



OFFICIAL REPORT
AITHISG OIFIGEIL

Education, Children and Young People Committee

Wednesday 30 April 2025

Session 6



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Wednesday 30 April 2025

CONTENTS

	Col.
EDUCATION (SCOTLAND) BILL: STAGE 2	1

EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE
14th Meeting 2025, Session 6

CONVENER

*Douglas Ross (Highlands and Islands) (Con)

DEPUTY CONVENER

*Jackie Dunbar (Aberdeen Donside) (SNP)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)
*Miles Briggs (Lothian) (Con)
*Pam Duncan-Glancy (Glasgow) (Lab)
*Joe FitzPatrick (Dundee City West) (SNP)
*Ross Greer (West Scotland) (Green)
Bill Kidd (Glasgow Anniesland) (SNP)
*John Mason (Glasgow Shettleston) (Ind)
*Willie Rennie (North East Fife) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Katy Clark (West Scotland) (Lab)
Jenny Gilruth (Cabinet Secretary for Education and Skills)
Clare Haughey (Rutherglen) (SNP) (Committee Substitute)
Stephen Kerr (Central Scotland) (Con)
Liz Smith (Mid Scotland and Fife) (Con)
Sue Webber (Lothian) (Con)
Martin Whitfield (South Scotland) (Lab)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education, Children and Young People Committee

Wednesday 30 April 2025

[The Convener opened the meeting at 08:30]

Education (Scotland) Bill: Stage 2

The Convener (Douglas Ross): Good morning, and welcome to the 14th meeting in 2025 of the Education, Children and Young People Committee. We have received apologies from Bill Kidd, and Clare Haughey is attending in his place and joins us remotely.

The first item on our agenda is day 2 of our stage 2 consideration of the Education (Scotland) Bill. I welcome back the Cabinet Secretary for Education and Skills and her supporting officials, committee members and other members of the Scottish Parliament who have lodged amendments.

Section 2—The function of awarding qualifications

The Convener: Amendment 3, in the name of Ross Greer, is grouped with amendment 230.

Ross Greer (West Scotland) (Green): This will be a short one from me to start off with.

I will be moving amendment 3 for the same reasons that I moved, and we debated, amendment 2 last week. I want the bill to make it clear that there should be a hierarchy of priorities for qualifications Scotland, with domestic Scottish learners' needs, and the services provided for them, being put above the organisation's international commercial activity. That has been an issue, particularly in the five to 10 years leading up to the pandemic; it has been less of an issue following the pandemic, but there is nothing in the bill to safeguard against the return of what I believe to be the skewed priorities of the Scottish Qualifications Authority's senior management.

Amendment 3 simply continues the debate that we had on amendment 2 by seeking to ensure that the hierarchy of priorities is clear and that Scottish learners and their interests are always put ahead of any commercial activity.

I move amendment 3.

Pam Duncan-Glancy (Glasgow) (Lab): We are supportive of Ross Greer's amendment 3.

My amendment 230 seeks to place a duty on qualifications Scotland to make arrangements to

ensure the quality of the qualifications that develop under the terms of the legislation. The questions that we have had in recent weeks and months about specific qualifications—higher history is an example—are such that we need to ensure as much robustness, credibility and trust in the system as we possibly can.

There is a gap in the bill in that respect, because it does not include a clear mechanism for safeguarding such standards. As such a mechanism is important, I have lodged amendment 230 to ensure that qualifications are consistently high in quality and are credible. I believe that that will command the confidence of learners, employers and the public, which is exactly what the reforms should be doing.

The Cabinet Secretary for Education and Skills (Jenny Gilruth): Good morning, members.

I thank Mr Greer and Ms Duncan-Glancy for setting out the purposes of their amendments. Mr Greer's amendment 3 calls for an emphasis on learners, teachers and practitioners when considering the delivery of the functions of qualifications Scotland. I think that it is clear that his aim is one on which we can all agree. To that end, I fully support the emphasis on pupils and other students undertaking qualifications and on the teachers and practitioners who are delivering them.

My slight concern relates to the restrictive way in which the amendment might operate in practice, and the points that I made during our discussion on group 1 are relevant here, too. Therefore, I am grateful that Mr Greer did not press his amendment 2 in group 1 and that he will not be pressing amendment 3 so that we can work together on something for stage 3.

On Ms Duncan-Glancy's amendment 230, which, as I understand it, would require qualifications Scotland to quality assure its qualifications, that function has been an inherent part of the SQA's operations and will continue to be a crucial component of how qualifications Scotland delivers high-quality qualifications. Earlier this year, I shared with the committee a paper setting out how school qualifications devised by the SQA are reviewed and quality assured. It would be helpful to revisit some of that in detail, alongside having discussions on the location and scope of accreditation functions, which we agreed last week.

The process of assuring national qualifications will continue in qualifications Scotland, and the premise of reviewing and quality assuring qualifications—particularly where issues arise, as Ms Duncan-Glancy has just highlighted—will not be a new feature of the qualifications body. As we know, issues will always appear in year, given—to

put it bluntly—the size of the qualifications portfolio, but I am happy to support the amendment to provide reassurance that the process will continue to happen.

This discussion on amendment 230 also provides an opportune moment for me to update members on the work that the SQA has done, ahead of the transition to qualifications Scotland, to improve how qualifications are delivered in schools and to enhance its leadership structures. I believe that that is the work on which the convener asked for an update last week.

Members might recall that I commissioned the chair of the SQA to consider all that; a response was submitted to me at the end of last year, and it included proposals for a dedicated schools unit and initial considerations on leadership design for accreditation. I responded to the submission in February, giving support for the direction of travel and for more detailed proposals to be developed. Since that time, the SQA has revised its leadership structure to separate the chief executive and chief examiner roles—as we discussed last week—and to put in place an interim chief regulator for accreditation to enhance the separation of those functions. Again, we discussed that last week in relation to group 4.

The SQA, with funding from the Scottish Government, has also recently appointed a seconded headteacher into the organisation to act as a senior adviser on qualifications and to lead a new dedicated schools unit. That work will be hugely important in changing the way in which the organisation works with our schools. The individual in that senior role will report to the chief examiner and support the organisation to ensure that it is able to rebuild trust and confidence with our teachers. They will take up their role in the summer and will then transition to qualifications Scotland.

I will keep members updated on that work, noting the relevance of those discussions to a number of amendments that the committee has been considering. I hope that that is a helpful update in the context of these amendments.

The Convener: I call Ross Greer to wind up and say whether he wishes to press or withdraw amendment 3.

Ross Greer: As the cabinet secretary has indicated, I will not be pressing amendment 3, in line with the agreement that we reached last week on amendment 2. I am happy to bring back an alternative version underpinned by the same principles at stage 3.

Amendment 3, by agreement, withdrawn.

The Convener: Amendment 229, in the name of Pam Duncan-Glancy, is grouped with amendments 231, 238, 289 and 354.

Pam Duncan-Glancy: The amendments in my name in this group are an attempt to provide clarity, consistency and confidence, ensuring that learners and employers can understand what qualifications mean, how they compare and where they lead. The Scottish Credit and Qualifications Framework Partnership is one of Scotland's most important educational assets—I think that most of the committee's members will share that view—and the bill should do more to embed its role in the new system.

The amendments that I have lodged in this particular group ensure that the qualifications would be named clearly, mapped transparently and developed in active partnership with the SCQF Partnership, which would remove confusion and strengthen trust in the system. Without the national framework, we could risk reintroducing the same opacity and duplication that has failed learners in the past, and these amendments seek to fix that.

We know that people can sit exams and take qualifications at the same level in the Scottish credit and qualifications framework, but the words that are associated with them—highers, modern apprenticeships or foundation apprenticeships—are not always fully understood with regard to the amount of work and effort that has gone in. Parity of esteem across the education system in that regard is fundamental to ensuring that we serve the learners of the future.

Amendment 229, in my name, would require qualifications Scotland to name qualifications in a way that aligns with the relevant SCQF level. The aim is to create an easy-to-navigate system that ensures ease of access for learners and reflects best practice, but which also embeds the parity that the committee and others have talked about hoping to achieve in the system. It would put into practice the principle of simplicity; it would ensure that learners, parents and employers can immediately see and understand what level of qualification someone has; and it would remove any lack of clarity in the system that could be a barrier to progression.

Amendment 231 would build on the quality assurance established by amendment 230 in the previous group by requiring qualifications Scotland to enter into a shared confidence agreement with the SCQF Partnership to formalise that collaborative relationship and to guarantee that SCQF standards were embedded in the development of qualifications. That is needed, because without that clear framework, learners, teaching staff and, as I have said, employers might find it slightly difficult to understand exactly

what a learner has achieved. It is incredibly important that we equip young people with the types of skills, and the passport for such skills, to enable them to demonstrate to employers in the future what they have been able to achieve.

Amendment 238 would require qualifications Scotland, in the exercise of its functions, to “have regard to” the SCQF.

I hope that the cabinet secretary and committee members can support the amendments in this group. As members will see, amendments 238 and 229 could each offer supportive functions, but there are options if members feel that they want to support a slightly different approach. I hope, therefore, that members across the committee, supported by the Government, will be able to find something in this group of amendments that they can support and progress.

I move amendment 229.

Stephen Kerr (Central Scotland) (Con): I agree with what Pam Duncan-Glancy has said about the value of the SCQF Partnership. It is undoubtedly one of the treasures in the Scottish educational landscape. That is why I will be moving amendment 289 in my name. I will also touch on some of the other points that Pam Duncan-Glancy proposes in her amendments 229, 231, 238 and 354. The amendments in this group seek to clarify, codify and, in some instances, transform the role that the SCQF Partnership plays in the reformed landscape of Scottish qualifications.

My amendment 289 is an essential and constructive contribution to the bill. It introduces a distinct statutory framework for qualifications, to be housed within the existing SCQF Partnership.

John Mason (Glasgow Shettleston) (Ind): As I understand it, the SCQF Partnership is not part of the public body landscape as it is a separate charity. Does that make a difference to legislation concerning it?

Stephen Kerr: That is an interesting intervention from John Mason. I do not believe that it does. We know from the report on Scottish education by the Organisation for Economic Co-operation and Development from a couple of years ago that we have a very cluttered and confusing landscape. We have so many bodies—at the end of Ken Muir’s report, there are pages and pages of bodies listed.

With my amendment 289, and with other amendments of mine in other groups, I am trying to give clarity to the distinctive roles and importance of specific bodies. I completely agree with what Pam Duncan-Glancy said about the importance of the SCQF, and that is why I am

trying to create a distinct position for it and a framework for it within the bill.

George Adam (Paisley) (SNP): I looked at the amendment and all the evidence from stage 1. Is there anything from stage 1 that you can point to? Even Ken Muir said that it would probably cause more confusion.

Stephen Kerr: I am sorry, but might I ask George Adam what specifically would cause more confusion?

George Adam: Ken Muir said that the current processes and systems were robust enough for them to continue in that way. He also said that it would cause further confusion as to what was what and what stood within which organisation.

Stephen Kerr: I cannot see how it adds to confusion to clarify any statute.

George Adam: I am sorry, but may I intervene again?

Stephen Kerr: Yes.

George Adam: This is my question: I pointed out something that Professor Muir said, so can you, Mr Kerr, point out something from stage 1 that backs your position?

Stephen Kerr: I was responding to that when you asked me to give way again.

I do not see how clarifying these roles does that. I think that Ken Muir’s point, which George Adam highlighted, was said in an earlier part of the bill process and was not related to what I am proposing. I am proposing adding the clarity that the OECD has highlighted is required. Ken Muir, in his report, suggests that we need to declutter the landscape and have clear understanding. I think that that aim is at the heart of Pam Duncan-Glancy’s amendments as well.

Jenny Gilruth: I am listening to Mr Kerr develop his point. He talks about greater clarity, but the SCQF provides that clarity at a national level, encompassing all qualifications. He is seeking to duplicate—I think that that is the point that Mr Adam was making—by having another framework embedded, as I understand it, within qualifications Scotland, and that would create more confusion. Does Mr Kerr agree that more challenge in how qualifications are interpreted will be created by duplicating something that already exists?

Stephen Kerr: No. I think that my amendment 289 provides a framework that does not currently exist in statute. It creates clarity around what the different bodies do within the context of the bill that introduces qualifications Scotland. It explains what the roles of those different bodies are.

For example—and we will come on to this—there are, I think, enormous questions about the

role and purposes of Education Scotland. I regularly ask people in education, “What is the point of Education Scotland? What does it do for you?” The truth of the matter is that I very rarely get any kind of answer that adds up to any value at all.

08:45

Martin Whitfield (South Scotland) (Lab): The member will accept that there is an existing structure that covers the qualifications that the SCQF Partnership provides for. I do not disagree with what his amendment seeks to do, but, if we solidify that existing framework in primary legislation, is a challenge not that, as we develop needs and expectations and as new qualifications come along, it might be bound by a language that, as we have discovered with education in Scotland, very quickly becomes antiquated and, indeed, might prevent some of the development that the member and I are seeking to achieve for our young people in the form of qualifications and parity of qualifications across the board?

Stephen Kerr: I am grateful to Martin Whitfield for his intervention, but I am not sure that, under the very simple terms of amendment 289 in my name, what he suggests is likely to arise. All that the amendment does is to seek to establish a single framework. It would give the SCQF Partnership the statutory role of establishing a single framework for Scotland’s qualifications; it then goes to say that the qualifications would do exactly as has been identified in Pam Duncan-Glancy’s amendments in this group. With such an approach, the levels and points would be indicated, which would give real clarity to learners as to what their qualifications stacked up to. As I will go on to say, it would make things very clear to employers, too.

The SCQF Partnership already fulfils that valuable role. I take the member’s point in that respect, but what I am trying to do is to create some clarity. I am not, as the cabinet secretary has suggested, trying to add confusion—I am trying to create crystal-clear clarity about what this body does and the value that it brings to the total education landscape in Scotland. I am trying to give the SCQF Partnership a clear and legitimate statutory role that aligns with the functions that it already performs in practice. I am not seeking to duplicate anything—I am just seeking to give crystal-clear clarity about what the SCQF Partnership does.

Coming back to John Mason’s point, I recognise that the partnership is a registered Scottish charity that performs critical work in benchmarking, recognising and comparing qualifications and ensuring that they align with recognised credit levels. Nevertheless, I think that its excellent work

operates in a somewhat grey space. It is influential, yes, but it has no defined legal mandate. I do not think that that is sustainable, because—and here I go back to the findings of the OECD—we already have so many bodies. Let us give the SCQF Partnership the distinction of being recognised in law for the excellent work that it does.

That is what amendment 289 proposes to do: it proposes to give the SCQF Partnership formal responsibility for accrediting qualifications to ensure that they meet published requirements. Giving the partnership the responsibility for defining and comparing qualifications in Scotland by establishing a unified framework that assigns levels and credit points to learning programmes will ensure clarity, accessibility and transferability across the education and employment sectors. The amendment seeks neither to displace qualifications Scotland nor to duplicate its work. Instead, it strengthens a valuable partner and gives learners, providers and employers clarity and confidence that qualifications accredited through the SCQF are subject to transparent public standards and institutional governance.

I will move on very quickly to amendment 229, which relates to the definition and role of the SCQF in the bill. It appears designed to formalise the framework itself, which I would support, but it does not assign the functions in the way that my amendment 289 does. That is why I think that amendment 289 has some value in the context of this group. Amendment 229 is helpful, but, as I have said, it does not set out the bolder articulation of the purpose of the SCQF in the way that amendment 289 does.

I welcome amendment 231, although, again, I think that it would be helpful to have amendment 289 alongside it, for the sake of clarity.

Amendment 238 seeks to ensure that qualifications Scotland recognises the role of the SCQF. That already happens in practice, but the amendment gives it statutory backing. However, although I support its intent, I suggest that it would benefit from being nested within the more comprehensive structural definitions that I have included in amendment 289.

In conclusion, amendment 289 is a pragmatic proposal that seeks to give crystal-clear clarity to the education landscape when it comes to the salient institutions that learners, employers and others need to know about and appreciate. Being able to say what something does—I recall the old adage about something doing what it says on the tin—is what amendment 289 is all about. By creating a clear understanding of what organisations exist to do, it enhances coherence in the system and will make Scottish qualifications and the Scottish qualifications landscape more

transparent, more navigable and more understandable, not just for professionals and institutions but, as I have said—and this is the critical group that I have in mind with amendment 289—for learners themselves.

I commend amendment 289 to the committee.

Jenny Gilruth: I thank Ms Duncan-Glancy and Mr Kerr for explaining the purpose of their amendments. We can all agree on the importance of the SCQF as a national framework for qualifications, and I support the general principles of Ms Duncan-Glancy's amendments in particular.

Qualifications Scotland will be expected to work closely with the SCQF Partnership in relation to the framework, as the SQA does now. Although their organisational functions and focus differ, they share the common goal of ensuring high-quality qualifications for learners across Scotland. It is right, then, that qualifications Scotland considers the advice of the SCQF Partnership on the status of the framework when delivering its functions, and vice versa.

Therefore, I offer my support in principle to amendment 238, which seeks to ensure in legislation that regard is given to the framework. Some technical changes will be needed if the provision is to be future proofed, as the framework is not, as we have heard, something that has been established by legislation. As such, it could change in future, and the legislation would then no longer work in the way in which we all intend it to. We would need to take a power to amend the reference or refer to such frameworks as ministers may specify in regulations. I am happy to work with the member to refine things for stage 3, and I therefore ask her not to move the amendment today.

Martin Whitfield: Am I right to infer that the cabinet secretary shares my concern about our being unsure about what the assessment landscape will look like in the future, and that retaining the level of versatility allowed by the framework instead of defining all this to the nth degree in primary legislation would be beneficial and would meet what a number of members have indicated is their desired goal?

Jenny Gilruth: Mr Whitfield's earlier point about flexibility is really salient. The member will be aware that what is currently the SQA—what will be qualifications Scotland—is looking across the piece at the wide variety of qualifications that are being delivered in our schools. Those have changed substantially since the member and I were in school, and we need to be mindful of that flexibility and allow the organisation the opportunity to move and respond accordingly. Therefore, I agree with the sentiment behind the member's point.

I cannot support amendments 229 and 231, which seek to place in legislation operational arrangements between the two organisations. Amendment 229 seeks to ensure coherence in naming conventions, but I believe that that will be best resolved through the working that we already have and through the collaborative relationship between qualifications Scotland and the SCQF Partnership. Notwithstanding that, I think that support for the principle of amendment 238 delivers that. I will speak to that in a moment.

Before I do so, though, I want to set out why I cannot support amendment 231. As drafted, it seeks to place the requirement to enter into a shared confidence arrangement in the context of qualifications Scotland's own quality assurance functions. Those functions are for qualifications Scotland to satisfy itself that the arrangements that educational establishments have in place for delivering qualifications and related assessments are appropriate. Those quality assurance functions protect the integrity of qualifications and ensure that all those taking qualifications do so in a way that is fair and equitable. The SCQF Partnership has independent oversight of the credit rating functions of the credit rating bodies such as the SQA.

In its letter to the committee, the SCQF Partnership clearly set out its role in the system and the relationship that it has with the SQA. It is clear from that that the SCQF Partnership has no role in the operational quality assurance processes for qualifications that qualifications Scotland and other awarding bodies will put in place to support delivery. It is therefore hard for me to see why the SCQF Partnership must enter into an agreement with qualifications Scotland on those particular matters.

Although there may be some concerns about how the SCQF Partnership and the SQA work together, I understand that the chief executive of the SCQF Partnership and the interim chief executive of the SQA are working closely to strengthen that approach.

I hope that my intention to work with Ms Duncan-Glancy on amendment 238, alongside the assurances that I have provided on reviewed arrangements between the two organisations, provides the reassurance needed. I ask Ms Duncan-Glancy not to press amendment 229 and not to move amendment 231 and her connected amendment 354.

Mr Kerr's amendment 289 seeks to create a separate framework for qualifications that is managed by the SCQF Partnership. That suggestion contradicts the purpose of the existing national framework, which is a single national qualifications framework for Scotland. Therefore, to have a framework that is exclusively for

qualifications Scotland would arguably undermine the principle of a cohesive and simple framework for the whole country. For those reasons, I do not support the amendment, and I encourage others to do the same.

Stephen Kerr: I fully understand the point that the cabinet secretary makes, but does she accept what the OECD said about cluttering the educational landscape with bodies? Does she agree that we ought to do something?

She points to Pam Duncan-Glancy's amendment 238, if I understand what she is saying. Does she believe that we should do something to recognise the distinctive and valuable contribution that is made by the SCQF Partnership?

Jenny Gilruth: I very much agree with the latter point. We have heard from a number of members about the challenges that are associated with how that body was established, which I am not necessarily sure could be resolved through this bill, because it is focused on the role of qualifications Scotland. More broadly, the role of the SCQF Partnership, which has been raised by other members, is something on which I would be happy to engage with members.

Stephen Kerr talks about the cluttered landscape of educational bodies in Scotland. I have listened to his arguments, but I am not clear how that would be resolved by creating a new bespoke framework for qualifications Scotland's delivery. If anything, that would add to the clutter in the landscape, so I am not sure that I agree with him on that point, but I agree with him on his overarching point in relation to the role of the SCQF Partnership.

Stephen Kerr: For the record, I would like to say that I understand and fully accept what the cabinet secretary has said in relation to the wording of the amendment. Therefore, when the time comes, I will not move the amendment, because I will wait to see what comes of the discussions that the cabinet secretary has with Pam Duncan-Glancy in relation to her amendment 238.

Willie Rennie (North East Fife) (LD): Just to seek clarity, is it the Government's position that we should name qualifications based on the SCQF?

Jenny Gilruth: No. The SCQF is a kind of currency converter for the totality of qualifications that are delivered. One of the challenges that was raised in Professor Louise Hayward's report was the lack of understanding across the country in relation to how that framework is applied to qualifications. That is the point that Mr Kerr was making. We need to look at that issue, which is the point that I made to Ms Duncan-Glancy.

There have been suggestions in the past that, for example—I think this might have come from Professor Hayward's report—the title of “higher” would be removed from qualifications, but I would not support that position. In responding to Professor Hayward's report, I have said that we need to lean into the points that Ms Duncan-Glancy made about helping to understand how SCQF accreditation is applied to the qualifications. To go back to the points that Mr Kerr made, there is a disconnect between the SCQF's role in the system and how that is applied to the qualifications body. The issue is also about communication. I am very amenable to having those discussions with members.

09:00

Pam Duncan-Glancy: My amendment 229 does not suggest getting rid of words such as “higher”; it suggests only that we make the naming clear, which would mean that there would be the qualification title that people are used to, plus the number, so that people who are not examiners or who are not knee-deep in the qualifications system would be able to understand. On that basis, would the cabinet secretary be minded to support amendment 229?

Jenny Gilruth: No—for the reasons that I have set out. Regarding the member's point about naming conventions, that was an example that I gave to Mr Rennie and was not necessarily specific to her amendment. I have already committed, in my response to Professor Hayward's review, to looking at the naming convention as part of our approach to reform, so that is being taken forward.

The Convener: I call Pam Duncan-Glancy to wind up and to press or withdraw amendment 229.

Pam Duncan-Glancy: In my opening remarks on this group, I forgot to mention an entire amendment in my name, but Stephen Kerr and others have picked that up, so I thank them for that. Amendment 354 describes what the SCQF Partnership is and sets that out.

I have listened carefully to the discussion and will pick up on a couple of things. I note that my colleague George Adam made a point about Ken Muir's understanding of the SCQF Partnership. Ken's report says that the feedback that he received indicated that giving an enhanced role to the partnership would improve support for learner journeys and that,

“In particular, it was felt that SCQF has the potential to play an enhanced role in Scottish education to support all learners progress seamlessly on their learning journeys, recognising and valuing different types of learning (formal, informal and non-formal) and ensuring greater parity of esteem across qualifications and awards.”

