now beginning to be felt in our education system. The same applies to the agenda on empowering schools.

Oliver Mundell: I hear what you are saying, but from what the first panel said, it does not seem that progress will be rapid. Education Scotland seemed to be talking about spending the next year

working out the baseline and how empowered schools are at the moment. Given that there are no defined timescales or prescribed objectives, how can we be confident that this approach will deliver results faster than legislation would?

John Swinney: I disagree with Mr Mundell's characterisation of the situation. There is a shared agreement between national and local government about the empowerment of schools in our education system, and it involves a number of components, not least of which is the headteachers charter, on which there is agreement between national and local government.

We will take forward that agenda. I have spent some time setting out to the committee that there will be an assessment of the amount of progress being made, but the logical point to make is that we are starting work on implementing this agreement now—the headteachers charter will be published before the end of the year—and that would not have been provided for had we gone to legislation. The earliest that legislation could conceivably have been implemented—this, I think, would still have been pretty ambitious—would have been autumn 2019 or, as it would much more likely have been, autumn 2020. Here we are in the autumn of 2018, already making progress on the implementation of this agenda. I think that that is good for children and young people.

Oliver Mundell: I understand what you say about implementing the agenda, but will the process of implementation be complete by the time that legislation would have been passed?

John Swinney: It is difficult for me to prescribe that at this stage, but I think that we will have made a great deal more progress on implementing—

Oliver Mundell: So long-term progress could be slower.

John Swinney: Wait a second.

No—we will make more progress on implementing this agreement than would have been made had we taken a legislative approach. I think that that should be welcomed, because we are advancing the agenda at a faster pace than would have been possible with legislation.

Oliver Mundell: Finally, just going back a stage, I am interested in why your approach changed. Stephen McCabe suggested that parliamentary arithmetic could have had something to do with it. Is that correct?

John Swinney: Not in the slightest. I understand that there is parliamentary support for the measures in the education bill; indeed, I read about that in the newspapers at the weekend.

Oliver Mundell: Excellent. Thank you.

The Convener: Before I bring in Liz Smith to ask about capacity and culture, I want to ask about the reform process. There has been a lot of talk about your making a decision in June 2019 on whether legislation is required and so on. Is there any possible benefit to the Scottish Government from bringing forward legislation given that, between now and June 2019, you, COSLA and the EIS will have been working collaboratively and co-operatively, even if there are hiccups? Can you envisage a situation in which, at that time, you might think, "Okay—we've been on the right track. However, we've hit some bumps; they're too big and we're going to bring in legislation"?

John Swinney: I cannot envisage that situation arising between now and June 2019, because the agreement that we have reached with local government has been reached in good faith. We have been involved in a good process and we have benefited from the active involvement of local government in the formulation of our policy propositions. I have no reason to believe that that climate will change as we move forward the implementation of the agreement that we have reached.

Liz Smith: Mr Swinney, this time last year you and the First Minister said forcibly on the record in various situations that the proposed bill—I stress the word "bill"—was absolutely critical in terms of delivering education reform. Obviously, over the course of the year, you completely changed your mind on that. You cite as the reasons for the change the information and feedback that you were getting from stakeholders and also what the Organisation for Economic Co-operation and Development told you in its important report three years ago. Given that that feedback was there at the time that you made the pronouncements about the bill being vital, can you tell the committee what it was, specifically, that made you change your mind?

John Swinney: I would highlight two factors. First, it became clear to me, as we consulted on the legislative proposals, that there was broad support for the principle of school empowerment right across the education system in Scotland, but there was substantial disagreement about the detail of all that. I wanted to ensure that I built on the agreement that was emerging about school empowerment and, essentially, captured that opportunity to take forward the reform agenda.

The second thing was the fact that we had already managed to get to a good position in relation to regional improvement collaboratives. One of the key issues that was raised by the OECD in its 2015 report concerned the lack of collaboration in the education system—that was its assessment of Scottish education. The fact that

we had made progress from an original position of resistance to the concept of regional improvement collaboratives to a position in which there was active participation in and co-production of the design of regional improvement collaboratives gave me confidence that there was a route that could be taken that would enable me to take the education system very actively with me in relation to that agenda.