Professor Muir is clear about the value of the partnership.

George Adam: I am just going on the evidence that Professor Muir gave at stage 1. He discussed the benefits of the current framework's adaptability and suggested that mandatory alignment might create unnecessary rigidity in the qualifications system.

Pam Duncan-Glancy: I welcome that intervention. Professor Muir is not here to answer that specific question but, what his report and all the other reviews—including the Hayward review, which the cabinet secretary referred to—seek to do is to provide parity of esteem. I do not see how that would confuse things; actually, I think that it would clarify the picture for learners and for employers, which is really important.

I am looking at my notes on the review of the post-school learning system, which said that foundation apprenticeships

“are often not viewed as comparable and that there is little consistency in the way that educational institutions will treat them when assessing entry requirements for further and higher education.”

That is just one example of how the current way in which we name and understand qualifications has confused the landscape and has a real impact on young people's progression, whether to further or higher education or into employment. It is important that we take that on board.

On the basis of the discussion that we have had today, I am content not to move amendment 231 but to further discuss with the Government how we may consider the arrangement between the qualifications body and the SCQF Partnership and can further embed that in legislation. I take the cabinet secretary's points about language and the implications for quality assurance and I would be prepared to discuss that at stage 3. I am also prepared not to move amendment 238, on the basis that the cabinet secretary is prepared to work with us to look at how we can ensure that regard is given to the SCQF in future.

I am not yet convinced of any reason not to press amendment 229, which looks to make SCQF levels clearer in the naming of qualifications. We have had some interaction on that issue today. Willie Rennie asked the cabinet secretary about support for that and I got the impression that the cabinet secretary was supportive and will look at that. I see no reason not to take this bill as the opportunity to do that so, on that basis, I will press amendment 229.

Regarding amendment 354, and because we are mentioning the point about SCQF levels that is dealt with by amendment 229, it seems remiss not to set out in legislation what the SCQF Partnership is, so I still feel the need to move amendment 354.

Ross Greer: On amendment 354 in particular, although this applies to all the amendments in the group, I am interested in Pam Duncan-Glancy's response to the position, which has been put by John Mason and that I mentioned last week, that what we are talking about is ultimately not the responsibility of a public body. The SCQF Partnership is a charity, and that fact is at the core of a lot of the difficulties with the amendments in the group. It is a charity that tomorrow could cease to exist or could take a completely different form or make completely different decisions about its role in the system. Its functions and the restrictions on those functions and so on are not currently legislated for.

We need a wider discussion about the role of the SCQF Partnership in the system. We all agree that it has been fantastically successful, but now its form and status as a charity are causing significant issues. I do not think that we can legislate for those elements when they are ultimately based on the operations of a charity that is not accountable to us through legislation.

Pam Duncan-Glancy: I guess that the beauty of the process that we have in this place is that, at stage 2, we can propose amendments and we can have further amendments at stage 3. If the committee were minded at stage 2 to accept that the proposals are sensible, we could look to give more clarity on the status of the framework at stage 3. If we are relying on a framework that really is of value—we all agree that it is—but that does not have statutory provision, and if the committee and Government agree that there should be a statutory arrangement, this is the very bill to provide that in.

I am still not convinced that it would not be a good opportunity to support the amendment now and perhaps enhance it at stage 3. I encourage Ross Greer to use his vote for that.

The Convener: The question is, that amendment 229 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Greer, Ross (West Scotland) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 229 disagreed to.

Section 2 agreed to.

Section 3—The quality assurance function

Amendment 230 moved—[Pam Duncan-Glancy]—and agreed to.

Amendment 231 not moved.

Section 3, as amended, agreed to.

Section 4—The accreditation function

Amendment 128 not moved.

Sections 4 and 5 agreed to

Section 6—Working with, or recognition of, others

The Convener: Amendment 232, in the name of Pam Duncan-Glancy, is grouped with amendments 233 and 243.

Pam Duncan-Glancy: My amendments to section 6 aim to embed collaboration into the culture and the legal framework of Scotland's education system.

The failures of the past, which have been documented, have resulted in a level of disconnected policy making that has meant that curriculum, learning and assessment, and qualifications have been somewhat kept in silos. We have ended up with a situation in which the curriculum has not always been driven by what young people want to learn in the classroom, what we need them to learn for the future or what the teaching profession and employers think that they should learn, but has been driven, in fact, by the needs of assessment. We have all recognised that, and it is one of the reasons why it is important that we take on board the reviews. My amendments in this group aim to begin to correct that situation.

My amendments 232 and 243 would establish a two-way duty of collaborative relationships between the new body, qualifications Scotland, and Education Scotland, so that we can create a system whereby, in effect, the assessment is driven by the curriculum rather than the other way round. That is really important. Although the organisations have standing relationships with different parts of the sector, we know that those relationships could be stronger and that, in places, they have fallen short.

A collaborative relationship between qualifications Scotland and Education Scotland is crucial. It is also what the OECD, and independent reports such as those by Ken Muir and Louise Hayward, said was needed, and it could enable progress towards a culture of collaboration and the

coherence across learning, assessment and qualifications that most of us agree is needed.

My amendment 233 would strengthen the collaboration duty of qualifications Scotland by requiring it to work in collaboration with others, rather than to have “regard to the desirability” of doing so. Sometimes, we can get bogged down in semantics, but the bill's language on collaboration is really important. To have a situation whereby national agencies that operate in the education landscape need only

“have regard to the desirability of ... collaboration”

is too weak. Amendment 233 would amend section 6(2) to say that qualifications Scotland “must work” with other bodies in order to create the coherence, collaboration and consistency in the system that everybody knows that we need.

I move amendment 232.

Jenny Gilruth: I thank Ms Duncan-Glancy for her amendments on qualifications Scotland's responsibilities to work with others, and I agree that it is an important matter for us to consider. Amendment 232 specifies that qualifications Scotland must work in collaboration with Education Scotland. That fully aligns with my intention for increased consultation and I support the intention behind the amendment. However, Education Scotland is an executive agency of the Scottish ministers and statutory functions should not be conferred on such agencies, because they do not have their own legal personality separate from that of the Scottish ministers. In legal terms, there is, strictly speaking, no basis on which the duty would operate.

Similarly, I note that amendment 243 seeks a reciprocal arrangement for Education Scotland to work with qualifications Scotland, although the requirements are slightly uneven because a more qualified duty would be imposed on Education Scotland. For the same reasons, I support the principle behind amendment 243, but it will need to be reworked. I will be happy to work with Ms Duncan-Glancy to adjust those amendments for stage 3 and I ask that she does not press or move those amendments.

Pam Duncan-Glancy: If, as the cabinet secretary says, there is nothing to hang that statutory responsibility on, is the bill not an opportunity to create that?

Jenny Gilruth: I have said that I am happy to have that discussion with Ms Duncan-Glancy ahead of stage 3, although it is fair to say that the way in which the amendments are drafted, particularly in relation to Education Scotland, is going to be problematic, because it does not have its own legal personality separate from that of the Scottish ministers. We need to be careful,

because Education Scotland is not established in statute. The way that the amendment is drafted would not have the effect that Ms Duncan-Glancy desires, although I am supportive of the requirement in principle.

Amendment 233 would require qualifications Scotland to work with others, as opposed to the bill's current reference to

"the desirability of working ... with others".

The amendment goes further than is necessary and weakens qualifications Scotland's ability to make judgments about who it should work with. I think that the existing wording of the bill would still achieve what Ms Duncan-Glancy wants. I understand the point behind amendment 233, although I do not support the amendment itself. There are amendments in groups 8 and 10 that I do support and that will go some way towards assuring the member that qualifications Scotland will work effectively with others in the system—for example, the amendments that would require qualifications Scotland to have regard to other public bodies throughout the Scottish education and skills system, such as Education Scotland, Skills Development Scotland, the Scottish Funding Council and the SCQF Partnership. I hope that I have given Ms Duncan-Glancy a level of reassurance and that I have persuaded her to reconsider moving amendment 233.

The Convener: I invite Ms Duncan-Glancy to wind up and to press or withdraw amendment 232.

Pam Duncan-Glancy: On the basis of the cabinet secretary's offer to work together at stage 3, I am happy not to press amendment 232 or move amendment 234.

I am not convinced that it would be useful to allow that level of flex, as I might call it, so that qualifications Scotland could decide whether or not to work with a group of people. In the past few years, we have seen a complete failure of the national qualifications body to collaborate well. It worries me that we would weaken that duty.

Ross Greer: I take on board the cabinet secretary's point about the specifics of Education Scotland being an executive agency, for example, but does Pam Duncan-Glancy agree that, while the principle behind the amendments should not be necessary, the performance of those bodies, particularly in the past five to 10 years and a longer period of time, has unfortunately demonstrated that we have a national qualifications body and a curriculum body that, between them, decided that someone could take up to nine national 5 qualifications but that each one had a 140-hour course requirement, despite the fact that nine times 140 hours cannot be timetabled into a school year?

Jenny Gilruth: Will the member take an intervention?

The Convener: I am sorry, but Mr Greer is intervening on Ms Duncan-Glancy. We will get there eventually, cabinet secretary.

09:15

Ross Greer: Does Ms Duncan-Glancy agree with me that it is farcical that we have got to the point at which our national qualifications body and our national curriculum body, which are based in the same building, could not speak to each other on something as fundamental as whether you could timetable nine times 140 hours into a school year?

Pam Duncan-Glancy: I whole-heartedly agree, and that is the reason why amendment 233 is important. If the cabinet secretary is minded to intervene on me, she might be able to respond to the point that she had to make to Ross Greer.

Jenny Gilruth: Mr Greer raises an important point on the timetabling of qualifications and the hours associated with those qualifications. I raised the same point with the SQA some years ago, when I was sitting on that side of the table along with Mr Greer and Ms Smith. Mr Greer is absolutely right to raise points about the SQA and Education Scotland not having good working relationships in delivering those qualifications. However, part of the challenge is how we have teachers embedded in those organisations.

During discussions on the first group of amendments, I spoke about some of the work that I have introduced in relation to the schools unit in Education Scotland. We have a headteacher in there who has been seconded out of school and who will be in charge of leading that qualifications work. It is hugely important to have qualified teachers on the ground informing what we are doing in all aspects of qualifications reform. That is also why we have headteachers working to lead the curriculum improvement cycle, which is also relevant here.

I hear the arguments being put. I also know that the background to the bill is the lack of trust in the qualifications body among the teaching profession and parents, carers and young people who have come through the system. It is about rebuilding trust. Some of the changes that we have introduced in relation to the schools unit and to working differently with our teachers on curriculum improvement address some of that.

Putting that wording into the legislation is perhaps overly prescriptive. I am not necessarily sure that it is required at this time, although I am listening to the arguments.

Pam Duncan-Glancy: I recognise the work that the cabinet secretary has outlined, including bringing teachers in to do the work that is necessary. That is another reason to require qualifications Scotland to consult Education Scotland, because it has that enhanced provision. It is important that they collaborate with one another and that they do not have the wriggle room to decide when they think that they have paid that due regard and decided that it was not necessary to do it. That is my fear, which is why I believe that amendment 233 is important.

I do not intend to press amendment 232 or move amendment 234, but I will move amendment 233.

Jenny Gilruth: Will the member take an intervention?

The Convener: Is Ms Duncan-Glancy happy to take another intervention?

Pam Duncan-Glancy: Yes.

Jenny Gilruth: I am listening to the member's points and I am pretty supportive of where she is. In listening and responding to that, I will not resist that amendment, because I think that the arguments that have been set out are compelling. I have given her a response today on some of the work that I have undertaken to build in a better relationship, but I take on board the points that she has made. I think that they are reasonable, convener, so I am happy to support the amendment from the Government's perspective.

Pam Duncan-Glancy: I welcome the Government's support and understanding of the arguments that we have made today. I will move amendment 233 on that basis.

Amendment 232, by agreement, withdrawn.

Amendment 233 moved—[Pam Duncan-Glancy]—and agreed to.

Section 6, as amended, agreed to.

Section 7—Duties when exercising functions

The Convener: Amendment 234, in the name of Pam Duncan-Glancy, is grouped with amendments 34, 235, 4, 54 to 56, 5, 6, 240, 236, 237 and 239. I call Pam Duncan-Glancy to speak to and move amendment 234 and to speak to all other amendments in the group.

Pam Duncan-Glancy: My amendments in this group are about what we would expect in practice from qualifications Scotland in relation to how it will make decisions, who it will listen to and engage with, and what principles it will prioritise. The amendments strengthen the duties in the bill by ensuring that qualifications Scotland is not only delivering qualifications but also building a system

that is relevant, accessible, future facing and rooted in collaboration, building on the previous amendments. My amendments also ensure that qualifications Scotland is not only keeping up with change but that it helps to drive it, and that it recognises the importance of economic trends, emerging industries and developments in learning.

All the amendments in this group create a qualifications system that serves the learner and the labour market, from renewables and digital to the care economy and beyond. I do not think that we can allow or afford for qualifications Scotland to work in isolation, as we have just discussed, and these amendments build bridges with key public agencies—including SFC, SDS and Education Scotland—to create the joined-up coherence in the system that, it has been suggested, it has lacked. Learners are navigating an increasingly complex educational and employment landscape and these amendments help to bring clarity and consistency.

My amendment 234 would require qualifications Scotland to have regard to education and training that reflect the current and future needs of Scotland's economy. I and supporters of the amendment believe that it would ensure that qualifications, and thus learners, can contribute to Scotland's future in relation to what we need not only in our public services but also for our economic resilience and workforce preparedness. It is essential to deliver Scotland's qualifications system in a way that is future facing and that does not lag behind economic demand or risk leaving learners unprepared for the realities of the future.

My amendment 235 builds on that and would require qualifications Scotland to be aware of and up to date with developments in learning across the whole range of knowledge and skills required and tested by qualifications delivered by qualifications Scotland. We heard that Professors Muir, Donaldson and Priestley have all supported a dynamic learning culture; by requiring qualifications Scotland to be aware of and up to date with developments in learning across the range of knowledge and skills that are tested, I hope that we could achieve their aspirations. The amendment will also support on-going development and improvement of qualifications.

I am supportive of the cabinet secretary's amendment 55.

My amendment 240 would make the system much more simplified and coherent, creating a system that is accessible for all learners.

Amendment 236, in the name of Stephen Kerr, largely tries to achieve something similar to what my amendments would achieve, and we would be supportive of it.

My amendment 237 would require qualifications Scotland to have regard to any recommendations made by the SFC and SDS when making decisions. It is, again, an attempt to provide coherence. The Parliament is currently considering two bills in relation to education; in fact, I think that it is probably a wee bit more than that. However, there are two bills within this landscape, including post-16 education. The amendment seeks to ensure that there is collaboration across the systems and that any recommendations from those bodies are picked up in qualifications Scotland. It is a strong amendment to ensure accountability and collaboration.

Ross Greer: I strongly agree with the principle of amendment 237 and with exactly the point that Pam Duncan-Glancy just made. Does she agree that there would need to be an equal and opposite duty, which could perhaps be included in the Tertiary Education and Training (Funding and Governance) (Scotland) Bill, to ensure that those bodies also give due regard to any recommendations from qualifications Scotland, so that there is equality in both directions?

Pam Duncan-Glancy: Yes, I would be supportive of ensuring that equality in both directions. I hope that we will all have the time and headspace to turn our attention to amendments to that particular bill in due course. I will remind myself of this conversation at that point, as it would be entirely sensible to make the cross-reference.

My amendment 239 strengthens qualifications Scotland's collaboration with Education Scotland to ensure that it is cognisant and takes account of recommendations from Education Scotland. The cabinet secretary made a point earlier about changes in the curriculum. That has to drive assessment and I think that we can all agree with that. The amendment seeks to strengthen that collaboration and make sure that the direction of travel is the right one, so that our young people are learning in the curriculum what they need for the future, as opposed to learning just for tests.

I move amendment 234.

The Convener: I call Ross Greer to speak to amendment 34 and other amendments in the group.

Ross Greer: My amendment 34 would simply apply a principle of transparency to qualifications Scotland's operations. Again, that is a reflection on what has led us to this point, with the lack of transparency at the SQA and the lack of trust in it being the key drivers behind the process, as the cabinet secretary has already acknowledged.

It has been particularly difficult for the Parliament to hold the organisation to account, but

it has also been difficult for the key stakeholders involved in the SQA. They are critical to its success and its being respected within the landscape. They have found it incredibly challenging to understand what is going on, never mind feel that their positions have been taken on board.

For example, it should not be a requirement that whatever advice the learner panel gives the SQA—or whatever advice the learner interest committee, as it will be, will give to qualifications Scotland—be followed. However, the panel should be able to understand—and it should be clear to it—how the organisation has taken on board its advice and what its response is. We will be dealing with some of the specifics of the committees elsewhere, but I want to apply a general principle of transparency to the organisation's operations, because the lack of transparency is one of the key reasons for our getting to this point in the process.

My amendment 4 follows the same principle as my amendments 2 and 3 in seeking to prioritise the needs of those taking qualifications and those delivering qualifications here in Scotland. However, given the agreement that I have already reached with the cabinet secretary, as a result of which I have not moved amendments 2 and 3, I will take the same approach with amendment 4, and we can come back at stage 3 with something that packages everything together.

As my amendment 5, which refers to the strategic advisory council, has essentially been replaced by my amendment 61, I will not move amendment 5 and we can have a full debate on amendment 61, to save time.

My amendment 6 deals with a couple of different issues that have already been touched upon. It is partly about coherence in the system, so instead of—or alongside, perhaps—seeking to name the various specific organisations and other key public organisations that I think qualifications Scotland should be working and have coherence with, it tries to apply the general principle of policy coherence across Government to qualifications Scotland. For example, if it is decided that life sciences are a key strategic economic priority for Scotland—which I would suggest is essential—qualifications Scotland should have regard to whether the qualifications that it is offering contribute to that. For example, is it developing national qualifications that meet the needs of colleges and universities offering courses in, for example, life sciences?

The same approach could be applied to other areas. For example, are we meeting the particularly acute workforce needs in social care?

Miles Briggs (Lothian) (Con): I have been listening to the member and my only concern about amendment 6 is that it would politicise qualifications Scotland, in that he would be placing on it a duty to take into account the Government of the day's priorities in the development of courses. Does he recognise that, and has he thought about what that might mean for an organisation that should be focused on what the economy needs, not necessarily on what the priorities of politicians in Government are?

Ross Greer: That is a fair point, which is why I landed on the phrase "have regard to" in amendment 6. It would therefore not be a requirement that qualifications Scotland follow the specific priorities set out by the Government of the time; instead, it should "have regard to" them.

After all, there are a number of challenges here. There is the core democratic challenge of Governments, which is that, regardless of their political hue or ideology, they have a democratic mandate to pursue whatever course of action they want. However, another challenge is this: if priorities are not set out by the Government, who does set them out? We in the Parliament might have reached as close to a consensus as possible on a whole range of issues—my example of life sciences is probably one area that we would all agree should be a strategic priority for Scotland—but somebody needs to set out the priorities.

Let me take, for example, an area that has been recently discussed. There are thousands of gas boiler engineers in Scotland who at some point over the coming years—we disagree on the timescale—will need to be retrained. Alongside being a gas boiler engineer, they will also need to be qualified in the installation and maintenance of, say, heat pumps. Therefore, we must ensure that our qualifications system provides for them and their long-term economic security.

The same could be applied to other areas. The film and television industry is a good example of an area where the SQA has been nimble and responded not just to the needs of industry but to other public bodies.

09:30

It is not unusual for us to hear, often in private, criticism from officials of other public bodies in Scotland that they have not had the engagement that they needed from the SQA and have not been able to update qualifications—nor, indeed, to develop new ones—to meet the needs of a particular sector of the economy. The screen sector is one for which, in recent years, there has been excellent collaboration between the SQA and Screen Scotland; I want to make sure of an underlying principle to mainstream that approach

across the piece, to make sure that qualifications Scotland plays its role in those wider efforts.

I agree with all the cabinet secretary's amendments in the group. I congratulate in particular the young people, their parents, carers and the organisations that work with them, who campaigned for the British Sign Language provisions that the cabinet secretary has taken forward. The efforts that they have made are worth all our congratulations.

I turn, very briefly, to Pam Duncan-Glancy's amendments. I agree with her amendment 234. It aligns with my amendment 6 and my amendment 35, which is in another group. I absolutely agree with her amendment 235. If the SQA had been keeping up to date with developments in pedagogy, our qualifications system—certainly, our exam system—would look very different to the one that we have at the moment, which is, in its fundamental principles, almost entirely unchanged from the system that was first set up in the Victorian era in order to have a national exam system in Scotland.

I have concerns about Pam Duncan-Glancy's amendment 240, because, to me, "simplifying" and "ensuring ... coherence" are different aims. I can get behind the principle of coherence, but I am wary about what "simplifying" means; I think that it means something different to each of us—certainly, from discussions in the past, I think that the cabinet secretary and I have different ideas on the desirability of a simplified system and perhaps on which qualifications are no longer necessary, which is why I am wary about putting such a provision in legislation, certainly without expanding or clarifying what "simplifying" means. The drafting of amendment 240 says "simplifying" rather than "simple"; are we to be in a never-ending process of trying to simplify the system regardless of how simple it becomes? I am therefore not particularly convinced by amendment 240 at this stage, to be honest.

I have already said that I strongly agree with the principle of Pam Duncan-Glancy's amendment 237, but we need to make sure that it cuts both ways. I agree with her amendment 239 and with Stephen Kerr's amendment 236.

Jenny Gilruth: I thank Pam Duncan-Glancy and Ross Greer for explaining the purposes of their amendments. In general, many of those amendments align with the fundamental principles and values under which qualifications Scotland should operate.

A number of amendments would require qualifications Scotland to "have regard to" the advice and recommendations that may be given to it by Education Scotland, the Scottish Funding Council and Skills Development Scotland. Like the

SQA, qualifications Scotland will have an inherent requirement to work effectively with those organisations to deliver in the interests of Scotland's children and young people and adult learners. Although I do not necessarily believe that that needs to be prescribed in legislation, I recognise the level of reassurance that it would provide to the system to make it clear that the organisations that work in the same space will collaborate as appropriate.

A few points of drafting in relation to amendments 236 and 237 will need to be refined—including how we describe Education Scotland and SDS, to ensure that that works in legislation. I highlighted that point in the discussion on group 9.

I am also not quite sure that the language of “recommendations” is right when it comes to expressing the nature of that collaborative relationship. I am keen to work with Stephen Kerr and Pam Duncan-Glancy on those amendments ahead of stage 3, and I ask that they do not move them today. I also ask Ms Duncan-Glancy not to move amendment 239 but, instead, to work with us on amendment 236—if Mr Kerr is content with that, of course.

Amendments 55 and 56 place duties on qualifications Scotland to have regard to the needs of those who use British Sign Language in the context of learning, BSL-medium education, and those who teach with British Sign Language. I echo Ross Greer's points in congratulating the BSL community—in particular, children and young people—for all its campaigning in that space.

Members will note that my amendment 54 adds an express reference to children and young people as a distinct user group whose needs and interests need to be taken account of by qualifications Scotland. The amendment recognises that, often, children and young people have different requirements from others who may use the services of qualifications Scotland.

Ross Greer has lodged amendment 4, which seeks to change the wording in the bill to require qualifications Scotland to “prioritise” rather than “have regard to” the needs and interests of those who use its services. Although I understand the intention behind that amendment, I am concerned about the expectations that we would set through the use of the word “prioritise”. Qualifications Scotland will of course need to have regard to its service users as a high priority.

I reassure Mr Greer that, as I said in the evidence session last week, I agree that it is important that qualifications Scotland prioritises services for children, young people and adult learners. However, as a public body that operates in an education and skills ecosystem, it also needs

to have as a priority, when essential, other public bodies duties that might, from time to time, conflict with the priorities of service users. Learners will also have conflicting ideas about what they would prioritise, so it will be challenging to prioritise all of them. For example, candidates undertaking qualifications might want certain topics or assessment methods to be prioritised, and that might differ from the needs of employers or the higher and further education sector.

It is essential that qualifications Scotland, with the support of its new governance arrangements, is able to make such judgment calls. By including the word “prioritise”, we are potentially setting the organisation up for challenge when certain priorities of different groups have not been met, despite there being reasonable and valid reasons for that.

To that end, I emphasise that the term “have regard to” is not without impact. It requires qualifications Scotland to fully consider the needs and interests of everyone who use its services and ensure that they have been factored into its decisions and the delivery of its functions. Given those assurances, I ask Mr Greer not to move amendment 4.

Ross Greer: I am happy not to move amendment 4. I take on board the cabinet secretary's point about the impact that language such as “have regard to” and “give due regard to” should have, and is intended to have, in legislation. Does the cabinet secretary acknowledge, however, that there are already requirements in legislation for the SQA to “have regard to” or “give due regard to” a variety of factors? Part of the reason why we are here is that it has not done so, and therefore it is worth our asking how we can strengthen those requirements in legislation. I understand entirely that the solutions to that particular problem are not all in legislation—some of them are cultural and organisational, and it is not appropriate to try to legislate for those. However, it is worth our exploring how we can address some of the deficiencies in the legislation that underpins the SQA.

Jenny Gilruth: I thank Mr Greer for his question. I am not completely convinced that deficiencies in the legislation led to the challenges in the SQA to which we are all very alive. However, I take his point about current legislation perhaps not changing if we follow a similar route. The issue here is with the word “prioritise” and the impact that that would have. I am happy to work with him on that to provide reassurances.

Mr Greer's amendment 5 would require qualifications Scotland to provide the strategic advisory council with the information that it has requested. I note that he has lodged an alternative

option in group 13 through amendment 61, which I fully support, so I ask that he does not move amendment 5.

I turn finally to the range of amendments that seek to place additional duties on considerations for qualifications Scotland to factor into the exercise of its functions. Ms Duncan-Glancy's amendments 234 and 235 aim to ensure that qualifications Scotland promotes education and training that takes account of Scotland's economic needs and ensures that the body also takes account of developments in knowledge and skills learning in relation to qualifications Scotland. Those two amendments embed activity that qualifications Scotland will inherently need to undertake to ensure that its services remain aligned to our system's needs and that qualifications remain relevant. I fully expect that to be a natural part of its work, but to deliver additional assurances, I support amendment 234.

I also support the principle of amendment 235, but I am interested in working with Ms Duncan-Glancy on some minor terminology changes ahead of stage 3, and I therefore ask that she does not move that amendment.

Pam Duncan-Glancy: Will the cabinet secretary clarify what particular concerns she has with the drafting of that amendment?

Jenny Gilruth: Forgive me—it is in relation to the wording around knowledge and skills learning. I would like to revisit that with Ms Duncan-Glancy ahead of stage 3, if she supports that approach. I would like to discuss some tweaks to the terminology.

Mr Greer's amendment 6 would place a duty on qualifications Scotland to

"have regard to the economic, social and environmental priorities of the Scottish Ministers."

Alignment with Government objectives is a fundamental obligation for Scotland's public bodies. It will be the role of the board of qualifications Scotland to ensure that. Scottish ministers also set out priorities for public bodies via strategic guidance letters annually, which include priorities in the areas that Mr Greer lists. Although I do not believe that his amendment is strictly needed, I am content for it to be supported in order to provide additional assurances that those factors will be considered.

Mr Greer has also lodged amendment 34, which seeks to ensure that qualifications Scotland will act in a "transparent and accountable" way. I agree that that must be a founding tenet of qualifications Scotland, just as it should be, and is, for all public bodies, but I cannot support amendment 34 as drafted and am keen to work with him on an alternative approach. It would be

more effective to define the activities and processes that would deliver that transparency and accountability, rather than having an overarching principle as is expressed in the amendment as currently drafted.

What constitutes "transparent and accountable" behaviour is often open to interpretation, which means that qualifications Scotland could be behaving in line with best practice on transparency and accountability but that those behaviours could be challenged as not being transparent or accountable enough. The bill already gives many examples of activities and processes that support greater transparency and accountability, such as the interest committees, the charters and the reporting duties, and many amendments from Mr Greer and other members also seek to embed specific transparent and accountable behaviours, so I ask Mr Greer not to move amendment 34, with a view to working with me to build on that work ahead of stage 3.

Finally, I turn to Ms Duncan-Glancy's amendment 240, which seeks to prescribe a duty on qualifications Scotland to

"have regard to the desirability of simplifying, or ensuring the coherence of, the qualifications system".

The simplification of our qualifications system was one of the key recommendations that the Scottish Government accepted from the independent review of qualifications and assessment.

Members will be aware that the SQA is already taking a range of actions to support the delivery of that commitment, and qualifications Scotland will take those forward. For example, the SQA is undertaking a review and rationalisation of its qualifications offer. However, the qualifications, training and skills system is vast and has many actors with aligned, but often different, responsibilities. So, although qualifications Scotland will have a role in that, and will work towards simplifying its own qualifications offer, it will not have an oversight role for the entire system and it is therefore not within the gift of qualifications Scotland alone to simplify the entire system or to ensure coherence across it.

For those reasons, I do not support amendment 240 and I ask the member not to move it.

Pam Duncan-Glancy: At this stage, and for some of the reasons that my colleague Ross Greer outlined earlier regarding the language used, I am minded not to move amendment 240 but to look at how we can use some of the SCQF stuff that we have done to achieve something at stage 3.

However, I ask the cabinet secretary this: if it is not the responsibility of qualifications Scotland to simplify the system, whose responsibility is it?

Jenny Gilruth: The point that I was making in talking about Ms Duncan-Glancy's amendment is that the responsibility is not only for qualifications Scotland. Scotland's education system is broad and, as we heard from Mr Kerr, there is a variety of actors in it. I am not necessarily sure that there is an overarching responsibility that fits the purpose that Ms Duncan-Glancy is driving at.

We must be mindful that we will talk today about a lot of amendments that do not necessarily fall within the scope of what was originally quite a focused bill to create a new qualifications body. Quite rightly, as the member has done today, members have raised other issues that are relevant and pertinent to educational delivery in Scotland.

More broadly, this might be part of the work that we could look at in a conversation about accreditation and about some of the actors in Scotland's broader educational landscape. To my mind, as I have said, it is not for qualifications Scotland to undertake that work alone, although the SQA is already undertaking its own rationalisation process, which is well under way. I would be happy to write to the committee to give a further update on how that work is progressing.

Stephen Kerr: In the light of what I have heard the cabinet secretary say, I have a relatively easy task because I am more than happy to collaborate with her in respect of amendment 236.

This group of amendments goes to the very heart of why we are in the place where we have arrived. It is down to the issue of trust, which the cabinet secretary herself has highlighted. Comments from Ross Greer and Pam Duncan-Glancy underlined the importance of this legislation in restoring trust. Amendment 236 is important because it answers the fundamental question how a national qualifications body should approach its work and we are trying to be helpful by indicating in the bill what that approach should be.

Amendment 236 would insert an additional general duty on qualifications Scotland to act in a way that respects the professional judgment of teachers and practitioners. That principle of professional respect is not just symbolic but crucial. I am afraid that the historic breakdown of trust between the SQA and its many interconnecting audiences and collaborators that we are all talking about is especially true when it comes to teachers.

Ken Muir said in his review that there was a consistent call in the feedback received for a rebalancing of the relationship between schools and national agencies, and that teachers and school leaders feel unheard and constrained by inflexible systems and a lack of professional trust.

Amendment 236 responds directly to that, as does the whole group of amendments. Qualifications Scotland should not merely serve learners in a vacuum; it should work in partnership with and respect those who teach, mentor and assess learners daily.

It is inarguable that education is in a tricky spot at the moment on any international comparison. Scottish educational outcomes have declined in the past decade or so. The SQA has failed repeatedly and the lack of trust in that institution is a key reason why we are here in the first place.

To many people, Education Scotland is an organisation with little influence or positive impact on education—a point that I made earlier and which I will no doubt come back to. Many parents feel estranged from their child's school life, and many teachers fear that the institutions, both educational and parliamentary, will not have their back when needed. That must change.

Amendment 236, along with the others that I have lodged, not least my amendments on whistleblowing, aim to steer education back to where there is a broad consensus that it needs to be. If our education system is to live up to its great heritage, whereby it is recognised as world-leading, and key to why Scots pioneered the modern world—a subject on which we could all wax lyrical for a long time—with great inventions and institutions, we must put teachers back in the driving seat of the curriculum.

As it stands, the bill includes the duty to
“promote and advance education and training”
and to

“have regard to the needs and interests of persons using its services”.

That formulation is repeated in other statutory bodies, but those are generalised statements. Amendment 236 proposes something precise. The theme of our debate on this grouping has been having something more precise and responsive to the issues identified as being at the heart of why we need a reform process and the bill.

There is also a need to treat Scotland's educators not as delivery agents but as valued professionals. If we are to ensure lasting change, we must define and legislate for the values that will guide that work. Amendment 236, in particular, puts front and centre the respect for teaching professionals that has too often been neglected by national agencies. I would urge the committee to support it, but I do not think that I need to include that sentiment, because I will follow what has been recommended by the cabinet secretary. I will not move the amendment, but I hope that it comes back in a form that is more acceptable to us all.

Pam Duncan-Glancy: I intend to press amendment 234, because I think that I have support for it and I feel that it is an important amendment. I will not move amendments 235, 240, 237 or 239 at this point, on the basis that Stephen Kerr's amendment is preferred and I think that it does what mine was seeking to do anyway.

On amendment 240, I am compelled by Ross Greer's argument about the language of terms such as simplicity, simplified and constant simplification, and I am keen to work to find another mechanism or another way of saying what I think we both agree is necessary at stage 3.

The outcome will be the same, because I will not move amendment 240, but I am not as convinced by the cabinet secretary's point about the responsibility for coherence.

If there are too many bodies organising different aspects of qualifications, there is no leadership. That is part of the problem that we have seen in education in Scotland. I am not convinced by the cabinet secretary's argument, but I will work with Ross Greer ahead of stage 3 on an amendment that I think could carry the support of Parliament.

On the basis that the cabinet secretary is prepared to work with me to look at how we could have regard to developments in knowledge and skills, while looking at the language around that, I will not move amendment 235.

Amendment 234 agreed to.

Amendments 34, 235 and 4 not moved.

Amendments 54 to 56 moved—[Jenny Gilruth]—and agreed to.

Amendment 5 not moved.

Amendment 6 moved—[Ross Greer]—and agreed to.

Amendments 240 and 236 to 239 not moved.

Section 7, as amended, agreed to.

After section 7

Amendment 241 not moved.

The Convener: This is a suitable time to suspend the meeting. We will have a 10-minute comfort break.

09:52

Meeting suspended.

10:03

On resuming—

Section 8—Consultation with Strategic Advisory Council

The Convener: Welcome back.

Amendment 57, in the name of Ross Greer, is grouped with amendments 7, 8, 58, 242, 59 and 60. I call Ross Greer to move amendment 57 and speak to all amendments in the group.

Ross Greer: I will start off by talking to amendment 58, by way of explanation, as that will make for the most coherent sequencing.

Amendment 58 is, I hope, quite simple. It reflects the feedback that I have had, and that I know that other members have had, around the significant disillusionment among those who have, in good faith, given their time in order to give advice to the SQA in recent years, and who have either felt that that advice has not been taken on board, or simply never heard back and do not know what happened as a result.

It would be inappropriate to mandate that qualifications Scotland has to take on board whatever advice it has received. Advice can be contradictory, not all advice is correct, and two perfectly reasonable pieces of advice can be mutually exclusive. That is therefore not what I am seeking to do. I am simply seeking to provide a feedback loop to the strategic advisory council in particular. If we are expecting people to contribute to the success of the organisation through the strategic advisory council and, as specified in the legislation, to provide advice to the organisation, it is only reasonable to require the organisation to then feed back to the advisory council on how it has decided to act in response to that advice. That is therefore what amendment 58 seeks to do.

Amendments 57, 7 and 8 are on consultation requirements. They are really just about expanding the groups that we think that qualifications Scotland should consult as it goes about discharging its duties. Consulting those groups is not a requirement; the amendments relate to a section that specifies that qualifications Scotland should consult where it believes that it is "appropriate to do so"—so not in all circumstances. That goes back to what I described last week in relation to the nudge that we are trying to give the organisation. It is not necessary for qualifications Scotland to consult widely in every instance on every decision that it makes, but I want it to actively consider whether it should do so. In the past five years, certainly—indeed, I would argue in the past 10 to 20 years—there has been a range of occasions when the SQA would have benefited from consulting widely, particularly with students, learners, teachers and lecturers, on

relatively simple decisions, where the consultation requirements would not have been onerous—situations when yes/no survey-type responses would have resulted in very valuable data.

Amendment 8 specifies who we are talking about in that regard. As a matter of course, qualifications Scotland should consult the learner interest committee and the teacher and practitioner interest committee, but I have also specified that it should consult those undertaking qualifications and those who are delivering the qualifications—in other words, students, teachers and lecturers—and I have included a catch-all reference to any others that qualifications Scotland believes to be appropriate.

Again, this is about trying to provide a clear direction of travel and an indication of what we expect from the organisation, without being too prescriptive about all the circumstances under which it must consult. The point is that consulting only the committees is not necessarily enough and that the organisation should consider whether, in certain circumstances, it is appropriate to consult more widely. Certainly, an element of the feedback that we have received up until now is that, even where good-quality consultation has taken place—for example, with the learner panel of the SQA—the vast majority of learners in Scotland have not known anything about it, and there should be wider consultation. Even if the response is not necessarily taken on board, the act of consultation, in and of itself, generates buy-in to the decisions that are eventually made and generates good faith in the organisation.

Amendment 60 is an unusual one. I acknowledge from the start that I am not aware of other circumstances in which we are so specific in legislation that a public body must give due regard to the views expressed by the Parliament. However, again, that reflects our experience with the SQA, which has brought us to this point. It would not be appropriate to specify that all recommendations made by the Parliament be taken on board. We can all acknowledge that, as much as our committee inquiry reports are generally of a very high quality, it is not necessarily the case that we get everything right all the time, and we cannot mandate that those be followed.

John Mason: I take the member's point that we would like to think that committees are listened to outside these four walls. However, would putting that requirement in the bill—we have oodles of other legislation that does not have such a requirement—not create an imbalance or a danger that we are specifically saying that, in this case, a body should listen to the committee and that, in the case of every other piece of legislation, a body should not?

Ross Greer: I acknowledge the point and I am grateful for the intervention. I argue that, in general, as much as it is not perfect and we all have frustrations about a variety of public bodies, the vast majority of public bodies are more responsive to the Parliament than the SQA has been. It has been a pretty extreme example of disregarding recommendations and the views expressed by the Parliament over a long period. Indeed, if the report that our predecessor committee produced in 2017 or 2018—Liz Smith, the cabinet secretary and I were on the committee at the time—had been fully taken on board by the SQA, the bill might not have been necessary in the first place. It was given multiple opportunities.

I take on board John Mason's point, but I do not think that it necessarily follows that other public bodies would simply cease having regard to the instructions that are issued by Parliament, because, in practice, they generally do have regard to them. The point that I am trying to address is about this specific body.

John Mason: I take on board what the member said in response, but, from his argument and from my experience, it seems to be more the specific people who were involved who were not having regard to what the committee, or even, perhaps, the Government, said.

However, that is always a risk in almost every situation, and I have to wonder whether putting what is proposed in legislation is not overdoing things. I have a fear that the same could happen in other organisations—they could stop listening to Parliament. I just do not think that we can put this into all legislation.

Ross Greer: I take the member's point, which I do not think is unreasonable. He is broadly correct that a lot of this comes down to individuals. Part of the challenge that we have with the bill is that, in a lot of instances, we are trying to legislate for cultural change, which is hard to do. Ideally, legislating is not the way in which you change culture; however, the bill does provide us, as the Parliament, with an opportunity to do that. I hope that the Government will take a range of other measures, as the organisation is set up, to ensure that its culture is different from what went before.

Without seeking to personalise this, I would suggest that, as much as criticism can be made of individuals, the particular point about taking on board views expressed by Parliament reflects an issue that was consistent at the SQA even after changes in its leadership. I would say that there was a wider cultural challenge in that respect—it was not simply down to one or two individuals not having sufficient respect for Parliament; the problem persisted throughout the changes that were made.

Liz Smith (Mid Scotland and Fife) (Con): I think that Mr Greer has given a very good assessment of what went wrong. He sits on the Finance and Public Administration Committee, as I do and as Mr Mason does, and he knows that discussions are being had about how public bodies are accountable to the Parliament. Indeed, how, exactly, we improve that will be a big discussion for the next Parliament. Does he think that the process of improving accountability, which, effectively, is what we are trying to do—we are trying to ensure that the SQA is much more accountable for its actions and therefore will be held to account if something goes wrong—is just a problem with regard to the relationship between that one body and this committee, or is there a wider issue about how we improve the scrutiny of public bodies?

Ross Greer: Liz Smith is absolutely right that there is a much wider—and, I would suggest, multifaceted—challenge here. The core issue is that there are far more public bodies in Scotland now than there were in 1999, but the Parliament's ability—or its capacity—to scrutinise and hold them to account has not changed in that time. As a Parliament, we need to look at how we adapt and reform ourselves to ensure that we are fully discharging our responsibilities across a range of organisations, particularly those that are appointed by Parliament—that is, bodies appointed by the Scottish Parliamentary Corporate Body. However, we will come to that debate later on.

Part of my motivation for lodging amendment 60—and I understand the challenges that John Mason has raised with me—

Martin Whitfield: My apologies if this is an ill-founded attempt at an intervention, but my concern with amendment 60 relates to aspects that both John Mason and Liz Smith have highlighted. With regard to the role of parliamentary committees, they are a structure of the Parliament, for the Parliament. Ross Greer has rightly pointed out that a number of external agencies respond to the Parliament—specifically, to various committees. Does he have a concern that, if his proposed route were to be adopted, every committee would be required to adopt it for everyone who answers to them? That will shift the fundamental reason for having committees in the Parliament, which is that they are, at a high level, advisers on the minutiae of what the chamber should decide.

I understand why Ross Greer lodged amendment 60, and I acknowledge the challenges that have existed with the non-response that this committee and its predecessors have had to their requests. However, we are potentially opening up Pandora's box that will give us significant

problems further down the road and cause us to fail on more levels.

Ross Greer: I agree that that is a significant challenge. However, I suggest that a wider challenge is that we are just over a quarter of a century into devolution, and Parliament should have had a wider discussion about its ability to effectively scrutinise and hold public bodies to account before now. I am glad that we are starting to have that discussion, and I understand the issues of precedence that the amendment potentially sets.

My main motivation in lodging amendment 60 is to put that challenge to the Government and to seek its reassurance about how it will avoid the situation that we have been in up until now, in which a public body—in this case, the SQA—has been so resistant to parliamentary accountability that, at points in the past, the committee has genuinely entertained the idea of simply not inviting it back, because we questioned the purpose of bringing it in, in terms of the value of its evidence to the committee and its disregard of the recommendation that the committee made in response. As I have said, my main motivation in lodging the amendment is to put that to the Government and to seek its response as to how we will ensure that qualifications Scotland does not repeat those challenges, that it submits itself to appropriate parliamentary scrutiny and that it gives due regard—even if that is not the language used in the legislation—to the recommendations put to it by Parliament.

10:15

I turn briefly to the other amendments in the group. I agree with the cabinet secretary's amendment 59, which is quite simple and contributes to the transparency objective that I have been pursuing elsewhere.

Although I am keen on Pam Duncan-Glancy's amendment 242 in principle, I am a little wary of the specificity of the reference to quarterly meetings and of putting that into legislation. It is quite a rigid requirement. Bodies that I have chaired in the past have been required by their own constitution to meet a certain number of times a year, but there were various points in the year when we realised that it would have been more hassle than it was worth to have a meeting, because the previous one had been sufficiently productive or for other such reasons. I am broadly content with the amendment, but I would be open to a bit more flexibility being brought in at stage 3. I will close there, convener.

I move amendment 57.

Pam Duncan-Glancy: I will start where Ross Greer left off, because I understand his concern

about the regularity of meetings. If a meeting were to be put in just because it had to happen, that could become quite cumbersome. I will listen to what others have to say about that, but I take his point seriously.

This group of amendments is about embedding a culture of meaningful consultation. We have spent quite a lot of time this morning talking about the importance of consultation and collaboration by the national qualifications body, and the amendments seek to strengthen those things in order to overcome some of the concerns that we have had in the past about the SQA, perhaps, digging in its heels with regard to whether it should be talking to other people or taking on board their views. This is an attempt to try to avoid that happening again.

I get that culture change is difficult to legislate for, but there are lessons that we have to learn, and I see no reason why we would not put something in legislation to give a nudge, at the very least, to the relevant culture that we are hoping to achieve. That is the purpose of the amendments in this group.

My amendment 242 strengthens the consultation duty between qualifications Scotland and the strategic advisory council by requiring them to meet at least once a quarter—withstanding the point that I have just made about the timescales, which I am prepared to consider as the debate goes on—and, additionally, at any time that either party considers it necessary.

The amendment also removes the caveat that qualifications Scotland need only consult the SAC where it appears appropriate for it to do so. Again—and this is much like our previous discussion—the SQA might have felt in the past that it was not necessarily appropriate for it to consult particular organisations or bodies that all of us would probably have accepted that it would have been useful for it to have consulted. Therefore, amendment 242, in my name, takes out what I suppose is a sort of get-out clause for the qualifications body.

There is also an opportunity to trigger consultation with qualifications Scotland and the SAC. It means that, if we again find ourselves in the sort of situation that we had with higher history, there is an opportunity for the advisory council to say, “We need to have a meeting to discuss this”—bearing in mind the council’s role and who would be on it—and the same would apply in the other direction, so that qualifications Scotland could seek the council’s advice.

I think that that is crucial, given that the SAC is intended to be a much-needed platform that will include the voices of learners, teachers,

practitioners, parents and other stakeholders representing wider society—voices that I think have been missing in the past. We must do everything that we can in the bill to create the structures that will develop the culture that we know is desperately needed, and the amendment makes it clear that Scotland’s new qualifications body would be publicly accountable to those whom it serves and would give a place to the lived experience of learners and their families. Therefore, I urge members to support amendment 242.

We are minded to support many of Ross Greer’s amendments in the group. Martin Whitfield’s comments about committees are important and we have to remember what the role of Parliament is. Nonetheless, as he and Ross Greer recognised, too often the recommendations of committees, such as this one and others, can be cast aside. We do a lot of work and we hear from a lot of people. It is important that, at the very least, due regard should be paid to them.

Jenny Gilruth: I thank Mr Greer and Ms Duncan-Glancy for explaining the purpose and rationale of their amendments. In response to the committee’s stage 1 report, I was clear that a key principle of the new qualifications body would be greater transparency and accountability, supported by consultation and engagement across the education system. The amendments that were lodged seek to strengthen that principle.