I was also influenced by the commentary from the international council of education advisers. Essentially, it believes that the Scottish Government's education policy is soundly focused and anchored. However, it gave me some cautionary advice, which was that pursuing a legislative approach to the reforms that I was trying to introduce might not result in as good an outcome as would be achieved if I took forward the collaborative approach that I had already made progress with in relation to the regional improvement collaboratives.

Those are the factors that weighed on my mind. I felt that it was important that I listened carefully to the feedback that came to me through the consultation exercises and that I tried to capture that input to ensure that we took forward an effective reform agenda.

Liz Smith: So where is the logic in leaving the draft bill on the shelf so that you can draw it out again should it be required? That does not quite fit with what you have just said. You are either in favour of a bill to make those changes or you are not. Which is it?

John Swinney: What I am in favour of is making the changes. That is where my policy agenda has been absolutely consistent. I am in favour of empowering schools. That is what I fought the 2016 election on and that is what I am pursuing. The issue that we are discussing here is the most appropriate route by which we can do that. Originally, my view was that we had to pursue those changes through legislation. However, through the co-operative approach that we have been able to construct with local government, I have come to the view that there is an alternative approach that is founded on the agreement that we have reached. That is why we have ended up where we have ended up.

11:30

Liz Smith: What will happen this time next year, let us say, when you as cabinet secretary are looking at the progress that has been made? You commented earlier that the key thing is the drive to narrow the attainment gap. From the First Minister's statement yesterday, that is the overarching aim of this Government. What criteria will you be looking at to decide whether that

progress has been made? I think that we have a duty to tell parents, local authorities and our schools that. As cabinet secretary, what will you be looking at to decide whether progress has been made?

John Swinney: There are two distinct elements to that point and I have gone through them to some extent in my answers to Mary Fee and Tavish Scott. The measurement of whether we are closing the attainment gap will be determined by the framework that we put in place last December when we published the national improvement framework. Anyone who wants to see whether we are making progress will be able to look at those indicators, which will demonstrate whether we are closing the gap. That is all out there already and that framework will not be changing.

To answer Liz Smith's direct question about what a parent can look at to decide whether the attainment gap in Scotland is being closed, they should look at the reporting on the framework that we published last December.

The other distinct part of the question was about the impact of the reforms that we are undertaking. A whole host of factors will affect our ability to close the poverty-related attainment gap. It will not just be this reform agenda—it will be what we are investing in the Scottish attainment challenge; what we are investing in pupil equity funding; what local authorities are doing to support individual schools; and what individual schools are doing to change their practice to improve the quality of learning and teaching and to support young people to overcome the impact of adverse childhood experiences.

A whole host of factors will influence whether we close the poverty-related attainment gap, but we have an open, transparent framework that measures whether or not we are doing it. I believe that the reform agenda will help us to contribute to that, because it will empower the individuals whom we need to empower to have the most impact on children's education the length and breadth of Scotland.

Liz Smith: I hope that this is not what will happen, but if there is no improvement in the basic issues with the attainment gap—if by this time next year there is no improvement in literacy and numeracy standards—what will you do in relation to the legislative process? Will you continue to go for a collaborative approach or will you introduce the bill, as you intimated in June?

John Swinney: Those two questions, to my mind, are not directly related. The progress in closing the attainment gap will not influence my decision on whether sufficient progress has been made on the reform agenda.

I said a moment ago that the closure of the poverty-related attainment gap is influenced by a whole host of different factors within Government policy. Whether it is the attainment challenge, pupil equity funding, the multidisciplinary approach to tackling adverse childhood experiences, the enhancements of learning and teaching, the improvements in leadership, or the role of Columba 1400, all sorts of factors will influence the closure of the poverty-related attainment gap.

I will certainly not be taking a view that the progress that we make on closing the poverty-related attainment gap will lead me to take a different stance on whether this agenda should be taken forward through legislation. My decision on whether this agenda should be taken forward through legislation will be driven by how much progress is made in implementing the joint agreement that we have reached with COSLA.

Liz Smith: Just for clarification, cabinet secretary, I repeat that I really hope that this does not happen, but if there is an on-going situation where the attainment gap is very stubborn—as we all know that it is—at what stage will you review whether it has been right to go for a non-legislative process?