Mr Greer’s amendment 8 seeks to place clearer requirements on qualifications Scotland to consult its own internal interest committees and those who take or teach qualifications. The main function of the interest committees is to advise qualifications Scotland. Therefore, there is an expectation that qualifications Scotland will consult with those committees as part of that process. In my view, it seems unnecessary to place that requirement in legislation.

I have some concerns, too, about the specifics of amendment 8 as drafted, not least because qualifications Scotland might sometimes be acting through those committees.

There is also the possibility that we end up eroding the concept of advisory committees, whose very purpose is to give advice, by making it seem as though, without that provision, their advice would not be sought.

However, I would be happy to work with Mr Greer for stage 3 to seek to clarify the relationship between the body and its committees in a way that does not treat the committees as though they were external consultees, and to insert a consultation requirement with respect to those who are taking or teaching qualifications. On that basis, I ask Mr

Greer not to press amendment 8, or amendment 7, which is consequential to amendment 8.

I turn to efforts to increase transparency. My amendment 59 requires ministers to publish any guidance that they have issued to qualifications Scotland that relates to how the body consults with the strategic advisory council. Although that is a relatively minor addition to the bill, I consider it important that that guidance is publicly available, and I hope that members will support the amendment.

Ms Duncan-Glancy and Mr Greer have lodged amendments that seek to define the proceedings and actions that are taken as part of the relationship between qualifications Scotland and the strategic advisory council. Although I am supportive of amendment 58—read with amendment 57—and amendment 242 in principle, the place for defining that level of detail, if it is to be done at all, is in the regulations that will establish the council. Section 9(2)(g) of the bill specifically enables that to happen. Doing that under regulations will be much more flexible, and it will also allow for changes to be made in the light of experience, if necessary. I therefore ask both members not to press their amendments. I intend to bring forward those regulations as soon as possible once the bill has passed, which I hope will happen.

Mr Greer has also lodged amendment 60, which requires qualifications Scotland to “have regard to” views that are provided by the parliamentary education committee. Although I am sympathetic to the principle, it is already the case that, through the accountability of public bodies to Scottish ministers and, in turn, ministers’ accountability to Parliament, qualifications Scotland will inherently need to consider the views of any parliamentary committee for education. I would be reluctant to set out a requirement for direct consideration in legislation, as that would help to set an unhelpful precedent—as I think we heard from members this morning.

I am also concerned that such an amendment would, in effect, draw qualifications Scotland into a direct line of accountability to Parliament, which is not appropriate for a non-departmental public body. They are—and they should be—accountable to ministers, and ministers are, in turn, held to account by Parliament. In turn, this committee holds me to account, and it will be able to take evidence directly from qualifications Scotland at any time. That is the well-established practice for NDPBs, and I am concerned that, by deviating from it in any way, we will end up with confusion around reporting lines and political accountability. For that reason, I cannot support amendment 60. I ask Mr Greer not to press his amendment, noting the opportunities that

Parliament and the committee already have to scrutinise qualifications Scotland effectively. I also note the points that Ms Smith has raised in relation to the wider cross-Parliament work in that regard.

Ross Greer: Will the minister take an intervention?

Jenny Gilruth: I have finished, but yes, I will.

Ross Greer: I am grateful for this last-minute intervention being accepted. I take the minister’s point. As I said at the start, amendment 60 was designed to be provocative, as it proposes something that is not the case elsewhere in legislation.

However, it is a reflection of the experiences that this committee and its predecessor committee have had. Given that the cabinet secretary was on the education committee at a point when there were particularly acute frustrations with the SQA’s resistance to accountability, to parliamentary scrutiny and to acting on committee recommendations, and taking on board her point that ministers are accountable to Parliament and that NDPBs are accountable to ministers, it is clear that that arrangement has not worked. That is one of the reasons why we are here.

Although I understand why amendment 60 is not necessarily the way in which to go about that, I ask the cabinet secretary to reflect on the fact that it sounds as though she is saying that the system that we already have is the appropriate one. If that was the case, I suggest, the bill would not be in front of us now. If amendment 60 is not the change that is needed—I accept that, and will not move it—what change is required to ensure a sufficient level of scrutiny, accountability and respect from qualifications Scotland for the Parliament? At the core, that is what has been lacking, up to now. There has been a lack of respect for not just the Parliament but learners, teachers and so on; however, in relation to amendment 60, there has been a lack of respect for the Parliament.

Jenny Gilruth: That is quite an open-ended question.

Ross Greer talked about my time on the committee and the frustrations, which I well recall, that we experienced at that time with the qualifications body. The amendments that we are debating today cover a vast array of matters. There is a tendency to prescribe in primary legislation things that are informed, essentially, by the historical experience of an organisation. We need to be mindful that the discussion is as much about cultural change in the organisation as it is about the bill. The bill will go only so far in changing the nature of the qualifications body. It makes a number of provisions that will strengthen

the consultation provision that we have just talked about.

However, fundamentally, when it comes to Ross Greer's point about engagement with ministers, I have regular engagement with the qualifications body. I talked last week to a group—I cannot recall which, convener—about the decisions that have been taken on separating out the roles of the chief executive and the chief examiner.

A lot of change is already taking place in that organisation and does not necessarily appear in the bill. We need to be mindful not to create a bill that is unwieldy; it must allow the organisation to get on with the day job of running the qualifications and work better with teachers, our young people, parents, carers and wider stakeholders. That is what we all want it to deliver.

I accept Ross Greer's point about challenge. However, I go back to the points that I made about amendment 60 setting a precedent for a body that has had, it is fair to say, a challenging history in its engagement with the Parliament. I am not necessarily sure that the answer to that is amending the legislation in the way that Ross Greer has suggested.

In addition, Liz Smith made a crucial point about wider accountability, the scrutiny of parliamentary committees and how that functions when it comes to NDPBs' accountability to ministers. That is a wider piece of work that we probably need to consider as a Parliament, albeit perhaps not in the bill. However, I take the point that Ross Greer has expressed.

The Convener: I call Ross Greer to wind up and press or withdraw amendment 57.

Ross Greer: I take on board the cabinet secretary's point about amendment 60, and I will restrain myself from giving a much longer response to the interventions of Liz Smith and Martin Whitfield on the wider question of the performance of the Parliament, parliamentary scrutiny and our capacity to do that. Having written most of the Green group's response to the work that Mr Whitfield's committee is currently doing on that, I welcome that work, as he may have been able to tell from the tone of some of my contribution.

I am happy not to press amendment 57 and not to move amendments 7 and 8 in relation to consultation, and to continue speaking to the cabinet secretary about that. The key point that I was looking for was an acknowledgement of the need in some circumstances for that wider consultation, not just consultation with the committees. The cabinet secretary has acknowledged that and, if we can come back at stage 3 with something satisfactory, I will be happy with that.

As I have said, I will not move amendment 60.

I will move amendment 58 and press it to a vote, because the requirement that it would place is not onerous. We are already placing into legislation the requirement for the strategic advisory council to give advice, so it is proportionate to place a reciprocal requirement on qualifications Scotland to respond.

Amendment 57, by agreement, withdrawn.

Amendments 7 and 8 not moved.

10:30

Amendment 58 moved—[Ross Greer].

The Convener: The question is, that amendment 58 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division on amendment 58 is: For 4, Against 6, Abstentions 0.

Amendment 58 disagreed to.

Amendment 242 not moved.

Amendment 59 moved—[Jenny Gilruth]—and agreed to.

Amendment 60 not moved.

Section 8, as amended, agreed to.

After section 8

Amendment 243 not moved.

Section 9—Strategic Advisory Council

The Convener: Amendment 244, in the name of Pam Duncan-Glancy, is grouped with amendment 328.

Pam Duncan-Glancy: My amendments in the group seek to pick up on a number of points, which I will take the committee through.

We have heard from various organisations and people working in the education system of difficulties with data sharing that mean that there are questions not only about how we can expand

access to measures such as free school meals but about how we can widen access for people from poorer backgrounds and people with protected characteristics and care experience. Some of the pilots that have been carried out, particularly those in the north-east, have identified that data-sharing arrangements can be a barrier to progress.

The other aspect that is important to mention is that a unique learner number might make possible a much smoother learner journey. The learner number would follow young people through their education. If, for example, they needed support in their exams, that requirement could be attached to the learner number. Another example would be of a young person with additional support needs moving to another school. That approach would remove some of the responsibility from families for being project managers in their children's lives, which can be really tiring and cumbersome. It would also allow authorities and others to identify what that particular person needs or wants.

The learner number could provide strong coherence all the way through the education system from when a young person enters it in the early years to when they conclude their learning journey—if we ever conclude it.

Amendment 244 seeks to require that the strategic advisory council advise qualifications Scotland on whether the creation of a unique learning number and consequential data sharing between schools, colleges and universities would support the aims of education in Scotland. It is important to note that the minister and the cabinet secretary have recognised in committee that there could be value in doing that, but both of them stopped short of saying that they would progress that or try to put it in place. My amendment seeks to require that that work is done and enable us to get the Government's view of that on the record. The approach would allow us to make a little more progress towards sensible data sharing and coherence in the system.

There is also the option of amendment 328, which would require the strategic advisory council to provide advice on whether the creation of a unique learner number and consequential data sharing between schools, colleges and universities would support the functions of the chief inspector.

Members have two options to consider on the approach. One relates to the strategic advisory council in qualifications Scotland and the other relates to the chief inspector. What I propose could be a useful role and function for both of them; they would probably have a view on those issues.

Jackie Dunbar (Aberdeen Donside) (SNP): I am listening to what the member is saying. Would amendment 244 not make that a huge function for

the strategic advisory council to carry out, rather than letting it get on with advising qualifications Scotland and His Majesty's Inspectorate of Education? I am worried that that would be burdensome.

Pam Duncan-Glancy: If it is not a function of the inspectorate or qualifications Scotland to look at how we can create a smooth learner journey and ensure that we follow the experience of our young learners and other learners throughout the education system, I do not know whose function it would be. I understand that it could be quite a process and I do not underestimate the work that might be involved, but it is an important aspect of creating a coherent and supportive education environment for children and young people, particularly in qualifications.

Martin Whitfield: Is it not the case that, however challenging the question, once it is answered, it is answered and people can move forward from that? The idea behind the amendments is that having a unique learner number and an agreement to share data will benefit all the other inquiry requirements that both bodies, whichever is chosen—I hope that one of them is—take forward.

Pam Duncan-Glancy: I thank the member for that intervention and, as ever, for bringing absolute clarity to the discussion.

The point about asking the question and it being answered is really important. Part of my motivation for lodging the amendments was to ask the question and to get someone to do the work, because otherwise I fear that it will not be progressed. I can see huge benefits to progressing that approach, which is why I lodged these two amendments.

Ross Greer: Martin Whitfield made the point about this being a one-off exercise, and I do not think that it is a particularly onerous one. I am seeking clarity from the member. I think that there is broad agreement about the educational benefits of having the unique learner number and data sharing, but the real challenges are around the practicalities of data sharing and the data and privacy rights of the individuals concerned—the learners. Will the member clarify that the suggestion is not for the strategic advisory council to consider those questions? I suggest that that is outwith the expertise that the individuals who we are proposing to sit on the advisory council will have. They would be focusing solely on the educational benefits of such an approach, not on dealing with practical and legal questions around data sharing and privacy rights.

Pam Duncan-Glancy: I am looking at the text of the amendments. Amendments 244 and 328 are about getting advice on whether, in order to

allow either the HMIE or qualifications Scotland to exercise their function, there should be a unique learner number and there should be national data-sharing agreements. The amendments do not seek to set up those aspects but, in order to progress action on them, would enable the question to be asked as to whether they should be set up.

I take the point about the role of both organisations in doing that, but I think that the amendments are sufficiently narrowly drawn to the functions of the organisations to which they refer.

I move amendment 244.

Jenny Gilruth: I thank Ms Duncan-Glancy for setting out the purpose of her amendments. The amendments seek to impose duties on the strategic advisory council for qualifications Scotland and on the chief inspector to provide advice on matters relating to tracking learners through the system and a data-sharing system between schools, colleges and universities.

I do not believe that the strategic advisory council would be best placed to advise on such matters. Those issues would not be within the responsibility of either organisation, nor would it be within their gift to implement changes as a result of such advice. Any such responsibility would require the consideration of stakeholders across the whole education and skills sector, including higher and further education institutions, whose autonomy also needs to be recognised, particularly if we were to seek to compel them to share data for Scottish Government purposes.

Pam Duncan-Glancy: My intention is not to compel the sharing of specific data. This is about creating the landscape in which data sharing could be promoted more easily.

A lot of the support for this sort of approach has come from further and higher education institutions and comes out of the pilot programme looking into how we could include information for the widening access programme beyond just the Scottish index of multiple deprivation. My understanding is that the institutions would be supportive of this approach.

As I said, the amendments would not compel them to share particular data. The suggestion is that a unique learner number could smooth the way for the future development of such data sharing, if that was required.

Jenny Gilruth: The two amendments speak to “advice”. The member asserts that that advice would not compel them, but, given that the advice does not exist yet, I am not sure that she can say with certainty that that advice might not suggest that that information sharing is compelled—that they are instructed, essentially, to share

information. I think that the member is making a prejudgment. The wording suggests that the advice could, by its nature as advice, say whatever it says, and that will have to be interpreted accordingly.

I want to touch on the update that Mr Dey gave to the committee. He set out the early stages of considering how a unique learner number could be delivered and the very careful consideration that would be needed on an array of complex legal matters, such as data protection.

Putting in place data sharing on this scale is a lengthy process and one that requires significant work. Mr Dey has been clear that those aspects will not be resolved in the short, or even the medium, term. Although I recognise that the unique learner number would enable better tracking and monitoring of students from a widening access background, and that the outcomes of data sharing on this scale—

George Adam: Will the minister take an intervention?

Jenny Gilruth: Yes, I will.

George Adam: What Pam Duncan-Glancy is trying to do is not a bad thing—

Jenny Gilruth: No, it is not.

George Adam: —and we have all agreed that it is a good idea to try to find the children and young people who we need to help.

You mentioned the evidence that we have received from Mr Dey. It is quite a complex matter. Is the bill the place for addressing it, or is it better for Mr Dey to do something and come back with a complex idea of how we can address the issue?

Jenny Gilruth: I am not of the view that this bill is the place for that. A number of risks are associated with doing it by amendment. I have also spoken to some of the issues around determining what advice looks like.

More broadly, Mr Adam spoke to Mr Dey’s work. Mr Dey’s officials in the lifelong learning and skills department are leading on that work, and I am mindful of that and of the complexities in that regard.

I spoke to the committee recently about some of the data-sharing arrangements in relation to free school meals. There is an opportunity for us to learn from that experience, but we need to be mindful that, for example, our universities are independent, autonomous institutions, so a simple lift of the approach that we adopted to share Scottish child payment data for the purposes of providing free school meals is not necessarily applicable in a higher education space.

However—

Pam Duncan-Glancy: Will the minister take an intervention?

Jenny Gilruth: Yes.

Pam Duncan-Glancy: As the cabinet secretary just said, “However”, I wonder whether there was about to be a slight change in tack—I hope that I have not pre-empted that.

Would the Government support the principle of having the unique learner number, and of putting that in legislation, with the data-sharing aspect being seen as a benefit of that but not necessarily set out in legislation?

Jenny Gilruth: I would not feel comfortable giving the member a direct response on that today, because we have to be mindful that, within the educational landscape, we also have the Scottish candidate number and a wide range of other ways in which data is tracked. I would appreciate further advice from my officials on that proposal.

However, the Government is mindful of the opportunities that this idea presents, as we discussed when I was in front of the committee a few weeks ago.

The issues that Ms Duncan-Glancy’s amendments raise are important, but I do not think—to speak to Mr Adam’s point—that they can be delivered through the bill. Although I am not able to support these amendments today, I welcome the opportunity to discuss the issue with Ms Duncan-Glancy and others who have an interest—but outwith the bill process.

The Convener: I call Pam Duncan-Glancy to wind up and to press or withdraw amendment 244.

Pam Duncan-Glancy: The conversation around data sharing is, of course, a complicated one; I think that we all understand that, including me. That is one of the reasons why the amendments seek to ask the qualifications body, or the inspectorate, to look at whether doing either of the things that the amendments propose would be useful for progressing education in Scotland.

I also think that the unique learner number has broader benefits than just the enabling of data sharing. However, it would be an important aspect of what we could do to bring coherence to the learner journey.

I take the cabinet secretary’s point about the candidate number. As she has identified, there are other ways in which we could track the pupil experience. However, there are too many different ways in which to do that, and my attempt is to bring one way into the system.

On the basis of the cabinet secretary’s tentative preparedness to discuss at least the learner number, if not the data sharing aspect, I will not

press amendment 244, and I will not move amendment 328 at stage 2, but I would like to discuss the matter further ahead of stage 3.

Amendment 244, by agreement, withdrawn.

10:45

The Convener: Amendment 245, in the name of Pam Duncan-Glancy, is grouped with amendments 61, 62, 129, 246 to 249, 63, 9, 64, 250 to 252, 65 to 67 and 253. If amendment 63 is agreed to, I cannot call amendment 9, due to pre-emption. If amendment 64 is agreed to, I cannot call amendments 250, 251 or 252, due to pre-emption.

Pam Duncan-Glancy: This group of amendments is about making the strategic advisory council a credible, independent and inclusive voice in the governance of Scotland’s qualifications system. We in the committee have rehearsed that and, in the interests of time, I will not go into detail. However, that voice is incredibly important and has been lacking.

The amendments would protect the independence of the SAC by limiting qualifications Scotland staff representation and removing unnecessary Government involvement, ensuring that it could operate with integrity and objectivity.

Amendments 248 and 252 would broaden the representation on the strategic advisory council and strengthen the consultation duties, embedding the voices of learners, teachers, unions, parents, industry and care-experienced young people in the heart of the system. To build a qualifications system that works for everyone, we must ensure that decision making is informed by lived experience, professional expertise and the communities that the organisation serves.

The group also includes important practical changes, such as clarifying terms of office, aligning governance with that of other public bodies and reinforcing collaboration with other education bodies, including Education Scotland, which would support the effective and transparent leadership that is needed. Taken together, the amendments would help to ensure that the strategic advisory council was not just advisory in name but influential in practice, helping to rebuild trust in the system.

Amendment 245 would remove the provision for a representative of the Scottish Government to observe or participate in strategic advisory council meetings, in order to give the council the independence that it requires.

Amendment 246 would ensure that curriculum Scotland was a member of the SAC. Because of the discussion that we had last week, and we will discuss curriculum Scotland under a later group, I

am not minded to move amendment 246 at this point, due to the undertaking that we all agreed about the accreditation function. However, we can talk about the amendment, of course.

Amendment 247 would bring in line the term of appointment of the convener and members of the SAC with other bodies that are controlled under the bill.

Amendment 248 would require the membership to include, but not be limited to, members who represent the interests of a wide range of stakeholders: learners, students, children and young people, teachers, college staff, trade unions, industry, higher and further education, parents, those with experience and knowledge of additional support needs, and other relevant agencies. I appreciate that that is quite a list, but we have to accept that, in education in Scotland, we need to ensure that we draw on the expertise of everybody who is around children and young people or in the education and employment sphere. That is what I have tried to do with amendment 248. In addition, it is necessary because, if the strategic advisory council is central to the new qualifications system, accountability will be crucial, and that must be to people who have direct experience in the system.

Amendment 249 requires that no more than 40 per cent of members of the SAC be members of, or staff who are employed by, qualifications Scotland.

Ross Greer: I am sorry for cutting off Pam Duncan-Glancy. I should have come in more quickly, at the end of her explanation on amendment 248. I am sympathetic to some elements of that amendment, particularly with regard to those who have lived experience of the system. However, not to use pejorative language, but the phrase “the blob” has been used a few times to refer to the plethora of public bodies that are involved in Education Scotland and how, when they come together, they tend to generate more inertia than momentum in the system. My concern is that, by bringing so many of them into the strategic advisory council, we would make it harder for those who try to bring their lived and practical experience of the system to the fore in those discussions.

Does the member recognise those concerns about the presence of so many people from the other public bodies that are involved in the sphere, as opposed to the lived experience of young people, parents, teachers, lecturers and so on?

Pam Duncan-Glancy: I understand that. In any consultative or advisory group or committee, there are always some discrepancies when it comes to those with lived experience and people who are representing public bodies and the support that

comes with that. However, it would not be sensible for us not to include some of them in those discussions, particularly in an advisory role. I have drafted the amendment in a way that seeks to be as inclusive as possible.

Other amendments in the group seek to ensure that support is provided for the membership to engage in as wide a way as possible. There are also other amendments, in the name of Martin Whitfield, which look at how to have that networked approach and, in particular, how to support children and young people to have their voices heard.

My amendment 252 seeks to expand duties within the SAC to require it, for example, to consult with the wider network of expertise, including children and young people, as well as members of the teaching profession. I have tried to achieve balance between ensuring that there is coherence in the system and, therefore, some representation of the public body, and ensuring that the system seeks to take a networked approach as opposed to the hierarchical approach that it has previously taken, which has stifled some progress.

We have seen good examples of that networked approach. Scottish Teachers Advancing Computing Science, for example, is a great network of teachers who are seeking to improve that particular subject and assessment around it. We know that there are a lot of networks that can support representation on those groups, which is what this suite of amendments seeks to do.

Amendment 251 would require the council to consult Education Scotland on appropriate matters, with the aim of reinforcing collaboration. That is a theme throughout my amendments.

Amendment 250 is linked to amendments 251 and 252, and would expand the duties by requiring the council to consult with networks. Again, that speaks to Ross Greer’s concern about imbalance and the importance of ensuring that networks of children and young people, but also the professions, are able to engage in the process as best as possible. The reference to care-experienced young people is especially important, because too often decisions concerning them can be made without their input. The committee has heard a lot of evidence in that respect, so that is particularly important.

Amendment 253 provides for definitions that mirror those that are used elsewhere in the bill, and ensures consistency with other amendments in my name in this group.

I move amendment 245.

Ross Greer: Amendment 61 is relatively simple. The intention is to make sure that there is no gatekeeping of key information by qualifications

Scotland staff and that, if the strategic advisory council makes a reasonable request for information to discharge its duties, that information is provided. Again, the amendment is a reflection of the issues of trust, transparency, accountability and so on that have got us here.

The debate on amendment 62 is equivalent to the debate on the presence of staff that we have already had in relation to the learner interest committee and the teacher and practitioner interest committee. There is no reason for members of qualifications Scotland staff to be on the strategic advisory council. The purpose of the council is to provide advice based on expertise, lived experience and so on. Given the debates that we have already had and the decisions that we have made in relation to those committees, it would be appropriate to take the same approach to the strategic advisory council.

Amendment 66 would clarify that qualifications Scotland staff can still attend meetings of the strategic advisory council. I of course want them to be there and to hear the discussions, but I want to make sure that the power dynamic in the room is appropriately balanced, and the best way to do that is for staff to not be members of the council.

My amendment 9, the cabinet secretary's amendments 63, 64 and 65 and Pam Duncan-Glancy's amendment 252 are all broadly in the same space of consultation. We have just had a similar debate on the wider duties on qualifications Scotland to consult. My amendment 9 is almost identical to the amendment that I moved in a previous group on qualifications Scotland. Given that the cabinet secretary has agreed to my key point about the need for consultation with the wider group of learners beyond the interest committees, and with those who undertake qualifications and those who deliver them, and on the basis of that previous discussion, I will be happy not to move amendment 9 if the cabinet secretary agrees to take the same approach with amendments 63, 64 and 65.

I suggest to Pam Duncan-Glancy that we take the same approach to amendment 252, so that we can resolve the issue around consultation requirements, responsibilities and encouragement—the nudge that I mentioned previously—in a coherent and consistent manner.

Martin Whitfield: On the route that Ross Greer is articulating in his amendment, the challenge that someone who is undertaking qualifications might have in contributing to that is part of the wider discussion that can be had on membership and input.

Ross Greer: I agree. I think that we are all trying to coalesce around the same end point, and we just need to make sure that we take a

consistent approach across the various groups of amendments that are all in that same space.

The cabinet secretary's amendment 67 is separate to that. I agree with that one and I hope that it is moved.

I do not agree with amendment 245. I want the Scottish Government to be in the room and to hear the discussions of the advisory council, because my optimistic take on this is that the advisory council will have robust discussions and provide robust advice. It is reasonable for Scottish Government officials or ministers to be in the room to be able to hear and take part in those discussions, at the discretion of the convener and if it is appropriate at the time.

Amendment 246 relates to curriculum Scotland, which we will have a debate about. I am not in favour of the creation of curriculum Scotland, so I am not in favour of amendment 246.

On amendment 249, I suggest that my amendment 62 goes further than that and simply clarifies that there will be no qualifications Scotland staff on the advisory council; that deals with the issue.

Amendments 250 and 251 tip over the line to being a bit too prescriptive. It is appropriate for us to instruct qualifications Scotland to consult with networks, but the strategic advisory council should have a bit more autonomy in how it approaches discharging its role to make sure that it provides robust and relatively independent advice.

Finally, I agree with the principle of Miles Briggs's amendment 129. I realise that it is always odd to speak to somebody else's amendments before they have had the chance to speak to them. My point is on the issue that we spoke about last week around making sure that language is inclusive of carers as well as parents. Mr Briggs has a later amendment that clarifies that the definition of parents includes carers but, given the comments that the cabinet secretary made last week, I wonder whether there is an approach that we could take so that the language that is used throughout the bill is consistent and we avoid a situation in which there is any ambiguity for anybody who ever looks at a particular provision in the bill and misses the fact that it says elsewhere that "parent" also means "carer" in those circumstances.

Miles Briggs: I thank Ross Greer for teeing me up.

Good morning to members of the committee. I start by thanking the committee clerks and the legislation team for their help with amendments.

On amendment 129, the bill mentions a learner charter and an educator charter, but it does not include a parent and carer charter, and we need to

correct that. A later amendment of mine would bring in such a charter. Amendment 129 provides for at least one member of the strategic advisory council to represent parents and carers of children and young people who are undertaking qualifications.

We all know about the positive contribution that parents and carers make to our school community, but they are also the people who prepare and support our young people to sit exams. In recent times, I have been concerned that the exam diet has been changed without any real consultation with or involvement of parents and carers. As such, I hope that this reform will, in due course, help to make sure that people can play a positive role in representing the interests of parents and carers.

I take on board what Ross Greer said about amendment 129. That is about the wording of the bill, and it is why the later definition amendments are important—so that people will be able to read those in the legislation. I will move my amendment, unless the minister thinks that it would be worth changing the wording. I do not necessarily think that it would, given that a later amendment provides that definition. I will be happy to move amendment 129 and to hear from the minister on that in due course.

11:00

Jenny Gilruth: I thank members for explaining the reasons for their amendments. I will address them in groups, according to their intention.

Amendments 61, 62 and 66 all serve the purpose of improving transparency and effectiveness in how the strategic advisory council will operate. The amendments will make the council much more impactful to better shape qualifications Scotland's decisions. That includes amendment 62, which seeks to ensure that

"members of staff of Qualifications Scotland"

are not

"members of the council."

For that reason, I support Mr Greer's amendments 61, 62 and 66.

Also to support the effectiveness of the council, I have lodged amendments 63, 64 and 65. Together, those amendments ensure that regulations will be made to ensure that the council consults partners as part of its formulation of advice. Naturally, that includes qualifications Scotland and its interest committees, as well as others that it views appropriate to consult.

I listened to Mr Greer's comments on amendment 9, but I think that amendments 63, 64 and 65 achieve a more desirable effect. However,

having listened to his contribution, I am prepared not to move those amendments if he is content to work together on a stage 3 amendment that we can both support. His amendment requires the council to consult with those who are taking and teaching qualifications. That creates unnecessary duplication and detracts from the purpose of the council, which is to give strategic advice.

The engagement between the council and the interest committees will also canvas views from children, young people and other learners and teachers. I am not able to support Ms Duncan-Glancy's amendment 252 for that reason. I also cannot support Ms Duncan-Glancy's amendment 251, which requires consultation with Education Scotland, given that we would expect Education Scotland to be represented on the council. However, I accept that we are all looking to ensure that appropriate consultation takes place and I am happy to work with members to try to come to a mutually agreeable solution in advance of stage 3.

I am happy not to press the amendments that I set out. I ask members to do the same to create space for that discussion.

Pam Duncan-Glancy: Which part of the bill makes it clear that Education Scotland will be on the strategic advisory council?

Jenny Gilruth: I have just been advised that it will be set out in the regulations.

I intend to press amendment 67, which is of a different nature. It requires ministers to publish any guidance that is issued to the council regarding how and who it consults with, in order to strengthen transparency.

I turn to the amendments that seek to stipulate and prescribe the membership of the council. Mr Briggs and Ms Duncan-Glancy's amendments 129, 246, 248 and 253 look to specify a range of groups and organisations that we expect to be on the council. As the policy memorandum sets out, it is envisaged that the council will reflect the breadth of strategic organisational interest in qualifications Scotland's functions. That means a membership that includes, but is not limited to,

"schools and colleges, universities and further education institutions, employers, training providers, a range of industries, parents and carers"

and their representatives,

"education authorities, other Scottish public bodies"

and

"other qualification providers".

To address Mr Greer's comments in the previous meeting on the bill, I want to take this opportunity to clarify the intention of the council. It is envisaged that the council will be for education and skills qualifications and the wider system

stakeholders and not solely an academic-focused forum. It is absolutely appropriate that parents and carers' representatives have a seat at the table.

Although I agree with all those amendments in principle, I cannot support them, because they undermine the need for flexibility and adaptability. It is important that we do not limit the ability for membership of the council to change over time according to its and qualifications Scotland's needs. It has always been the Scottish Government's position not to set out membership criteria in primary legislation, which is in effect what the amendments would do. In particular, amendment 248 would stipulate a requirement to include representatives of organisations that are not guaranteed by statute to continue to exist in their present form. For example, if Universities Scotland or Colleges Scotland changes name or ceases to exist, we would be unable to fulfil that legislative membership requirement.

I am keen to work with all members in the room and qualifications Scotland, outwith the bill process, to ensure that the council has a membership model that we can all get behind to maximise the quality of advice that qualifications Scotland will receive. By determining that outwith the bill, we can ensure that the council's membership can be easily adapted in future, as needed, to meet the system's needs, the priorities of the Scottish Government and the needs of qualifications Scotland. As I have said, the existing provisions give the opportunity to set out the membership in the regulations that establish the council.

I therefore ask both members not to move their amendments, with a view to working with us outwith legislation and, if reassurance cannot be provided, to revisit whether the suggested level of prescriptiveness is needed when we come to making the regulations. Regulations would at least be much easier to amend than the bill, which would make it easier to ensure that the council continues to meet future needs.

Pam Duncan-Glancy: At the risk of using the wrong language—I hope that I am using the right language—what is the intention of the cabinet secretary for those regulations and the parliamentary scrutiny of them?

Jenny Gilruth: The regulations have not yet been brought forward, and I am keen to work with members to ensure agreement on what they specify.

On the other part of the question, we have talked about the parliamentary scrutiny of qualifications Scotland, and we will, additionally, talk about that in greater detail in later groups.

Pam Duncan-Glancy: Would the regulations be laid under the affirmative procedure? Is that

appropriate? Would they be made under the negative procedure? What say would the Parliament have over the regulations on the membership?

Jenny Gilruth: It would be the negative procedure.

Together, amendments 247 and 249 seek to ensure that the membership of the council would be made up of a majority of external members and that they could not be appointed for more than eight years in total. I am not able to support either of those amendments. In relation to amendment 247, it is important that we do not restrict appointment terms in legislation. Although such a restriction might work for larger organisations, which can draw on a wider pool of individuals, it might be more challenging for small organisations to provide replacement members, and we would risk losing specialist input and views. We heard some of that debate play out last week. A more workable solution would be for appointment periods to be determined at the time of appointment.

On amendment 249, our intention is that the council would be predominantly made up of external strategic stakeholders in order to fulfil its stated purpose. The proportion of qualifications Scotland staff or board members that Ms Duncan-Glancy suggests seems too high; although it is a maximum, it might set expectations of adhering to that composition. As I noted in my earlier comments, prescribing membership and numbers can be addressed outwith legislation, or in the regulations that establish the council, to which I have just spoken. I am keen to work with Ms Duncan-Glancy on that, alongside the membership considerations, and I therefore ask her not to move amendment 249.

Ms Duncan-Glancy's amendment 245 expressly excludes the Scottish ministers and their representatives from attending the strategic advisory council. Unsurprisingly, I cannot support that. The council will be established by ministers for the purpose of advising both qualifications Scotland and ministers in relation to qualifications Scotland. It is therefore important that ministers or their representatives can support and attend the council as necessary. As ministers are accountable to the Parliament for qualifications Scotland and its council, it is paramount that there is an appropriate ministerial relationship with the council. I therefore ask members not to support amendment 245, if it is pressed.

The Convener: I call Pam Duncan-Glancy to wind up and press or withdraw amendment 245.

Pam Duncan-Glancy: Unsurprisingly, on amendment 245, for probably the opposite reason to the one that was given by the cabinet secretary,

I think that it is important that the strategic advisory council can operate without the undue influence of the Government.

Amendment 246 seeks to stipulate that one or more members of the council must also be a member of curriculum Scotland. For the reasons that I gave earlier, and given that we are all open to discussing at stage 3 the accreditation function, where that would sit, and the national landscape, I will not move amendment 246. I note that, in Ross Greer's contribution on amendment 246, he ruled out supporting the creation of such a body, but I hope that that approach will soften between now and stage 3, so that we can have the discussion on the accreditation function and look at all the options on the table, so that stage 3 can give us the solution that we require on accreditation.

On amendment 247, which states that council members are to be appointed for a period of four years, I understand the cabinet secretary's points on terms of office but, in the past, there has been inertia and we have had circumstances in which decisions have not been fleet of foot or responsive enough to a wide-ranging and fast-changing education system. It is therefore important that, at the very least, appointment is reviewed every four years. The amendment contains the opportunity of reappointment for a further period of four years, and I am keen to test that at stage 2.

On the basis of the contributions that I have heard from Ross Greer and the cabinet secretary, I am prepared not to press amendment 248 at this point and to discuss potentially refining that amendment at stage 3. However, it is crucial that we give some indication of the Parliament's recommendations and requirements of the strategic advisory council. The organisations and representatives that I have outlined in amendment 248 all have a crucial stake in our education system, and they need to have a voice on the council. However, I take the point about some of the named organisations and about looking at that again at stage 3—I think that the cabinet secretary is willing to look at that.

I am not sure that using the negative procedure would give me confidence that the Parliament had sufficient ability to scrutinise the regulations. I might be inclined to encourage the use of the affirmative procedure for such regulations, but I am prepared to not move amendment 248 and to discuss the matter ahead of stage 3.

I am prepared to not move amendment 249, on the basis of the discussion that we have had. I wanted to test the tolerance figure, but I lodged the amendment before I saw the other amendment that provides that no members of staff of qualifications Scotland can be on the council, which I also support. Therefore, I will not move amendment 249.

On amendments 250 and 251, I did not hear from the cabinet secretary that anything in the bill would require consultation with Education Scotland, but I heard the point about the regulations providing for that. On that basis, I will not move amendments 250 and 251, but I go back to my previous point about Parliament being able to scrutinise the regulations and about who is involved, which is incredibly important.

On amendment 252, I take on board the points that the cabinet secretary and Ross Greer made about how to achieve that networked approach. It is incredibly important that we do that. We have a hierarchical system when it comes to involvement and engagement with the front line. The distance between what happens in schools and policy direction is too broad and the middle is too cluttered, which we must address. Amendment 252 could have done that, but I am prepared to negotiate ahead of stage 3 to agree an amendment for the Parliament's approval so that we can address the issue in the bill.

Amendment 253 would define "registered teacher", "college teaching staff" and "relevant qualification". I do not think that it would be a bad thing to define those terms in the bill, so I am minded to move that amendment. I do not think that it relates to any of the amendments that I have said that I will not press or move.

The Convener: Will you please confirm whether you will press or withdraw amendment 245?

Pam Duncan-Glancy: I will press amendment 245.

The Convener: The question is, that amendment 245 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Rennie, Willie (North East Fife) (LD)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Greer, Ross (West Scotland) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 2, Against 8, Abstentions 0.

Amendment 245 disagreed to.

Amendments 61 and 62 moved—[Ross Greer]—and agreed to.

Amendment 129 moved—[Miles Briggs].

The Convener: The question is, that amendment 129 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)

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

As the outcome of the division on amendment 129 is tied, I will use my casting vote as convener in order for the committee to reach a decision. I vote in favour of amendment 129, so the amendment is agreed to.

Amendment 129 agreed to.

11:15

Amendment 246 not moved.

Amendment 247 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 247 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)

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

As the outcome of the division on amendment 247 is tied, I will use my casting vote as convener in order for the committee to reach a decision. I vote in favour of amendment 247, so the amendment is agreed to.

Amendment 247 agreed to.

Amendments 248 and 249 not moved.

The Convener: I call amendment 63, in the name of the cabinet secretary. I remind members that, if amendment 63 is agreed to, I will not be able to call amendment 9, due to pre-emption.

Amendment 63 not moved.

Amendment 9 not moved.

The Convener: I call amendment 64, in the name of the cabinet secretary. I remind members that, if amendment 64 is agreed to, I will not be able to call amendments 250, 251 and 252, due to pre-emption.

Amendment 64 not moved.

Amendments 250 to 252 and 65 not moved.

Amendment 66 moved—[Ross Greer]—and agreed to.

Amendment 67 moved—[Jenny Gilruth]—and agreed to.

Amendment 253 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 253 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Greer, Ross (West Scotland) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 3, Against 7, Abstentions 0.

Amendment 253 disagreed to.

Section 9, as amended, agreed to.

After section 9

The Convener: Amendment 254, in the name of Pam Duncan-Glancy, is grouped with amendment 355. I call Pam Duncan-Glancy to move amendment 254 and speak to both amendments in the group.

Pam Duncan-Glancy: The amendments in this group make the process for reviewing concerns about qualifications clear and transparent, giving stakeholders a meaningful route to raise issues and seek redress. Formalising the review process and subjecting regulations to the affirmative procedure strengthen accountability and build a

culture of responsiveness and continuous improvement in qualifications Scotland.

Amendment 254 introduces a new function and requirement for qualifications Scotland to review any

“concerns relating to a qualification”

and introduces regulation-making powers for the ministers to set out that process. I do not need to remind committee members or people watching of the issue that we recently experienced in higher history, in relation to which this approach could have been incredibly useful. The effect of the amendment would be to give recourse to those with concerns about a qualification, and it would also contribute to an improved culture of transparency, which I think is sorely needed.

Amendment 355, which is consequential on amendment 254, confirms that regulation-making powers will be subject to the affirmative procedure, giving the Parliament the scrutiny power that it might need.

I move amendment 254.

Jenny Gilruth: Ms Duncan-Glancy's amendments seek to insert into the bill a new section to require qualifications Scotland to consider whether to review a qualification that it has devised when it has been made aware of concerns. It also seeks to give Scottish ministers the power to make regulations that would stipulate the processes and procedures for raising concerns and conducting a review.

I am not able to support the amendments for the following reasons. Section 2 of the bill already allows qualifications Scotland to review its qualifications. Indeed, that is something that the new body would undertake regularly, as the SQA already does.

Not only are the amendments unnecessary, but they are also, I believe, somewhat problematic in relation to how they would address the provision. I could, in principle, support the requirement for qualifications Scotland to consider a review of a qualification based on the fact that significant concerns had been raised, but I would fully expect, as has been the case at the SQA, for all timely and appropriate reviews of qualifications to take account of any concerns that have been raised in relation to a qualification. The SQA's code of practice outlines the framework by which it safeguards the integrity of its qualifications and assessment standards to ensure public confidence, and qualifications Scotland will have a similarly robust code to support its quality assurance.

The review of qualifications, including those about which concerns have been raised, must be proportionate to the qualification and the nature of

any concerns. Although I support the principle of ensuring that concerns can influence reviews, I do not believe that it is right to prescribe a one-size-fits-all process in legislation, as the amendment would seek to do via regulations that Scottish ministers would make.

As I noted during our discussion on group 7, I am keen that we discuss further, ahead of stage 3, the processes for quality assuring and reviewing school qualifications and the separate role of accreditation as it operates across the post-school sector. I note, too, the convener's amendments in group 21, which focus on similar matters; I would also be interested in including those amendments in those discussions ahead of stage 3, as I am particularly interested in understanding the intentions and potential options around how concerns are raised and addressed.

Pam Duncan-Glancy: Amendment 254 asks that the regulation-making provision outline

“the manner in which such concerns are to be raised”.

I take the point that the national qualifications body will set out and put in place a process for that, but does the cabinet secretary agree that the ways in which the body was or was not prepared to accept concerns in relation to the history exam caused significant concern in the sector, including in relation to how some history teachers were treated and how the exam and concerns about it were approached? Does the cabinet secretary accept that there should be some regulation from the Government to set out what is required, so that the qualifications body can at least set parameters around the Government's expectations with regard to the manner in which such concerns should be raised and how the qualifications body should respond to them?

Jenny Gilruth: Ms Duncan-Glancy has raised a really important point. Obviously, convener, your own group of amendments—that is, group 21—speaks to the same issue.

We need to be mindful of legislating on the back of that one very challenging incident with higher history and the potential unintended consequences that might rest alongside that, because lots of individual factors were at play in the investigation that took place. I absolutely accept the concerns expressed by higher history teachers; indeed, I have been before the committee to talk about some of those concerns, and the committee has quite rightly taken a keen interest in the matter.

My issue with the drafting of Ms Duncan-Glancy's amendments is that they give Scottish ministers the powers to make regulations. I am not sure that that is the appropriate way of addressing those concerns; we need to be mindful of Scottish

ministers' power in that space, and of the wording with regard to raising concerns.

I am keen to address the issue that the member has raised, which I think is a serious one, but I think that we should do so via Mr Ross's amendments in group 21. I therefore ask Ms Duncan-Glancy not to press or move these amendments, with a view to discussing the issue as part of group 21, if she is content to do so. I am also mindful of our wider discussion around accreditation, which links directly to the points that the member has raised today.

The Convener: I call Pam Duncan-Glancy.

Pam Duncan-Glancy: I appreciate the points that the cabinet secretary has made, and I understand that the convener has amendments in that space in group 21. I am reasonable, so I am prepared to listen to that discussion and think about how we can take the issues forward.

However, I am quite clear that there needs to be a mechanism to enable concerns to be addressed. I acknowledge that the convener has put forward suggestions about that mechanism, as I have done in amendment 254, and I would like to hear at least an acceptance from the cabinet secretary that something needs to exist in order for the review to be looked at. Perhaps she can intervene in order to confirm that.

This is not only about higher history; there have, in recent history, been other problems with exams, not least, of course, what happened in 2020, and there should be the ability to review those qualifications and how the exams are carried out. I think that the Government has a role in that respect, but if it does not want that role, and if we do not want the qualifications body to be seen to be marking its own homework, I am interested to see the alternative that the Government puts forward.

On that basis—

The Convener: I am sorry, but I should confirm that I was calling you to intervene on the cabinet secretary.

Pam Duncan-Glancy: Forgive me.

The Convener: I am not calling you to wind up quite yet. I will bring the cabinet secretary back in.

Jenny Gilruth: I have finished, convener.

The Convener: Oh, okay. In that case, I call Pam Duncan-Glancy to wind up, and to press or withdraw amendment 254.

Martin Whitfield: Will Pam Duncan-Glancy take an intervention?

Pam Duncan-Glancy: Yes.

Martin Whitfield: The cabinet secretary used the word "proportionate" and suggested that there might be another method by which concerns could be addressed. I am concerned that a consequence of that might be a ranking of appeals in relation to marking, but I am sure that the cabinet secretary did not mean to suggest that when she used that word. Perhaps we can revisit the issue in subsequent amendments, but I am just worried that people who are watching our proceedings might think that there will be a different ranking of value if, say, concerns are raised by just one person.

Pam Duncan-Glancy: I thank the member for that intervention and apologise to you, convener, for the confusion about where we were in the debate.

I heard the cabinet secretary say that she was willing to take on board the points that my colleague Martin Whitfield just made. With that—because I am reasonable and prepared to listen to the debate on the broader aspects of how to deal with the issue when we discuss it in later groups—I seek the committee's agreement to withdraw amendment 254. Moreover, I do not intend to move amendment 355.

Amendment 254, by agreement, withdrawn.

Section 10—The learner charter

The Convener: Amendment 255, in the name of Pam Duncan-Glancy, is grouped with amendments 256 to 261, 68, 69, 262 to 271, 70, 272 to 274, 130, 275 to 279, 285 and 208.

I point out that, due to pre-emption, if amendment 68 is agreed to, I cannot call amendment 69 or amendments 63 to 65; if amendment 69 is agreed to, I cannot call amendments 62 and 63; and if amendment 70 is agreed to, I cannot call amendments 272 and 273.

I call Pam Duncan-Glancy to move amendment 255 and speak to all amendments in the group.

Pam Duncan-Glancy: This part of the legislation is incredibly important and speaks to the point that, in the past, there has been a lack of voice for both learners and practitioners in the system. The charters seek to address that, and the amendments in this group strengthen that approach by putting voice, accountability and participation at the heart of the qualifications system.

The charters are not just symbolic documents—they have to be living tools that articulate what learners, teachers and practitioners can expect and how those expectations will be met. The amendments that I and others have lodged strengthen the charters by ensuring that qualifications Scotland works with the most

affected, not just to write the charters but to revise, monitor and comply with them.

My amendments embed a culture of consultation that is meaningful, inclusive and continuous—a theme that the committee has discussed at length this morning—especially, and importantly, for those who are left out of policy development, such as care-experienced learners, British Sign Language users and others. The amendments also provide for regular review every three years, so that the charters can stay relevant to learners' real experiences and do not gather dust on a shelf.

Accountability in the system matters—and I think that, in saying that, I probably speak for most, if not all, of the people around the table and those watching our deliberations today. That is why my amendments require qualifications Scotland to report on any failure to meet the charter's expectations and to explain what it is going to do to address that. Whether someone is a young person at school, an apprentice, a college lecturer or an adult returning to learning, the charters will be their guide, their guarantee and their voice in the system, and they will be crucial in that respect.

11:30

George Adam: I understand where Pam Duncan-Glancy is trying to go, but alarm bells start going off in my head—that might say a lot about me—when I hear people making suggestions that might make things more complicated. Might the proposal end up making the consultation a tick-box exercise? Might we end up in a situation in which the structure is so tight that we cannot get things done, as people will end up reporting things instead of doing the work? The issue of proposals making things so tight that flexibility is lost is a concern that I have in relation not only to this bill but to just about every bit of legislation that I see.

Pam Duncan-Glancy: I take the point, and it is important that we strike a balance in that regard, but recent history has taught us that we have to err on the side of caution and of forcing the culture, in a way that I think that we can, to give credibility, teeth and accountability to the charters. If we do not have something in legislation that says how the charters should be monitored and, indeed, enforced, and how people can be involved in their development, they could be just tokenistic documents as opposed to living and valuable tools that young people and others can use to give effect to their rights. I take the point about tick-box exercises, but I would say that, without my amendments, the charters themselves could become tick-box exercises or part of a tokenistic approach.