John Swinney: I fear that I am just going to say the same things that I said a moment ago, because that is exactly the same question that Liz Smith has just put to me and, essentially, I am trying to answer it as helpfully as I can.

There is a range of factors that affect our ability to close the poverty-related attainment gap. However, in short, if we do not see progress on closing the gap, I will not use that as justification for turning the agreement into legislation, provided that sufficient progress has been made on implementing the agreement through our joint collaborative approach with local government.

Ross Greer: Do you believe that classroom assistants and additional support needs assistants provide valuable and distinct roles?

John Swinney: Yes, I do.

Ross Greer: Why does the teacher census supplementary data not classify them as separate categories, which it always did up until this year? They are now classed under a single category as pupil support assistants.

John Swinney: The Government statisticians have taken the view that the two roles contribute to the same area of activity; therefore, the combined data provides a more representative position of the employment of individuals as part of the schools census.

Ross Greer: You just agreed that they are distinct roles, which they are. There is a huge difference between people who work specifically

with children who have additional support needs and those who do not. How are we able to scrutinise that if there is no longer a distinction in the data categories?

Additionally, the data is no longer published with the supplementary data for the census. It is available on request afterwards, because it is no longer put through a quality assurance process, unlike other elements of the data. Why is that?

John Swinney: On quality assurance, there have been issues in assuring that data was of a standard that could be published by our statisticians. They have had to wrestle with that data-quality issue and to interrogate quite significantly some of the data that emerged. They have taken the view that, in trying to provide the broadest assessment of employment and the characteristics of the workforce, it is better to present the information in that fashion.

Ross Greer: The Government is keen to emphasise and place importance on the science, technology, engineering and maths agenda. Do school technicians have a role to play in the STEM agenda?

John Swinney: Yes, they do.

Ross Greer: The category of school technician has been completely dropped from the supplementary data for the teacher census. Is that a good idea?

John Swinney: Judgments are made by our statisticians about appropriate presentation and collection of information. It is important that we have a sense of the entire workforce. However, our statisticians have wrestled with issues about the ability to provide quality data based on the variety of different categories and classification of support workers, which have made it difficult to put in place consistent data for some of the employment categories that Mr Greer has raised.

Ross Greer: Do you believe that to fulfil your role as Cabinet Secretary for Education and Skills, you benefit from knowing how many technicians there are in Scottish schools?

John Swinney: Ultimately, such issues are for local authorities, because they employ the staff who provide services in individual schools.

Ross Greer: You are the relevant minister of Government. Do you believe that you should know how many technicians there are in Scottish schools?

John Swinney: We have a very broad cross-section of information about employment in our schools, and I get a significant amount of that information. However, decisions about recruitment of staff at local level are currently taken exclusively

by local authorities, which have to judge what recruitment is undertaken at that level.

Ross Greer: I am not asking about recruitment decisions. I am asking about the availability of the data through Scottish Government publications. You mentioned that decisions about that are taken by the statisticians. Do they consult people in education before making changes to the data that they collect and publish?

John Swinney: Yes, they do.

Ross Greer: Who in education do they consult? Are you made aware of such things before a decision is made?

John Swinney: I am made aware of decisions that have been made; I do not make them.

Ross Greer: Is the Government fulfilling its obligation to be open and transparent? I will not take you through the long saga of what I underwent in collecting the data, but the teacher census that would typically have been published in December was not published until March this year, and the supplementary data was not available until July. After that, I had to request the data that we have been discussing, which was not put through a quality-assurance process, as I said.

John Swinney: If my recollection is correct, the reasons for all that are data-quality issues that the statisticians wrestled with as part of the process.

The Convener: It would help the committee to have the reasons in writing, because there seem to be a number of issues.

John Swinney: I am happy to provide that.

Johann Lamont: Councillor McCabe said that he did not know that the bill was going to be shelved, but the agreement with local government was in the context of the bill. Given that we will not have the bill, has the agreement been changed?

John Swinney: No.

Johann Lamont: Given that the bill provided the context in which the agreement was discussed, was there a particular reason why you did not let COSLA know, when you were forming the agreement, of your plan to drop the bill?

John Swinney: We formed the agreement as a consequence of extensive discussions. I do not remember exactly when, but I think that COSLA leaders approved the bill's contents at the end of May. After we reached that point, I considered the best way to advance the agreement. I drafted a bill that was consistent with the agreement, and the draft bill that I published at the end of June contained the provisions that were the subject of the agreement with local government.

In the aftermath of reaching the agreement with COSLA, I judged that there was an opportunity to take the work forward through a collaborative route, given that we had made progress on the regional improvement collaboratives through such a route. I shared that decision with Councillor McCabe before I announced it to Parliament, so I had advised local government of my intention to announce a different course in my parliamentary statement. That was based on my judgment that we could make more progress, more swiftly, through a voluntary agreement.

Johann Lamont: The decision to stop the legislation was not collaborative.

John Swinney: No. A very important point is that Councillor McCabe is not the legislation's author and would not claim to be. The decision is for me to take.

Johann Lamont: I understand that, but my point is not about that. COSLA came to an agreement with you in the context of the bill, which you then decided to drop because, as you say, you had a collaborative arrangement.

It is one thing to say that you are in favour of an improvement agenda, which everybody is signed up to, but it was evident from the previous panel that neither COSLA nor the teachers' representative agrees with you on some fundamental points about what "improvement" looks like. Why do you persist in using the term "headteachers charter" when the EIS and the National Parent Forum of Scotland want a more collegiate schools charter that sets out what leadership at every level in a school looks like? Those of us who have been in schools know that a headteacher is one part of leadership, but many people do not subscribe to what the EIS called the "heroic leader" model—schools will not work on that basis. Do you agree that the charter should be not a headteachers charter but something slightly different that is about how people work together in collaboration?

John Swinney: Under the heading "Agreement on the Headteachers' Charter", paragraph 9 of the agreement that has been reached between the Government and local government sets out a number of provisions for the charter. It says:

"Headteachers are responsible for deciding how best to design their local curriculum in line with Curriculum for Excellence ... Headteachers choose the staff who work in their school, with due regard to employment law and the contractual obligations of their local authority".

However, it also says that

"Headteachers must work collaboratively with their staff, parents, pupils, and wider partners including other schools and their local authority on curriculum design and improving learning and teaching."

Johann Lamont: So, it is not a headteachers charter.

John Swinney: Well it is, because at the top it says,

“Agreement on the Headteachers’ Charter”,

so it is a headteachers charter.

11:45

Johann Lamont: You call it a headteachers charter—the idea is that you empower the headteacher, who delivers locally and is dynamic and all the rest of it—but the reality is different because COSLA, parents, the teaching unions and headteachers themselves have expressed concern about the model.

John Swinney: I believe that headteachers should work collaboratively with their staff and with parents, pupils and wider partners. I have always believed that.

Johann Lamont: Is that different from the model that was proposed in the legislation or is it exactly the same?

John Swinney: It is exactly the same—of course it is. To go back to my earlier answer, the agreement is the basis on which the legislation was crafted.

I have always believed that headteachers must operate in the fashion that we have been talking about. However, headteachers must be able to exercise more flexibility and have more control than they have just now, which is why the provisions of the charter are so significant.

Johann Lamont: Why would you resist the view of both the unions and the National Parent Forum of Scotland that the idea that the authority simply goes to the individual headteacher is not appropriate, and that it would be better to signal that you are looking for something much more collegiate, perhaps by calling it a schools charter, which would allow for accountability? Do you also recognise that in evidence this morning, Councillor McCabe made it very clear that the responsibility of the headteacher and accountability to the local authority would remain the same?

John Swinney: Headteachers are employees of local authorities. At no stage have I advanced a proposition that would ever change that; nothing that I have ever said would have changed that position. It is clear that a line of accountability would always have to remain between the headteacher and the local authority and I have never argued to change that. However, the headteachers charter will significantly enhance the power and flexibility of headteachers on a uniform basis across the country.

I accept that there are some schools where headteachers currently choose their staff. However, that is not the case in every local authority, which means that there will be shifts in relationships between individual local authorities and their headteachers. At no stage have I ever argued for the accountability or employment arrangements between a headteacher and a local authority to change as part of the process.

Johann Lamont: If you are going to take a collaborative approach, would it not have been reasonable to acknowledge that the proposals and the bill that you have now shelved were not garnering support? Do you not think that you have to be open in dealing with unions, parents and local authorities by saying that you need to do something that is slightly different from what was proposed in the bill? Will you not concede that point, at least?