Amendment 255 requires qualifications Scotland to work with those consulted to prepare and publish the learner charter. Again, as I have said, that process should include learners at every stage of the charter development and publication process.

Amendment 256 specifies that the learner charter applies to people of all ages undertaking qualifications, while amendment 260 ensures that adult learners who are not covered by the United Nations Convention on the Rights of the Child protections will nevertheless also have their additional needs recognised. Amendment 261 adds a requirement for qualifications Scotland to comply with the learner charter and to monitor that compliance, which will, again, strengthen the charter's role.

Amendment 262 matches amendment 256 in replacing "persons" with

"children, young people and other persons"

to underline the fact that charters are relevant to all people of all ages who are undertaking qualifications.

Amendment 263 requires qualifications Scotland, when preparing the learner charter, to consult with parents and children and young people who are undertaking a qualification to ensure that the important voice of parents can continue to improve the charter's development.

Amendment 264 requires qualifications Scotland to consult with people who use BSL, who have protected characteristics and who have additional support needs. I do not think that, at this point, I need rehearse the arguments as to why that is crucial.

Amendment 265 requires consultation with the qualifications Scotland board before producing the learner charter, so that we can get all of the relevant people on board in order to progress it appropriately, and amendment 266 requires qualifications Scotland to seek the view of the strategic advisory council and to revise the learner charter in line with any recommendations made by it. Amendment 268 is a paving amendment for later amendments.

Amendment 271 places a duty on qualifications Scotland to comply with the teacher and practitioner charter and to monitor its compliance.

John Mason: Pam Duncan-Glancy said that amendments 261 and 271 require qualifications Scotland to comply with the learner charter and the teacher and practitioner charter, respectively. However, the amendments say that qualifications Scotland must comply with

"the expectations set out in"

the charters. Can she clarify the difference between complying with the charters and complying with the expectations set out in them?

Pam Duncan-Glancy: Whether we are talking about the expectations or the detail of them, the fact is that, without these amendments, no compliance with the charters will be required. I am prepared to consider at stage 3 the literal point about whether the wording should mention expectations, but I suspect that there might be a broader discussion about whether those amendments would garner support.

Amendment 272 would require qualifications Scotland to consult the qualifications Scotland board before producing the teacher and practitioner charter, while amendment 273 specifies a range of interested parties whom qualifications Scotland would have to consult in preparing that charter. Amendment 274 would require qualifications Scotland to seek the view of the strategic advisory council and to revise the charter in accordance with any recommendations that the council made.

Amendment 275, which seeks to recognise the distinct needs and requirements of learners, teachers and practitioners in the post-school environment, is, I think, a really important amendment that would address the situation that would arise when staff in colleges and other institutions, as well as students, were concerned about the practice of not marking people's exams or coursework as a result of industrial action. It is important that we put in place expectations so that learners and staff in those establishments are clear about what they can expect, in order to close some of the gaps that I think would exist if we did not add a post-school learner and practitioner charter to the bill. That is why I think that amendment 275 is so important.

Amendments 276 and 277 would ensure that the charters were reviewed every three years instead of every five. I am seeking to change the review timescale because, if the charters were reviewed only every five years, such a review could end up happening outwith the entire learning journey of a young person in secondary school. It is important that there is an opportunity to review the charters during a young person's learning journey, not just after it.

Amendment 278 would require qualifications Scotland to consult when it reviewed or revised the charters, while amendment 279 would ensure that the strategic advisory council would be involved in the detail of such reviews and could comment on them and recommend any additions.

Finally, amendment 285 would require any failure to meet expectations in the charters to be set out in qualifications Scotland's annual report,

along with what remedies qualifications Scotland would implement.

I move amendment 255.

Katy Clark (West Scotland) (Lab): I will be brief, as my amendments in this group relate to amendments of mine on a generic duty of care that were debated last week. My amendments in this group relate to the learner charter and the teacher and practitioner charter.

The general case that I am making is that educational institutions and bodies such as qualifications Scotland should owe a generic duty of care to students. I rehearsed some of the arguments last week, and I have lodged my amendments in this group in an attempt to promote a discussion about the issue. I am not necessarily suggesting that these specific amendments would be the appropriate response. We simply wanted to have amendments drafted that would enable us to make representations that there is an argument for having a generic duty of care in Scotland.

I look forward to the cabinet secretary's response. I will consider lodging other amendments on the matter at stage 3.

Martin Whitfield: Good morning. It is still morning—just. I remind members of the committee and people watching of my entry in the register of interests, in which I declare that I received a financial payment as a result of having been a teacher before the start of this parliamentary session.

My amendments in this group relate to a number of matters, but they are all founded on the purpose that sits behind the charters. I go back to what the Scottish Government said last year about what people can expect of the charters. It said:

“The purpose of the charters is to set out what service users”—

young people who are going through the system—

“and delivery partners should expect from Qualifications Scotland.”

That relates to John Mason's intervention about the use of the term “expectations” in some of the amendments that we are considering.

My first amendment in this group is amendment 258, which is about the importance of the learner charter—it is right that it should have such importance—and the importance that those who will look to it will place upon it. One thing that those who look to the charter will rely on is the validity of how it was initially drafted. If the drafting of the charter is done too closely to those about whom the charter speaks—in other words, those on whom the expectations are being placed—it will lose some of its credibility. Therefore, with

amendment 258, I make the strong suggestion that the learner charter should be drafted by someone who is external to qualifications Scotland. Obviously, that person would need to have the appropriate expertise and knowledge, and they would be required to consult.

We have heard a lot about the requirement for, and expectation of, consultation during the discussion on amendments in this stage 2 debate. The purpose of amendment 258 is to result in a charter that better reflects the needs and rights of learners and that is free from institutional bias. Ross Greer used the phrase “the blob” earlier on, but, without denigrating anyone who suggests using that phrase, I offer “institutional bias” as a more polite phrase.

The importance of the learner charter cannot be overestimated. It is one of the important requirements in the bill and it is something that, in due course, learners in particular will look to. Giving it the additional strength and credit of not initially having been drafted internally would allow it to benefit from the new educational institutions and ideas that we have in Scotland from the start.

My other amendments in the group refer to the UNCRC. The challenges faced by young people who rely on the UNCRC rest entirely with the hodgepodge way—to use a throwaway phrase—in which the system was created. That is probably more the case with education legislation than in any other area. It is a question of which institution the acts, statutory instruments and other things were created in and the challenges that are brought as a result. It would be welcome for the entirety of this act to sit within the requirements of the UNCRC, so that young people would have a vehicle through which to explore the challenges of a conflict, of not being able to have an appeal heard as they require, and of a committee not being considered.

Amendment 259 directly and specifically indicates that the learner charter

“must seek to promote children’s rights in accordance with the UNCRC requirements.”

My other amendment in the group, amendment 267, clarifies for the avoidance of any doubt—we will talk about the definitions sections later—that

“‘UNCRC requirements’ has the same meaning as in section 1(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024.”

Ross Greer: My amendments 68 and 70 cover a lot of the same ground as the amendments lodged by the cabinet secretary and Pam Duncan-Glancy. What I am trying to do with both amendments is put the principle of co-design in the bill—through amendment 68 for the learner charter and through amendment 70 for the teacher and practitioner charter. It is not good enough to

consult with learners, teachers and practitioners only for someone else—qualifications Scotland staff—to go away and draft the charters. They should be co-designed with those groups.

The amendments are based on principles similar to those of a draft amendment that was presented to us all by the Educational Institute of Scotland in relation to the learner charter. They are simply trying to get the principle of co-design in the bill, because that is a superior process to consultation. Co-design is what we should aspire to with documents that will take on the importance that we all believe the charters should have. The cabinet secretary’s amendment 69 will strengthen what is in the bill, but it is still based on the principle of consultation rather than co-design.

I understand that the Government has some specific concerns in relation to my amendments. Pam Duncan-Glancy’s amendment 255 sits somewhat in the middle, because it would require qualifications Scotland to work with those who have been consulted to prepare and publish the charter. There are elements of co-design and consultation in that amendment.

Given that we are all heading in the same direction on this issue, it may be the case—as with a number of other groups—that we can come together at stage 3 to get something that fulfils all our objectives. I will be looking for a commitment from the cabinet secretary that the principle of co-design will be enshrined in the bill and that consultation alone is not sufficient for the charters.

I will touch on a couple of the other amendments in the group—but not all of them, given how many there are. With regard to Pam Duncan-Glancy’s amendments 261 and 271, I would be wary of enforcing unequivocal compliance with the charters. We can all envisage situations in which that may not be possible because of overriding concerns. For example, if the charters had been in place at the time of the pandemic, I imagine they would have improved outcomes in a whole range of ways in relation to the decisions that the SQA made. However, I can also imagine situations in which it would have been impossible, for reasons relating to public health, to fulfil aspects of what I expect will end up being in the charter. That is a legitimate point.

Pam Duncan-Glancy: Will the member take an intervention on that point?

Ross Greer: Yes, but I want to make a point and raise an issue first.

I like the points about monitoring compliance in amendments 261 and 271. Although I am wary about creating an unequivocal requirement to comply, the monitoring points have value.

11:45

Amendment 285, which would require the organisation to publish a report in instances in which the charters had not been complied with, has a lot of value. I am wary that the organisation, by not complying, would be breaching its legislative duties, but there should be transparency around situations in which it has not complied. In such situations, the organisation should explain why it believes that non-compliance was necessary and should be held to account as appropriate.

Pam Duncan-Glancy: I thank the member for finishing the point before taking my intervention, because it has helped me to understand the rationale a little bit. The point that I was going to make was about whether the charters would have set out things that the organisation had to do, even if the pandemic had made it difficult to continue doing them.

That would not have been unusual—the pandemic made it difficult to do a lot of things, and emergency legislation was put in place in recognition of that—but do you accept that it would have been better to have had charters in place, in order to set out what the organisation should have been doing, even if it meant that some other aspects had to happen, through regulation or emergency legislation, in recognition of the fact that we were in the middle of a global pandemic? Some of what could have been set out in charters might have prevented some of what we saw in 2020.

Ross Greer: We absolutely would have been in a better place if learner and teacher charters had been in place in 2020. My concern is that it would inevitably have been the case, given the assumptions that I am making about what will probably end up being in the charters, that it would not have been possible to comply with everything in those circumstances—in some cases, for legitimate reasons.

If amendments 261 and 271 were agreed to, it would leave the organisation in a position in which it would be breaking the law by not complying with the charters, which would be a bit disproportionate. In instances where the organisation has not been able to, or has chosen not to, comply with the charters, there are ways that we can bake in processes to hold it to account that fall short of creating a situation whereby it has broken the law. That is why I like the monitoring compliance aspects, and I hope that they are brought back at stage 3.

I agree with amendment 285, which would provide transparency through an annual report, but I cannot support amendments 261 and 271 as they are, particularly given that we do not yet know

what absolutely will be in the charters. At this point, setting such a high threshold and saying that the organisation would be breaking the law by not complying with the charters, even though we do not know what they say yet, goes too far. As I said, I like aspects of the amendments and I hope that they come back at stage 3.

I cannot support amendments 266, 274 and 279, because they undermine the principle of the charters being produced in conjunction with learners, teachers and practitioners. The charters must have their buy-in, regardless of whether we go with co-design or consultation. As much as I want the strategic advisory council to play a powerful role in the organisation, giving the council an effective veto over the charters, which is what those amendments would do, would undermine learners' and teachers' voices.

Similarly, I cannot support amendment 273, because the teacher and practitioner charter should be about teachers' and practitioners' interests, and there are other ways to bring other voices in. For example, I have proposed that it is appropriate to require qualifications Scotland to consult employers before producing a corporate plan. I do not think that it is appropriate for employers to be involved in the drafting of a charter for teachers and practitioners, which I hope will be produced by teachers and practitioners.

I am happy to move past Katy Clark's amendments. It sounds as though she is not pressing them, given the discussions that we have had already.

I am sympathetic to the intent of Martin Whitfield's amendment 258, which goes back to my co-design amendments, Pam Duncan-Glancy's amendment 255 and the cabinet secretary's amendment 69. My issue with amendment 258 is that it would preclude co-design, because it would put the charter's production and drafting entirely in the hands of an individual who was separate from the organisation.

In a broad way, we are all trying to achieve roughly similar goals. If none of us are moving our amendments—I will not press amendments 68 and 70 if I get reassurance from the cabinet secretary around co-design—then I ask Mr Whitfield not to press amendment 258, because, as it stands, it would make it impossible to do co-design. There is probably a way that we can accommodate both of our objectives at stage 3.

Martin Whitfield: I am grateful. That proposal, with the relevant reassurance, would be an excellent way to move forward.

Ross Greer: In conclusion, I confirm that the basis on which I would be happy not to move my amendments—and I suggest that the same is true

for others—is that the cabinet secretary confirms that the Government accepts the principle of co-design as part of the process.

Jenny Gilruth: I thank members for explaining the purpose of their amendments. Ms Duncan-Glancy and Mr Greer have made similar proposals under amendments 255, 268, 68 and 70, on ensuring that both the charters are prepared and published in collaboration with people taking qualifications and people delivering qualifications.

To give Mr Greer absolute assurance, it has always been the intention that the charters will be co-produced. I want to provide reassurance that the ministerial guidance on the creation of charters that will be issued to qualifications Scotland will ensure that that principle is embedded.

The Government is also working closely with the SQA and the learner and teacher stakeholders to ensure that its guidance, which is being developed in parallel to the bill, takes account of any legislative changes that are made as the bill makes its way through Parliament. The guidance will be issued to the board of qualifications Scotland, prior to the body becoming fully operational, in order to support plans to co-produce the charters. However, I recognise the additional reassurance that a change to the bill could bring.

My concern with how the amendments are presently drafted is that they would require children, young people, adult learners and teachers to co-produce the charters without limiting that to those who want to be part of a co-production process. In order for me to support the principle behind the amendments and avoid any unintended consequences, I would like to work with Ms Duncan-Glancy and Mr Greer on an alternative form of words for stage 3, and I ask them not to press or to move those amendments on that basis.

Moving to amendment 256, I fully agree with the need to ensure that children, young people and adult learners are recognised as the different groups that take qualifications. Although they are already captured by the existing provision, I would be content to support the amendment.

Amendments 262 and 263 bring about additional assurances through ensuring that children, young people, adult learners and parents will be consulted in creating the learner charter. However, that intention is met by my amendment 69. I encourage members to support that instead, although I have listened to the discussion this morning.

Amendment 69 would guarantee consultation of the same groups that are covered by amendments 262 and 263, while also, importantly, covering carers as parents, in line with our commitment to the Promise. Although I have listened to the

debate, I am content not to move amendment 69 in order to ensure that we can arrive at a position that we can all support, as long as amendments 262 and 263 are also not moved.

Ms Duncan-Glancy's amendment 264 also seeks to strengthen the requirements for the creation of the learner charter by including learners who are users of British Sign Language, those who have protected characteristics listed in section 4 of the Equality Act 2010 and those with additional support needs. The Government fully supports the intention behind the amendment, and the charter is intended to take full account of the diversity and varying needs and interests of Scotland's children, young people and adult learners. However, as drafted, I have concerns that the intention of the amendment would not be met. The rationale is to ensure that those from marginalised communities would be consulted. Unfortunately, including protected characteristics under the Equality Act 2010 does not guarantee that, as protected characteristics include things that we all have, such as age.

As drafted, the amendment does nothing to ensure that, for example, people with a range of different ages are consulted or that people of different races are consulted.

Pam Duncan-Glancy: The purpose of specifying protected characteristics very specifically allows for an understanding and analysis of age and race. Both those aspects are defined as protected characteristics in the Equality Act 2010.

Jenny Gilruth: They are defined as protected characteristics in the Equality Act 2010, but the advice that I have is that, because the age difference is not prescribed, that will not apply in the way that I think that the member intends. I recognise that more reassurance is needed there, so perhaps we can work together to arrive at a resolution.

I also reassure members that qualifications Scotland will be a named organisation that will be subject to the public sector equality duty, which will require the organisation to have due regard to those types of equality considerations when carrying out its functions. Those considerations should be captured by that duty—to answer Ms Duncan-Glancy's point.

I fully support prescribing British Sign Language users and those with additional support needs as groups who should be consulted. I therefore ask Ms Duncan-Glancy not to press her amendment, with a view to working with Government on whether more is needed or can be done to strengthen existing equality-focused provisions and duties for stage 3.

Amendments 257 and 269 from Ms Clark require the charters to include a list of support that qualifications Scotland will offer to children, young people and adult learners. From Ms Clark's contribution, I understand that she is not going to move her amendments. We discussed some of the issues last week. As they are drafted, the amendments go against the purpose of the charters in two ways. First, the charters are not there to define a list of services that qualifications Scotland must provide; it is more about how it provides services. The second issue relates to co-production, which will ensure that the charters reflect the needs of those who they are designed to serve. By defining the content to be covered in legislation, we risk pre-empting the co-production process. Ms Clark has, however, raised some important points. I recognise that she is not going to move her amendments but I just wanted to put all that on the record.

Amendment 258 from Mr Whitfield sets out an interesting proposal for an independent person to prepare a draft of the learner charter. I have some concerns about whether such a move is necessary, particularly given the additional provisions for consultation, transparency and accountability within the bill, as well as the changes on co-production that I have committed to. Also, if the person requires to have the relevant skills, knowledge and expertise in relation to the functions of qualifications Scotland, that risks us having a pretty limited pool of candidates compared with the expertise that will be held by qualifications Scotland.

To answer Mr Greer's point, the intention was always for co-production, and the bill will make that clear following the work that I will undertake with Mr Greer and Ms Duncan-Glancy. I will not therefore be able to support amendment 258.

Martin Whitfield: That raises the interesting point. If we remove the word "draft" and use the word "facilitate", there are people who have expertise in facilitating co-production that might lie outwith the skill set of those who are in the organisation. As I indicated in my intervention on Ross Greer, I am more than happy not to move amendment 258 today. However, the importance and value of the charter require to be built on the best foundations.

Jenny Gilruth: Mr Whitfield makes fair points. I accept that he will not move amendment 258 and I keen to work with him, Mr Greer and Ms Duncan-Glancy on a resolution.

I now turn to Mr. Whitfield's amendments 259 and 267 on embedding the UNCRC, including in the preparation of the learner charter. As set out in the policy memorandum, the Government has been clear that that should be the case. The United Nations Convention on the Rights of the

Child (Incorporation) (Scotland) Act 2024 will also require qualifications Scotland to ensure that that is the case. I am, however, concerned that the amendments would inadvertently undermine the UNCRC act, which was passed by the Parliament just last year.

The amendment might be intended as a reminder of the UNCRC obligations, but if that is the case, it risks causing confusion about the status of UNCRC obligations in cases in which no such reminder or signpost exists in statute. Alternatively, the amendments might be intended to impose a higher duty than exists under the UNCRC act. However, that also risks undermining that act by suggesting that the duties in it that are applicable more widely are insufficient and that they establish a hierarchy of duties. Although I appreciate the good intentions, I therefore ask Mr Whitfield not to move his amendments and to rely instead upon the UNCRC act that was passed by the Parliament last year being able to operate as intended.

Martin Whitfield: The cabinet secretary will be aware of the challenge that those outside this place have faced in trying to seek enforcement of the UNCRC rights, particularly with regard to a challenging definition that seems to be doing the rounds, with regard to how legislation that is tainted—I think that is the phrase that was used—and clearly excludes the UNCRC has arisen. The purpose behind the amendments was in no way to add a higher level to the rights, but to formulate a reminder of their existence and, more importantly, to give a vehicle that might be required, which I think is lacking in the bill.

I realise that it is a complex matter that goes beyond this bill. If the Government is prepared and kind enough, we can engage on how we can ensure that the UNCRC rights are more explicitly supported for those who are outside this space, either through the bill or in some other way.

12:00

Jenny Gilruth: Mr Whitfield raises a really important point about this legislation and about how it cuts across the interpretation of the UNCRC act. Ms Somerville led on that legislation in Parliament, so I would be content to engage with her directly on the issue. Mr Whitfield's points do not just relate to the bill that we are considering today, and I would not wish to use the bill as a test bed, as it were, in that regard. The Government must have a coherent approach to those issues, as opposed to addressing them narrowly via this bill without fully comprehending the alternative implications that that might have—for example, I spoke to the hierarchies that could be created with other legislation and to the unintended consequences.

I very much take Mr Whitfield's points, so if he is content for me to do so, I will ask Ms Somerville to engage with him directly on the issues, which are much broader than this bill and which I do not believe can be fully resolved through it.

Martin Whitfield: I say genuinely and in good faith that I see the challenges that sit behind this. I am more than happy to accept the cabinet secretary's proposal, and I will not move amendments 259 and 267. However, I put on the record that the matter is becoming very urgent for people outside of this place, particularly young people, and that, given the constraints on parliamentary time, the bill might be the legislative vehicle for this specific issue. I am more than happy for those discussions to happen before stage 3.

Jenny Gilruth: Amendment 260, in the name of Ms Duncan-Glancy, also seeks to embed in the preparation of the charters, a new right for adult learners who are undertaking qualifications to receive education in a way that meets their needs. I do not believe that this bill is the way to give adults new rights that are not, to my knowledge, already embedded in the system. It should also not fall exclusively to qualifications Scotland to implement those rights, particularly when it does not have sole responsibility for delivering education that meets individuals' needs. I ask the member not to move amendment 260, but I would be interested in discussing the point with her outwith the bill process.

Pam Duncan-Glancy: I take the cabinet secretary's point, but if we do not do it here, how else can we ensure that people who are not covered by the UNCRC get the same experience from the educational institutions that are delivering to people who are covered by the UNCRC? How can we ensure parity of experience if we do not do something in the bill?

Jenny Gilruth: Ms Duncan-Glancy has raised some very important issues. However, I am not clear that they will be resolved through this bill, and I suggest that they relate to Mr Whitfield's point about the UNCRC act. If she would like, I would be happy to attempt to arrange engagement among both members and Ms Somerville's officials who led on the UNCRC act. We must have a coherent cross-Government approach, and I am mindful that the UNCRC act was led by Ms Somerville's team last year. If members are content, I will take that challenge away.

With amendments 261, 271 and 285, Ms Duncan-Glancy is seeking to ensure compliance with the charters and ensure that how they are being upheld is reported on. The bill already provides that the charters must be created to set out user expectations, and that qualifications

Scotland must report on how it plans to and has satisfied the expectations of the charters.

However, we must be mindful that unforeseen circumstances can change the expectations of users and the capacity of organisations to meet those expectations. The pandemic, as we have heard, is a case in point: the expectations that we all had about how things should happen had to change. I raise that point because, the requirement for absolute compliance with expectations might be something that can never be truly fully achieved. That is why I cannot support amendments 261 and 271.

I fully agree that qualifications Scotland should always work hard to meet the expectations in the charters, and I agree that how the charters are upheld should be reported on, including actions taken to address any issues. Therefore, if she does not move amendments 261 and 271, I would be happy to work with Ms Duncan-Glancy ahead of stage 3 to incorporate her amendment 285 into the existing charter reporting requirements.

I support the principle behind her amendments 265, 272 and 278. It has always been the intention of the interest committees to be closely involved in the development and review of the charters. Those provisions provide additional assurance that that will happen. However, legally, the committees are not persons, as they are not bodies corporate, so inserting them into a list that is about persons does not quite work.

In addition, amendment 278, as drafted, would require both committees to be involved in the revision of either charter, not just the charter that is relevant to the committee in question. That appears to be inadvertent, as it is a departure from what is set out in the amendments in relation to the original charters. I therefore offer to work with Ms Duncan-Glancy on that aspect for stage 3, and ask that she does not move these amendments.

As for the strategic advisory council being involved in the creation and reviewing of the charters, I cannot support Ms Duncan-Glancy's amendments 266, 274 and 279 as drafted. Although I agree that the council will have an interest in commenting on the charters, I do not agree with its being given the authority with regard to revising the charters. The council is a strategic-level forum for a wide range of system stakeholders, beyond simply learners and teachers, and I do not think it appropriate that it should have powers to alter the charters when those have been co-produced with learners and teachers. I would support an alternative amendment that would give the council the opportunity to comment on the charters—if the member would be happy to work with me on that, I ask that she does not move these amendments.

I turn to Mr Kerr's amendment 270, which proposes that the teacher and practitioner charter sets out how qualifications Scotland would work with Education Scotland in relation to professional learning and development. I do not support the amendment for similar reasons to those that apply to amendments 257 and 269. It is for the service users—in this case, teachers and practitioners—to co-produce the content. The point of co-production is not to prescribe the charters' contents in legislation.

I believe that Mr Kerr's amendment 236 in group 10, which I support, would be more effective in ensuring that qualifications Scotland develops relevant professional learning and development for qualifications with Education Scotland. I ask Mr Kerr not to move amendment 270, so that we can focus on ensuring that we get amendment 236 right for stage 3.

Ms Duncan-Glancy's amendment 273 seeks to specify a range of stakeholders who must be consulted on the creation of the teacher and practitioner charter. Although I agree that education trade unions will have a key role in shaping the charter through consultation, their involvement is captured through existing provisions.

Furthermore, I do not agree with the range of other stakeholders that Ms Duncan-Glancy is seeking to specify in legislation to be consulted on the charter. Some of those will be captured by the catch-all provision that I have just highlighted. However, it is unclear what importance, for example, Universities Scotland, subject-matter experts and those with knowledge of business and industry would need to be given in a charter that is focused on supporting those who directly deliver qualifications. I therefore do not support amendment 273, and I encourage members to take the same position.

Mr Briggs's amendment 130 and consequential amendment 208, and Ms Duncan-Glancy's amendment 275, would each place a requirement on qualifications Scotland to create additional charters. I do not support those amendments, for the following reasons. The bill already provides qualifications Scotland with the ability to consider creating other charters as it requires. However, I remind members that one of the key priorities for qualifications Scotland is restoring trust and accountability with children, young people and adult learners, and with our teaching profession. This is why the learner charter and the teacher and practitioner charter are an immediate priority and, in my view, must be enshrined in legislation. I believe that it is right that they are the initial focus.

I fully agree that parents and carers have a crucial role in supporting children and young people, and that they therefore have a role in

ensuring that qualifications Scotland meets the needs of their children. We have already established the Scottish Assembly of Parents and Carers, which is delivered by Connect, and I would expect all national bodies, including qualifications Scotland, to take account of the assembly's findings, which come directly from parents from all over Scotland. That further demonstrates our commitment to listening to parents and carers as advocates for their children. I lodged amendment 69 to ensure that parents and carers are included, although, having listened to the discussion, I am keen to work with members on how we can arrive at a mutually agreeable solution for stage 3 to that end, as previously intimated.

Turning to the post-school learner and practitioner charter. I am not clear why a separate charter is needed. Although I recognise that school and post-school settings can have different needs, I do not think that that warrants a separate charter, and it risks confusion. I also question the value of a combined charter for learners and practitioners when they will have different needs and expectations. It is my expectation that learners and practitioners in post-school settings would be captured in the respective charters for which the bill already provides.

Finally—as members will be pleased to hear—come to amendments 276 and 277, from Ms Duncan-Glancy, which seek to reduce the review period of the charters from five years to three. I can see the merits of that reduction; however, I am mindful of not only the administrative burden, but the burden that we might place on children, young people, adult learners and teachers by more regularly consulting them on areas on which they have already given their views.

Three-yearly reviews would risk consultation fatigue; I also wonder whether three years is long enough for the impact of the charters to be seen. I highlight that the bill currently requires a review “within”, rather than after, five years, so there is flexibility built in to enable a review to take place at an earlier stage, should it be required. For these reasons, I ask the member not to move amendments 276 and 277.

The Convener: I call Stephen Kerr to speak to amendment 270 and the other amendments in the group.

Stephen Kerr: This is an unusual situation, as I am speaking after the cabinet secretary and have heard her assessment of my amendment.

My initial response is to suggest to the cabinet secretary that such is the poor precedent in terms of the experience that teachers have had with the SQA that putting things in the bill to reassure teachers, as one of the key constituent groups that will interact with the new body, may give people

some hope that the bill is not just about changing the name on the door. That has been the focus of a lot of the concern about the bill as it was presented: that it was simply going to be an exercise in changing the brass plate.

Jenny Gilruth: I have heard that allegation over the past two years, but I invite the member, and colleagues around the table, to observe the number of amendments to the bill that have been lodged; it is quite clear that it is not going to be just about a name change. The bill is about fundamentally changing the culture of our qualifications body, and I think that all the amendments that we have agreed today will help to strengthen it in that regard.

Stephen Kerr: That is my hope, too—

Jenny Gilruth: Good.

Stephen Kerr: I agree with the sentiment, and we spoke about culture at the meeting last week. However, setting expectations from the Parliament in the statute that we send to be signed by the King is where it starts. When we propose amendments that set out declarative expectations, therefore, we should take that very seriously.

I am responding to what the cabinet secretary said, because I strongly believe that the charters are not bureaucratic exercises—I do not think that she, or any one of us around the table, thinks that. They should be an articulation of the new relationship that they are seeking to establish between qualifications Scotland and the people whom it is intended to serve. Therefore, being serious about them, I am very keen, as I know that we all are, to go beyond warm words, hence the motivation—I think—behind so many of the amendments. The amendments have substance and they reflect on the realities of what went wrong with the SQA and why trust needs to be rebuilt, which is the issue to which we keep coming back.

I will quickly speak to amendment 270, to make a pitch for what is behind it, if nothing else. It would require that the teacher and practitioner charter explicitly describe how qualifications Scotland will uphold the principle of professional trust. That is much more than a slogan—it is a response to the consistent message, which was echoed in the Muir review and reinforced in the evidence that was submitted to the Education, Children and Young People Committee, that teachers have felt marginalised, dismissed and too often excluded from the decisions that directly affect their work and their learners. It was clear in the consultation for the Muir review that there was a need for the new national agency to work in a way that reflects a culture of trust, respect and professional autonomy.

Any attempt at a charter that fails to reflect that principle would fall short of its purpose. Amendment 270 would, I believe, ensure that the new body cannot simply adopt a vague or tokenistic statement of intent around how it works with Education Scotland and the profession; it must spell out how it will embed professional trust in its culture and operations.

That is all that I will say about amendment 270, but I want to speak in support of amendments 275 and 276, from Pam Duncan-Glancy. She is proposing a post-school learner and practitioner charter, and I strongly support the amendments because, as we all know, and as the cabinet secretary pointed out to me in response to my earlier amendments, qualifications from qualifications Scotland are not exclusively for school pupils. They will be delivered and experienced across Scotland's colleges, community education centres, training providers and in many more settings. It is entirely reasonable to reflect those distinct experiences in a separate, bespoke charter—I think that that would make perfect sense.

12:15

The key, however, will be ensuring that that new charter is coherent and complementary, and not fragmented or contradictory. Learners and practitioners in post-school settings should enjoy the same respect, clarity of expectation and opportunities to influence the system as those in school settings. Their charter must be more than an afterthought; it must carry equal weight and scrutiny.

I also strongly support Pam Duncan-Glancy's amendment 277. We discussed earlier my interest in term limitations, and I would support the idea that we reduce the review cycle of the charters from five years to three. I hear what the cabinet secretary says about expecting too much of children and young people, but it will be different sets of young people—I assume that it will not be the same set of young people, because age and chronology would suggest that that is not possible. The idea that Pam Duncan-Glancy puts forward strongly appeals to me: that if the period is five years, it will be outwith the experience of some of the children and young people who are going to go through the system.

That period is just too long, and we need to be more agile and responsive, in particular in the initial years of the life of qualifications Scotland. Regular review, informed by feedback from those who are directly affected, is key to ensuring that the charters do not just sit on a shelf and gather dust. They have to be living documents, and they will be only as relevant as we make them in that regard. I think that amendment 277 would do that.

I also agree with Pam Duncan-Glancy on her amendment 278. I have no idea whether or not Miles Briggs agrees with me on that, so I should say that these are my personal opinions. The amendment proposes that the statutory committees, such as the teacher and learner committees, should be formally consulted on any charter review. That is essential, and the amendment would provide for that. Those committees are meant to represent the voices of practitioners and learners and their role must be meaningful and continuous, and not limited to initial drafting.

I think that I have said enough about those specific amendments, and I have probably said enough about my amendment 270. I would be the first person to agree with any suggestion that everyone should agree something in common from all these different amendments, which I think is the broad thrust of the cabinet secretary's intent. Anything that would give us something that is living, current and relevant, and that is grounded in accountability, trust and clear expectations, should command the support of not just the committee but the whole Parliament.

Miles Briggs: My amendments 130 and 208 in this group go to the heart of what I am trying to achieve as part of the bill, which I think is something that we all want to achieve: building confidence in the new organisation. I have listened to the cabinet secretary, who outlined that we need to do that for carers and for teachers, but we also need to do it for parents. That is why I want to see that triad as part of the bill; why I am pleased that the committee has agreed an amendment on a parent, or guardian, or carer, being part of the strategic advisory council; and why my amendment 130 would ask that qualifications Scotland has a specific duty to set up a parent and carer charter. It is important to provide that definition.

I take on board what the cabinet secretary has said in relation to care-experienced young people and the interest committees, which I think are working quite well to take forward the Promise in that area. There is a really positive role to be played in that regard.

For Stephen Kerr's clarification, I support amendment 278. *[Laughter.]* I think that it would add value to the bill. I will end my contribution there.

The Convener: I call Pam Duncan-Glancy to wind up and to say whether she wishes to press or withdraw amendment 255.

Pam Duncan-Glancy: I start by setting out my rationale for which amendments I will press or move and which I will not in this particular group. I have listened carefully to everyone who has

responded, and I think that I can hear a consensus developing around the need for co-production, co-design and consultation. In that respect, I hope that, when we come to consider the relevant amendments, my decision on whether to press or move them will be reflected in the numbers. I will not move or press my amendments in that regard in order that we can work together across parties at stage 3 to bring out some consultation or co-design process. Amendment 255 is the start of that, so I will not press it.

However, I would like to move the amendments on compliance, which I think are important. The points on monitoring are welcome, and I hope that I can get support for amendment 285 in that respect.

On the amendments on parents and young people, I support Miles Briggs's amendment 130 and I recognise the points that have been made about co-design and co-production.

My amendment 278, which would require the additional level of scrutiny that we spoke about a moment ago, is important, and the committees that it refers to have a key part in that scrutiny, so I am minded to move it.

My amendment 275 specifies people who should be consulted about the post-school learner and practitioner charter. It is important that we get those voices heard throughout the process. However, again, I would be prepared to work at stage 3 to see whether we can get consensus on improving the drafting of the amendment, as long as we keep the principle that those broad groups of people need to have a say in what the charters do.

I spoke briefly about my amendment 285 a moment ago. If qualifications Scotland fails to satisfy expectations, it should say why and what it will do about that. That could be considered to be a bit of a compromise amendment on compliance, and I hope that I can get support for it. However, as I said, I will test the point on compliance at this stage. With that, I conclude my remarks.

Amendment 255, by agreement, withdrawn.

Amendment 256 moved—[Pam Duncan-Glancy]—and agreed to.

Amendments 257 to 260 not moved.

Amendment 261 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 261 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Greer, Ross (West Scotland) (Green)
 Mason, John (Glasgow Shettleston) (Ind)

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

Amendment 261 disagreed to.

The Convener: I call amendment 68, in the name of Ross Greer, already debated with amendment 255. I remind members that, if amendment 68 is agreed to, I cannot call amendments 69 and 262 to 265, due to pre-emptions.

Amendment 68 not moved.

The Convener: I call amendment 69, in the name of the cabinet secretary, already debated with amendment 255. I remind members that, if amendment 69 is agreed to, I cannot call amendments 262 and 263, due to pre-emptions.

Amendment 69 not moved.

Amendments 262 and 263 not moved.

Amendment 264 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 264 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Greer, Ross (West Scotland) (Green)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)

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

As the outcome of the division is tied, I will use my casting vote as convener in order for the committee to reach a decision. I vote in favour of amendment 264.

Amendment 264 agreed to.

Amendments 265 to 267 not moved.

The Convener: Ms Haughey, do you wish to come in at this point during the division? We will have to get Ms Haughey's microphone working, but I will say that if it is about not being taken earlier, I am happy to hear about that at the end, now that we have you, or do you wish to come in on the current set of divisions?

Clare Haughey (Rutherglen) (SNP): It is about the current set of divisions.

The Convener: Is it about your not being seen during the division on amendment 261?

Clare Haughey: Yes, it is.

The Convener: Okay. Now that we have got you connected, and given that we have started this process, I will take you at the end.

Clare Haughey: Okay.

Section 10, as amended, agreed to.

Section 11—The teacher and practitioner charter

Amendments 268 to 270 not moved.

Amendment 271 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 271 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division. We can see you fine, Clare Haughey.

For

Briggs, Miles (Lothian) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Greer, Ross (West Scotland) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 271 disagreed to.

The Convener: I call amendment 70, in the name of Ross Greer. I remind members that, if amendment 70 is agreed to, I cannot call amendments 272 and 273, due to pre-emptions.

Amendment 70 not moved.

Amendment 272 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 272 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)

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

As the outcome of the division on amendment 272 is tied, I will now use my casting vote as convener in order for the committee to reach a decision. I vote in favour of amendment 272.

Amendment 272 agreed to.

12:30

Amendments 273 and 274 not moved.

Section 11, as amended, agreed to.

After section 11

Amendment 130 moved—[Miles Briggs].

The Convener: The question is, that amendment 130 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Greer, Ross (West Scotland) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 3, Against 7, Abstentions 0.

Amendment 130 disagreed to.

Amendment 275 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 275 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Rennie, Willie (North East Fife) (LD)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Greer, Ross (West Scotland) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 2, Against 8, Abstentions 0.

Amendment 275 disagreed to.

Section 12—Reviewing and revising the charters

Amendment 276 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 276 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Greer, Ross (West Scotland) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 276 disagreed to.

Amendment 277 not moved.

Amendment 278 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 278 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)

FitzPatrick, Joe (Dundee City West) (SNP)
 Haughey, Claire (Rutherglen) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)

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

As the outcome of the division on amendment 278 is tied, I will use my casting vote as convener in order for the committee to reach a decision. I vote in favour of amendment 278.

Amendment 278 agreed to.

Amendment 279 not moved.

Section 12, as amended, agreed to.

Section 13 agreed to.

The Convener: Ms Haughey, I can take you now.

Clare Haughey: Thank you, convener. I have not been offline, so I do not understand why I did not appear when I put my camera on during the vote on amendment 261. I tried to raise a point of order while the vote was on-going, but there was no response in the chat, which is my only way of communicating, as broadcasting mutes us. What is the solution to raising concerns about not being able to vote when you are present?

The Convener: There are two solutions. First, your points are now noted. The ultimate solution is for you to have your camera on throughout our proceedings, as you do during divisions. If you are happy to be viewed throughout the entire time, that is certainly what we will do in the evening session.

However, we cannot go back. It might be no comfort, because your vote was not recorded, but your vote would not have made a difference to the result of that division if you were voting in the same way as your SNP colleagues. It would not have changed the outcome of the division on the amendment. As soon as it was brought to my attention by one of your colleagues, we were able to get you up on the screen to take part in the subsequent votes.

Clare Haughey: Is the chat monitored?

The Convener: Yes, the chat is monitored, but as we are doing the divisions by hand and not electronically, we have to record not just the numbers but how each person votes. Therefore, the clerking team is making sure that the right votes are allocated to the respective voting members on the committee. Everyone has a role.

Clare Haughey: It seems to me that there is an issue at your end, because I could see myself on screen. I could see and hear the proceedings. I was on camera, but that was not translating to being in the room. It seems that there is an issue in the committee room.

The Convener: The solution is that, for the evening session, if you are happy, your camera will be on for the entire time, because you are seeing us, so we should be able to see you. If you are comfortable with that, that will ensure that we always see you.

Willie Rennie: If Clare has had her camera on the whole time, there must have been some technical problem. I suggest that, if she disappears again during a vote, we should just pause and check.

The Convener: I am happy with that. Ms Haughey, are you also happy for your camera to be on for the session? Since you are sat there anyway, we might as well be able to see you. As I said, we have recorded all your votes subsequent to amendment 261, but it would not have changed the outcome for that amendment. Your points are also noted.

Clare Haughey: Thank you.

The Convener: That concludes this part of our consideration of the bill at stage 2. I thank the cabinet secretary and her supporting officials for their attendance.

I will suspend briefly to allow the cabinet secretary and her officials to leave, then the committee will consider our next agenda item in private. After that, I will suspend the meeting until 6.15 pm. At that point, the committee will reconvene in public to continue its consideration of the Education (Scotland) Bill at stage 2.

12:37

Meeting continued in private.

12:55

Meeting suspended.

18:15

On resuming—

The Convener: Welcome back. We continue our consideration of the Education (Scotland) Bill at the second day of stage 2. We will move straight to proceedings.

After section 13

The Convener: Amendment 131, in the name of Miles Briggs, is in a group on its own.

Miles Briggs: Welcome back, everybody. I welcome the cabinet secretary's amendments that we discussed this morning in relation to BSL. That is something that we have raised on a cross-party basis.

I lodged amendment 131 in relation to additional support needs. The recent Audit Scotland report in February pointed to the need for a fundamental review of needs and planning and resourcing for additional support for learning. The amendment comes from a number of discussions with teachers, parents and pupils on the bureaucracy that surrounds additional support for learning. I hope that it will present an opportunity to simplify things for those who need additional support.

Currently, each teacher is asked to provide evidence of additional support needs. The amendment would simplify that to just be one teacher—the headteacher. I hope that that would make a real difference to the guidance going forward and that it would be a helpful reform. There will potentially be additional improvements that can be brought forward ahead of stage 3, as I am sure that members will have other learnings that they would want to bring to the bill ahead of stage 3 proceedings.

I move amendment 131.

Ross Greer: I am grateful to the member for allowing us to have a debate on this issue. However, I am not clear about the rationale regarding the role of a headteacher. From my reading of the amendment, it appears that it would have to be the headteacher who would supervise any pupils with additional needs who get extra time. I am not convinced that that is the best use of a headteacher's time in a high school setting. I am particularly concerned about whether that would be practically possible, given the timetabling of exams and the very high proportion of pupils who now have a recognised additional need, even if we were to feel that the headteacher was the most appropriate individual.

Miles Briggs: The rationale for including that in the wording of the amendment is that it would be the headteacher who would sign off on providing the support rather than such evidence being provided by each teacher. The minister will come in at some point and, if there is wording in the amendment that needs to be simplified or corrected, I will be happy to take that forward.

Pam Duncan-Glancy: I support the amendment in principle. However, there are a couple of potential changes that could be made to the wording that might address Ross Greer's point. Subsection 2(a) states:

“the circumstances where the person undertaking an examination may receive additional time”.

Is that something that would be set out by qualifications Scotland or is it something that would be bespoke and specific to the individual? It is important that such things are recognised, but would the member consider working with me and others to bring the amendment back at stage 3?

Miles Briggs: I would be happy to do that. I hoped that this group would have amendments from other members, because there are other things that would be of benefit to the bill. There is probably support for this within the governing party as well. I hope that there will be an opportunity to widen the offering in the bill at stage 3. Considering the number of pupils with additional support needs in our schools, it is important that the new organisations embed that support.

Jenny Gilruth: I thank Mr Briggs for explaining the purpose of his amendment. I agree with the sentiment that we should ensure that qualifications Scotland will provide guidance on arrangements that can be made to assist those with additional support needs when they are being assessed for qualifications. However, I am not clear about the member's intention in relation to the requirement that anyone who has been given additional time for exams

“must be supervised by the head teacher”,

which is the point that Mr Greer made.

As drafted, amendment 131 is very restrictive and would likely prove unworkable in practice. For example, it does not take account of circumstances in which the headteacher is absent and does not specify who would be a suitable replacement. It also does not allow another headteacher to step in, as it specifies that it must be

“the head teacher of the educational establishment in which the examination is being undertaken.”

Therefore, we can foresee risks around scheduling and bottlenecks, the creation of which would be unfair on school administrators, teachers and, most importantly, pupils with additional support needs.

However, I recognise Miles Briggs's desire for more assurance to be provided in this area, so I would be happy to work with him on the matter ahead of stage 3. On that basis, I ask Mr Briggs not to press amendment 131.

The Convener: I call Miles Briggs to wind up and to press or withdraw amendment 131.

Miles Briggs: On reflection, I think that there are drafting issues with amendment 131. As the opportunity exists for additional amendments to be lodged, I am happy, at this stage, not to press amendment 131 and to work with ministers and others ahead of stage 3.

Amendment 131, by agreement, withdrawn.

Section 14—Corporate plan of Qualifications Scotland

The Convener: Amendment 280, in the name of Ross Greer, is grouped with amendments 282, 35 and 71.

Ross Greer: Good evening, everyone.

My first amendment in this group seeks to address what I see as one of the issues that have led us to the present point as regards the relative passivity of the SQA board. Recently, there have been significant improvements—the board culture has improved, and the new chair has had a transformative effect—but many of the issues that have led us to this point could and should have been effectively scrutinised and, in some cases, prevented by the board of the existing authority. That did not happen. At points in recent years, the board has not played a particularly active role, certainly in relation to decisions about the delivery of qualifications and matters of education policy. I think that the board has been mostly adequate in relation to corporate governance.

In amendment 280, I propose that the board would have to actively approve the corporate plan—it would force the board to hold a vote on the plan. The intention is to give the board a firm nudge and to ensure that, ultimately, it actively agrees to the plan, rather than passively nodding it through.

John Mason: I take Ross Greer's point, but I go to many meetings—as, I am sure, he does—at which some groups are quite passive and just follow the lead, while others are more active. Is he really convinced that forcing the board to have a vote will suddenly switch it from being passive to being active?

Ross Greer: John Mason makes a good point. The short answer is no. In and of itself, the solution that is proposed in amendment 280 is not a guaranteed solution, but it is one of a range of measures that we are seeking to include in the bill to provoke the board to participate actively in the process and to fulfil its obligations to scrutinise the corporate plan. It does not guarantee anything other than that board members would, at a certain point in the process, have to make at least one active decision—in other words, they would have to actively vote on the plan.

As John Mason said, we have all been at meetings with people who have voted for or against something and who, it has been quite clear, have not read the papers before the meeting. I am sure that that does not apply to anyone who is at this meeting.

We cannot legislate for everyone to be an effective board member, but we can legislate to build in little mechanisms that provoke some kind of action. Although amendment 280 would not guarantee success, it would, at least, make it a bit more likely.

Jackie Dunbar: I hear what you say about what you are trying to achieve with amendment 280, but how can you ensure that the decisions that board members take will be effective and that they will not make a decision simply to tick a box?

Ross Greer: I cannot guarantee that. The issue is partly about the board appointment process and making sure that the right individuals are appointed to the board. That is particularly important when it comes to the chair. In recent months, we have seen the difference that having a highly proactive board chair has made.