Perhaps I can capture the concern this way: you have created the impression that you are going to get exactly the same results without legislation as you would have had with legislation, but people regarded the bill as difficult and not necessarily appropriate in order to achieve the more general aims around empowerment. Are you open to the concept that the kind of collaboration that will happen will not be what the bill was intended to deliver, but might be something better?

John Swinney: There are several points that I would like to address. First, over the past couple of years many things have been said to be my policy intentions that were never my policy intentions. For example, I have read column inches about how I was going to academise Scottish education. At no stage was I ever going to academise Scottish education, but it was put about that I was going to do so. Holding me to account for that model might be interesting political sport, but it was never my policy intention.

Secondly—and to follow up the point that I made to Mr Mundell in my earlier answer—my policy intention throughout has been to empower schools. The debate has been about the best way to do that. I was pleased that in the consultation exercises there was widespread support for empowerment of schools, although not for some of the precise details that we had put in the proposals. That is why we have got together with local government to come up with an agreement that satisfies my objectives on empowerment of schools and will put the necessary control in the place where it should rest within an education system, which is in our schools, with our headteachers in individual schools being able to influence the education of children and young people.

As a consequence of all that, the policy agenda is being achieved. That approach is being offered

to Parliament openly. I gave a statement to Parliament earlier this year, and I have published the agreement with local government openly and transparently, as people can see. From it, it is pretty clear that the policy agenda of empowering schools will take its course in with dialogue local government.

Johann Lamont: It would be reasonable to suggest that empowerment of schools was not necessarily captured through the headteachers charter in the draft bill. It is possible to be in favour of empowerment of schools—as councillors, the EIS and parents are—without accepting your description of a headteachers charter. Would it therefore not be reasonable to expect you to be open to the idea of a more collegiate approach and to accept that there should be a school charter rather than suggesting, as was suggested yesterday in the chamber, that we will get the same thing anyway and that the reason for the approach is to get it more quickly? Surely you will be open to a different approach on the headteachers charter from what is described in the bill if you accept that other people have a different view of how to empower schools.

John Swinney: The bill that we will introduce will be based on the agreement that we have reached with local government. That includes provision for agreement on the headteachers charter, which is an implicit part of what we have put forward.

Johann Lamont: I am sorry, the bill—

The Convener: We are going round in circles. The same questions are being asked, so we will obviously get the same answers.

George Adam: Good morning, cabinet secretary. I want to talk about the point that you made about the reality of what you proposed and what was reported in newspaper column inches. I am starting to doubt whether I have been in the same room as some of my colleagues today, because the representatives from partner organisations were positive. They are looking forward to the challenge and want to work with the Government to ensure that we find solutions. Was I in a completely different room, or is that the case with the organisations that you are working with?

John Swinney: After extensive dialogue, we have reached an agreement with COSLA, which is formulated in the text of the joint agreement that the committee will have seen. That agreement satisfies my view of the approach that we need to take to empower schools by ensuring that headteachers are able to exercise their responsibilities as leaders of learning and are able to have much greater influence than they currently have today over staffing in their schools, and by ensuring much greater involvement of parents in

the education of young people. A suite of decisions can be taken closer to children as a consequence of the agreement. I welcome the fact that we have reached agreement with our local authority partners, and I believe that the agreement is a very sound basis on which to proceed with our agenda.

Mary Fee: I want to ask about the inspection regime. Education Scotland will carry out three new thematic inspections over the next year. It will look at readiness for empowerment, curricular leadership and parent and pupil participation. What discussions have you had to agree benchmarks or criteria for Education Scotland to carry out those thematic inspections?

John Swinney: Her Majesty's Inspectorate of Education acts independent of ministers. In the discussion that has taken place, Education Scotland and the inspectorate have made their contributions to a collective process. The Government and local government have said that it is reasonable to take forward those three elements of inspection; that is exactly what Her Majesty's Inspectorate of Education will do. The decisions are formulated by the inspectorate, independent of ministers.

Mary Fee: How much weight will you put on the findings of those inspections in order to develop your understanding of success when you evaluate how well schools have done next year?

John Swinney: I will look carefully at those reports, as I look carefully at every inspection report that comes from Her Majesty's Inspectorate of Education. I see every one of its reports, whether they are about nursery classes, primary schools, secondary schools, special schools, independent schools or thematic inspections across different policy areas or individual inspections of local authority education functions. I look carefully at such reports weekly.

The Convener: The final question is from Tavish Scott.

Tavish Scott: I want to ask one question about testing primary 1 pupils. It is not about whatever is to come in the chamber this afternoon; obviously, I do not have a clue what will be said. My question is more about the advice to parents that has appeared in the past couple of weeks, which was of concern because it was contradictory. Could you clarify why the Government published advice that parents cannot opt their children out of P1 tests, quoting the Society of Local Authority Lawyers and Administrators in Scotland—SOLAR—as an authority for that position, when SOLAR then said that it had given no such view? That is, at best, a worrying difference of opinion.

John Swinney: I will go through such questions this afternoon, but as I am here now I will answer

Tavish Scott's question and hope that that is not seen as discourtesy upstairs in the chamber.

Tavish Scott: I am not asking you to explain the philosophy of your position on testing; I just want you to clarify that point.

John Swinney: Here goes, is the best I can say. Mr Scott said that the advice had changed or was different. I contest that. I think that the view has been pretty consistent, and I would be best to try to express it as follows. There is no legislative provision for standardised assessments, but there is really no legislative provision for anything in Scottish education, other than that children and young people must be educated. If there is no legislative provision for standardised assessments, there cannot be a legislative right to withdraw a child from an assessment. That has been the consistent position that the Government has argued over time.

Of course, as has been clear throughout the dialogue that we have had, if a parent or carer is concerned about the appropriateness of their child participating in assessment, they are free to raise that with the individual school. If we look at the participation rate on standardised assessments, we see that it is about 94 per cent. I would never expect it to be 100 per cent, because there will be some young people for whom it is not appropriate that they undertake standardised assessments, and the data demonstrates that point.

Finally, on the point about the SOLAR advice, my officials spoke to local authority lawyers and thought that they were hearing SOLAR's position. However, because they were speaking to people within SOLAR who were closest to some issues that we were interested in around parental consent, in order to ensure that we understood matters, the advice was represented in a letter from one of my officials as a SOLAR position, but SOLAR has subsequently made it clear to us that it does not hold that position. The information was presented in good faith, but we gave a definition of the source of the advice that was not appropriate.

Tavish Scott: I presume that people at SOLAR thought that they were giving private advice to the Government.

John Swinney: It was not so much that they thought it was private advice. What was happening was dialogue with people in SOLAR's organisation, and it subsequently became clear that SOLAR did not provide a collective position, and that fact was not appropriately presented by us in the letter.

Tavish Scott: I appreciate that. The Government obviously recognises that the matter is incredibly sensitive for teachers and parents. Would it not have been helpful to have published another letter saying what you have just said?

John Swinney: I have done that in collaboration with the Association of Directors of Education in Scotland.

Tavish Scott: We got it this morning, but it does not mention SOLAR and the advice.

John Swinney: I was trying to present the position between the Government and the Association of Directors of Education in Scotland in order to provide clarity. In my statement this afternoon, I will address the SOLAR issue directly. I want to make it clear to the committee that we found ourselves in that situation inadvertently.

The Convener: I said that Tavish Scott's would be the last question, but I have missed out Clare Adamson, for which I apologise.

Clare Adamson: I would like to return to a theme that was addressed by the first panel—children who are in kinship care or foster care, and looked-after children who are in either third sector or council run establishments. How do we ensure that all the people involved feel that they are part of the process and do not feel excluded, and that the voice of looked-after children will be heard as loudly as that of other children?

John Swinney: The key approach is the focus on the whole child, which is a central part of our approach to policy on children and young people. I want to ensure that, in all circumstances, those who surround and support looked-after children are able to understand all the support that is available to them, and also that those who are responsible for the education of looked-after children take due account of the specific challenges that looked-after children face as a consequence of their situation. I want to ensure that their needs are adequately and fully met. The working arrangements that we have with local government are designed to ensure that the whole-child approach can be taken forward.

The Convener: Thank you. That brings us to the end of the public session. I thank the cabinet secretary and his staff for their attendance.

12:01

Meeting continued in private until 12:26.

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