Nothing that we can do in legislation will guarantee that every individual on the board of qualifications Scotland will be as effective and as actively involved as we want them to be, but we can build in mechanisms that make that a little bit more likely. In this case, given the corporate plan's importance to the organisation, ensuring that that document was actively considered and voted on would, I hope, improve the situation. There are no guarantees here, because, ultimately, we are talking about individual personalities and performance, which we cannot legislate for.

On amendment 35, we have touched on a couple of points in the past, particularly in relation to proposed new paragraph (c) of section 14(3), which relates to employers. What I am proposing in amendment 35 is that qualifications Scotland consults on the corporate plan before it is finalised. It should consult a range of key groups. As you would expect, that should include those undertaking the qualifications, namely the learners, and those delivering them, namely the teachers, college lecturing staff and so on. However, I also think that that is the appropriate point to engage with business and to bring in employers. We have talked about that in various other settings—for example, whether there is space on other committees for individuals representing industry and so on. It is important that employers who will be using the qualifications that learners will, we hope, obtain are consulted on the corporate plan. Amendment 35 would expand the list of stakeholders and service users who must be consulted in preparing the corporate plan, but it is not an exhaustive list. Proposed new paragraph (d) of section 14(3) states that qualifications Scotland can consult others, as required.

Some members who were involved in the stage 2 proceedings of the Scottish Languages Bill might recognise amendment 71, which is a proposal that the Law Society of Scotland has made on a number of occasions in relation to public bodies to improve transparency. It should be an incredibly unlikely event that Scottish ministers reject the corporate plan of any public body, but, in the event that they did, something would quite obviously

have gone wrong. I would argue, as the Law Society has done a number of times in the past, that it would be in the public interest to publish the reasons for rejecting the plan. That is particularly to aid parliamentary scrutiny, which is relevant for this body, given the discussions that we have had about the difficulties of effective scrutiny and accountability in relation to the SQA.

I move amendment 280.

Pam Duncan-Glancy: Amendment 282 would ensure that the strategic advisory council's role is not just consultative but also visible by requiring qualifications Scotland to show, in its corporate plan, how it works with the strategic advisory council and responds to its advice. Embedding that in the corporate plan would strengthen transparency and reinforce the council's influence in shaping the strategic direction of qualifications Scotland. The amendment adds to the other amendments in the group in the name of Ross Greer.

Requiring transparency in how qualifications Scotland will work with the strategic advisory council and respond to its advice by placing that in the corporate plan will give assurance to people who are looking to ensure that qualifications Scotland is operating differently to the way that the current body operates and that the people who are part of the strategic advisory council, including, crucially, those whom my colleague Ross Greer just set out, have an opportunity to influence the organisation's corporate plan. That is why amendment 282, in my name, is important.

Jenny Gilruth: I am grateful to Mr Greer and Ms Duncan-Glancy for setting out the purpose of their amendments. Amendment 71, in the name of Mr Greer, requires ministers to publish the reasons for the rejection of a corporate plan. Given the intention of increasing transparency and accountability, I am happy to support the amendment. On Mr Greer's amendment 280, it is standard practice for the board to approve the corporate plan, and I expect that to continue in qualifications Scotland. Given that the amendment simply places into legislation what already happens, I can support it. However, I would like to revisit the wording of the amendment for stage 3, because, at present, it applies only to the very first corporate plan rather than to any replacement plan. I therefore ask Mr Greer not to press amendment 280 so that it can be adjusted accordingly for stage 3.

Amendment 282, in the name of Ms Duncan-Glancy, requires additional explanations in the corporate plan on the processes to be used with the strategic advisory council. Such subject matter is usually covered by non-legislative processes, such as terms of reference and standing orders, and it is not something that we would expect to be

in a strategic document such as a corporate plan. However, I recognise the interest in transparency and in setting out the working relationships between qualifications Scotland and the strategic advisory council. Given that, I am happy to support the amendment in general. However, it would be helpful to revisit it for stage 3 in order to address a point of detail with regard to the difference between the meaning of the words "work with" and "consult with" in the amendment in the context of the strategic advisory council being a consultative body. Furthermore, I am keen to change where the publishing requirement sits, as I do not think that it sits best in the corporate plan. I ask the member not to press the amendment and to work with me on adjusting it to sit elsewhere in the bill for stage 3.

Amendment 35, in the name of Mr Greer, calls for an additional consultation with specified stakeholders, with the aim of ensuring that the plan is aligned with the economic, environmental and social priorities of ministers.

I would expect consultation and engagement on these matters to be continuous and on-going, and not restricted to the creation of a corporate plan. Qualifications Scotland will also have a number of forums that will feed into the development of a corporate plan, including the new interest committees and the strategic advisory council, with the council being optimally placed to provide wider perspectives on these matters.

18:30

Members will recall that I supported Mr Greer's related amendment 6 in group 10, which requires qualifications Scotland to align with ministers' economic, environmental and social priorities. Although I believe that that overarching provision in group 10 is quite effective at capturing the range of considerations that the organisation requires to have in mind, I recognise the value of amendment 35, and I am therefore happy to support it.

The Convener: I call Ross Greer to wind up and ask him whether he wishes to press or withdraw amendment 280.

Ross Greer: I am grateful to the cabinet secretary for her indications of support. Clearly, the drafting issue with amendment 280 will need to be addressed; the intention is for it to apply not simply to the first corporate plan, but to all corporate plans in perpetuity. Given that, and the cabinet secretary's indication of her support for the principle, I am happy not to press amendment 280, but I will move amendments 35 and 71 once we come to consider those.

Amendment 280, by agreement, withdrawn.

Amendment 281 not moved.

The Convener: Amendment 282, in the name of Pam Duncan-Glancy, has already been debated with amendment 280. I ask Pam Duncan-Glancy whether or not she wishes to move it.

Pam Duncan-Glancy: On the basis that the cabinet secretary has suggested that we work together at stage 3, I will not move the amendment.

Amendments 282 and 132 not moved.

Amendments 35 and 71 moved—[Ross Greer]—and agreed to.

Section 14, as amended, agreed to.

Section 15—Annual report of Qualifications Scotland

The Convener: Amendment 36, in the name of Ross Greer, is grouped with amendments 283, 284 and 37. I point out that if amendment 133, in the group on “Accreditation function”, is agreed to, I cannot call amendment 37, because of pre-emption.

Ross Greer: Again, my amendments in this group are about increasing transparency and confidence that qualifications Scotland is engaging with the advice that it receives. I should say that my amendments 36 and 37 and Pam Duncan-Glancy’s amendments 283 and 284 do essentially the same thing, mine for the interest committees and Ms Duncan-Glancy’s for the advisory committee.

The amendments would require qualifications Scotland to publish the advice that it receives and the response that it has produced. That is about trying to increase transparency, and it would give those involved on the interest committees and on the advisory committee more confidence that their advice was being taken seriously, even on occasions when that advice was not necessarily taken on board. It is critical for those in the system more widely, including learners and practitioners, to see that advice and how the body is responding to it.

One of the criticisms of the SQA has been that it does not take on board advice from those with direct knowledge of how to deliver the qualifications or experience of undertaking them. Increasing transparency in that regard would, I think, result in greater buy-in and trust across the system.

I move amendment 36.

Pam Duncan-Glancy: I support the amendments that my colleague Ross Greer has outlined. The amendments in this group would strengthen accountability by requiring qualifications Scotland to report publicly not only on the advice that it receives from the strategic

advisory council but its response to it. Including that in the annual report would reinforce the council’s role as a meaningful check on qualifications Scotland’s work and ensure that stakeholders could see how their input was shaping decision making.

Amendment 284, in my name, would require any advice from the strategic advisory council and qualifications Scotland’s response to be included in the annual report. Amendment 283 is a consequential amendment to enable amendment 284.

Jenny Gilruth: I thank Mr Greer and Ms Duncan-Glancy for explaining the purposes of these amendments.

Mr Greer’s amendments 36 and 37 together call for the annual report of qualifications Scotland to include a summary of advice offered by its committees and any response given by qualifications Scotland. I support the principles behind them and their ability to ensure greater transparency; however, I would like to work with Mr Greer to refine them, because I think that the proposal might sit better as a separate requirement in the bill rather than something attached to the annual report. Such an approach will ensure the possibility of more routine publications of that type, instead of that information simply being embedded in one annual corporate governance document. If Mr Greer would like to work with me on that, I would ask him not to press or move his amendments, and we can adjust that for stage 3.

Ms Duncan-Glancy’s amendments 283 and 284 make an addition to the reporting requirements to include any advice provided by the strategic advisory council and the response provided by qualifications Scotland. I support that objective; indeed, it is our intention to include a provision to that effect in the regulations that establish the council.

However, for reasons similar to those that I outlined in relation to Mr Greer’s amendments, I do not think that the best place to publish that advice and qualifications Scotland’s response is in the annual report. I would be keen to consider that as a separate requirement, and my preference would be to set out that type of provision in the regulations that establish the council, as already enabled under section 9 of the bill.

That said, I understand the desire to prescribe this in the bill and, if Ms Duncan-Glancy is not assured that we will deal with that in the regulations, I would like to work with her on the amendment for stage 3.

Pam Duncan-Glancy: Can you say whether those regulations would be made under the negative or affirmative procedure?

Jenny Gilruth: They will be made under the negative procedure.

The Convener: I call Ross Greer to wind up, and to press or withdraw amendment 36.

Ross Greer: I thank the cabinet secretary for her response. I like the implication in it that I am being too moderate in my proposal, and that the cabinet secretary actually wants to go much further. [*Laughter.*]

I absolutely agree with her more radical approach that the advice received, and the response to it, should be published on a more regular basis throughout the year rather than just in the annual reports. On that basis, I am happy not to press amendment 36 and, when it comes to it, not to move amendment 37.

Amendment 36, by agreement, withdrawn.

Amendments 283 and 284 not moved.

Amendment 285 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 285 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)

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

As the outcome of the division on amendment 285 is tied, I will use my casting vote as convener so that the committee can reach a decision. I vote in favour of amendment 285.

Amendment 285 agreed to.

The Convener: I remind members that if amendment 133 is agreed to, I cannot call amendment 37, due to pre-emption.

Amendments 133 and 37 not moved.

Section 15, as amended, agreed to.

Sections 16 to 18 agreed to.

Section 19—Corporate plan of the Accreditation Committee

The Convener: I remind members that if amendment 134 is agreed to, I cannot call amendment 135, due to pre-emption.

Amendment 134 not moved.

Section 19 agreed to.

Amendment 135 not moved.

Section 20—Annual report of the Accreditation Committee

Amendment 136 not moved.

The Convener: I remind members that if amendment 137 is agreed to, I cannot call amendment 138 due to pre-emption.

Amendment 137 not moved.

Section 20 agreed to.

Amendment 138 not moved.

Section 21—Scottish Ministers' power to direct the Accreditation Committee

Amendment 139 not moved.

Section 21 agreed to.

Sections 22 to 24 agreed to.

Section 25—Publication of documents

The Convener: Amendment 72, in the name of the cabinet secretary, is grouped with amendments 286, 17, 94, 22, 108 and 23.

Jenny Gilruth: Amendments 72, 94 and 108, which I have lodged, will together ensure that qualifications Scotland and the chief inspector, when publishing documents, give consideration to users of British Sign Language. Amendment 108 sets out the definitions to be used when referring to BSL users and BSL education, and they were written in close consultation with the National Deaf Children's Society. I encourage members to support the amendments.

Ms Duncan-Glancy's amendment 286 would add two groups to the persons that qualifications Scotland must give consideration to when publishing documents. The first group—users of BSL—is covered by my amendment 72, which I have just discussed; it is accompanied by amendment 108, which clarifies the meaning of BSL with reference to its definition in the British Sign Language (Scotland) Act 2015 to include both the visual and tactile forms of BSL. As my amendment includes essential definitions, I ask Ms Duncan-Glancy not to move her amendment and to support my amendments instead.

The second element that would be added by Ms Duncan-Glancy's amendment 286 is a requirement for consideration to be given to the

needs of “persons with protected characteristics” under the Equality Act 2010. That does not quite make sense in this context. Protected characteristics include, for example, being married or in a civil partnership, and it is not clear to me how documents would or could be communicated in a way that best meets the needs of those with a spouse or civil partner. The protected characteristics that I think are most relevant are disability and age and, on that, the bill already makes specific reference to communicating in a way that meets the needs of people with additional support needs and the needs of children and young people.

Pam Duncan-Glancy: I am supportive of the inclusion of British Sign Language users, which is why I included them in my amendment. However, the same argument could be made for the inclusion of “persons with protected characteristics”; after all, many BSL users will be covered by the 2010 act, too. It is still important to specifically highlight that particular definition in the bill.

The second part of my amendment relates to specific groups that are not identified in the bill. It is about inclusive communication for disabled people, in particular, but it could also be about communication in other languages. I ask the cabinet secretary to reflect on that point.

Jenny Gilruth: I want to come on to the impact of the 2010 act. The way in which the protected characteristics amendment would interact with the legislation would be quite challenging; indeed, I have given the example of people who are married or have a civil partner, and how you communicate with those groups. It is quite difficult to provide that sort of differentiation. The 2010 act will, of course, apply to qualifications Scotland, including the general and specific public sector equality duties. On that basis, I am not able to support amendment 286.

Mr Greer’s amendments 17, 22 and 23 call for consideration of users of the Scots language by qualifications Scotland and the chief inspector when publishing documents. The amendments align with the objectives of the Scottish Languages Bill, and I am happy to support them.

I move amendment 72.

The Convener: I call Pam Duncan-Glancy to speak to amendment 286 and other amendments in the group.

Pam Duncan-Glancy: My amendment 286 would ensure that accessibility is built into the foundation of qualifications Scotland’s work and is not added as an afterthought. By requiring qualifications Scotland to have regard to the needs of BSL users and people with protected characteristics, we would strengthen inclusion and

ensure that every learner can access vital information in a way that works for them.

As for the rationale that the cabinet secretary has just set out with regard to picking out particular groups from the protected characteristics groups, I find it difficult to see that as much more than a red herring. If the cabinet secretary would like to make an intervention, I would be happy to hear it.

Jenny Gilruth: The protected characteristics are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. As those are areas on which people can face discrimination in matters such as their employment, it is right that they be protected. However, when we look at those areas, we see that not all of them will translate into having to meet particular communication needs, which I think is the purpose of Ms Duncan-Glancy’s amendment in relation to the format of things such as annual reports. The public sector duty and the 2010 act would be preferable as a catch-all in that regard. We are not of the view that the protected characteristics approach in amendment 286, as drafted, will capture the essence of what she is driving at.

18:45

Pam Duncan-Glancy: I thank the cabinet secretary for that clarification. This is more of a catch-all to ensure that we cover all the people who need to be covered for the sorts of communication that are required. I am not sure that I agree with the cabinet secretary’s rationale, but I understand it and I know the groups that are protected in the 2010 act. However, I do welcome the discussion.

I also want to make a point about the definitions. I do not see how the definitions that the cabinet secretary has set out would not still be useful if my amendment were to pass. I do not see the amendments as being mutually exclusive. I intend to vote for mine—if I move it, which I am minded to do—and for the cabinet secretary’s definition, given that it could be useful to set out provision for BSL. I do not think that setting out that definition, as it is drafted, would be problematic for my amendment.

On the other amendments in the group, I think that Ross Greer’s amendments 17 and 23, at this moment in time, pre-empt the conclusion of our consideration of the Scottish Languages Bill by putting Scots on an equal footing. I wonder whether it is appropriate to do that in this particular set of amendments.

When it comes to other aspects of the bill, such as the inclusion of BSL and those with protected

characteristics with the specific aim of making sure that communication is inclusive for all, I urge members to consider supporting amendment 286.

Ross Greer: I want to respond directly to Pam Duncan-Glancy's point about pre-empting the Scottish Languages Bill. It is worth noting that the Scottish Government has already accepted in principle the proposals that Ms Duncan-Glancy and I made at stage 2 of that bill in relation to the SQA and Education Scotland and the use of Gaelic. The significance of the Scottish Languages Bill is that, for the first time in law, it recognises the Scots language.

The point about sequencing is fair, but, as far as I am aware—other members can intervene to correct me—no date has been set for stage 3 of the languages bill. The challenge is that, if we do not do this now, we might miss the opportunity to do it at all. Given the outcomes of the stage 1 and stage 2 debates on the Scottish Languages Bill, it is clear where the consensus—or, at least, majority opinion—lies in the Parliament.

It is worth saying that, on my amendments in relation to Scots, amendment 23 takes the definition agreed at stage 2 of the Scottish Languages Bill. As for how that would be applied, all the amendments do is make qualifications Scotland and the inspectorate ask themselves whether they are communicating in a way that is appropriate for users of the Scots language. It would not compel them to produce every corporate plan, annual report, exam paper and so on in Scots as well as in English—that would be disproportionate—but it would require them to consider questions of accessibility to users of the Scots language, which I think is appropriate. After all, according to the last census, it was the language of somewhere in the region of 2 million to 2.5 million people out of a population of 5.5 million in Scotland.

Jenny Gilruth: I thank Ms Duncan-Glancy and Mr Greer for outlining the purpose of their amendments, and I welcome the support for the inclusion of BSL in the bill. For the reasons that I have already set out, I urge Ms Duncan-Glancy not to move her amendment but to support mine instead. I also urge members to support Mr Greer's amendments on Scots in addition to my amendments on BSL.

To answer Ms Duncan-Glancy's point, I am happy to look again at stage 3 at whether there is anything more that can or should be said about disabilities, but, for the reasons that I have set out, I do not think that it makes sense to refer here to communicating in a way that best meets the needs of persons with a protected characteristic.

Amendment 72 agreed to.

Amendment 286 not moved.

Amendment 17 moved—[Ross Greer].

The Convener: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Greer, Ross (West Scotland) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Abstentions

Duncan-Glancy, Pam (Glasgow) (Lab)

The Convener: The result of the division is: For 9, Against 0, Abstentions 1.

Amendment 17 agreed to

Section 25, as amended, agreed to.

After section 25

Amendment 73 moved—[Jenny Gilruth]—and agreed to.

Amendments 287 to 289 not moved.

The Convener: Amendment 290, in the name of Stephen Kerr, is grouped with amendments 293, 294 and 296.

Miles Briggs: The intention of this group of amendments is to provide coherence, clarity and accountability on curriculum design and delivery. In that respect, it strikes at the heart of why reform is not only desirable but necessary.

Amendment 290 would assign two clear responsibilities to Education Scotland: the responsibility to update and maintain the curriculum for children and young people in Scotland; and the responsibility to support persons and bodies that deliver the curriculum, including teachers and practitioners, through professional development and the provision of resources. That is essential because, as the Organisation for Economic Co-operation and Development's 2021 review, "Scotland's Curriculum for Excellence: Into the Future", made clear, the governance of the curriculum for excellence appears to be highly complex and, at times, lacking in clarity and coherence. In short, the system is highly cluttered.

The OECD emphasised the need for clarity on the roles and responsibilities of each actor and the boundaries between them, especially those between Education Scotland, the SQA, regional improvement collaboratives and local authorities,

as well as those between schools, local authorities and central Government.

That there is confusion and a lack of clarity is not a technical flaw. It is a structural failure that erodes both confidence and accountability. We cannot hold a public body to account if we cannot say with precision what it is responsible for.

John Mason: I accept that amendment 290 is not Miles Briggs's amendment, but does the fact that Education Scotland is, in effect, part of the Scottish Government not make a bit of a difference here, because the Government is responsible for everything, is it not?

Miles Briggs: I partly agree. Crucially, amendment 290 would place a duty on Education Scotland to involve teachers in shaping the curriculum, which I do not think would be impacted by ministers' direction to that organisation. Teachers are the end users, and they should be at the heart of the process of developing the curriculum for young people. I think that amendment 290 is important in providing the opportunity for them to do that, as well as in decluttering the landscape of educational establishments.

Ross Greer: I, too, recognise that Miles Briggs is moving amendment 290 on behalf of another member. I understand the principle behind it, but I am concerned about how narrowly it has been drafted. I am thinking about the exclusion of adult learners and college lecturers. Education Scotland serves more than just teachers and the children and young people in their schools. If we were to agree to amendment 290, it would dramatically narrow the range of people who would be involved, and it would create some ambiguity about the place in the process of those adult learners who undertake qualifications associated with the curriculum for excellence and the college lecturers who deliver those qualifications, whether to adult learners or to those children and young people who receive their education in a college setting.

Miles Briggs: That is a good point. The other amendments in the group, which are in Pam Duncan-Glancy's name, propose the creation of a new agency—curriculum Scotland—to do the work in question. My colleague Stephen Kerr has been trying to improve the bill by defining in it the future role of Education Scotland in education. That is an important aspect, because we have all been looking at that organisation and wondering what it will do in the future and how it can be improved.

At the root of the challenge that we face in reforming the education system is the urgent need to provide clarification of who is responsible for what. As the OECD report rightly reminded us, governance clarity is not simply administrative

tidiness; it is a precondition for effective oversight and learner-centred improvement.

I look forward to hearing from Pam Duncan-Glancy and the cabinet secretary.

I move amendment 290.

Pam Duncan-Glancy: I think that we can all agree that this is a pretty defining moment in the work to reform Scotland's education system. It is important that the committee and the Parliament approach all the decisions that we take about it very seriously. We have had much discussion on the amendments to the bill that explored how we can bring clarity and coherence to the system and create a system that is not driven by assessment and, instead, is driven by the curriculum and by what learners and employers need in the future.

My amendments in the group seek to address that point. As it stands, the bill fails to grasp what was said by the OECD, Professor Graham Donaldson, Professor Mark Priestley, Professor Kenneth Muir, the international council of education advisers and, most importantly, all Scotland's teachers, which is that it is absolutely crucial that we do more to ensure that the curriculum and assessment functions work in a more suitable way for learners in Scotland. We were promised that the bill would do that sort of reform, but it was silent; Education Scotland's functions are only being brought into the bill through amendment.

The amendments are not about adding complexity; they are about removing duplication, confusion and contradiction by creating a dedicated body to lead on the curriculum, as the stage 1 report and many experts have called for. This would be a coherent system that would ensure that the curriculum drives qualifications and not the other way around.

George Adam: The more that I have listened to you talk—we have been doing this for nearly 12 hours now—the more that I have been thinking about whether we are trying to reinvent the wheel. Education Scotland does a lot of this work anyway. Are we not tinkering around the edges to create another body that would do what Education Scotland is already doing?

Pam Duncan-Glancy: As George Adam knows, one of the key recommendations from the Muir report was to create a new national body that would have the curriculum function and that could also serve as the space—which my amendments would provide for—to host the accreditation function that we have discussed so much during the committee's stage 2 sessions so far.

On the basis of the discussion that we had last week about what would happen to accreditation, I am content not to move my amendments at this

stage if, across the parties, we are still open to discussing what the best option would be at stage 3.

John Mason: Pam Duncan-Glancy referred to various recommendations, including by the OECD, but one of the OECD's comments was that there is already a cluttered landscape. She probably knows exactly what I will say, but I will say it anyway: there is a huge number of public bodies in Scotland compared with other places. We are a relatively small country and we should be able to do things more simply. Every time we create another body, it inevitably takes resources away from the front line. Does she not accept that the last thing that we need in this space—as in other spaces—is yet another public body?

Pam Duncan-Glancy: I am not sure that I accept that. I hope that that is not an indication that the stage 3 discussions that we all agreed to last week are now closed off from the Government.

John Mason: I do not speak for the Government. *[Laughter.]*

The Convener: You got there before anyone else said that, Mr Mason.

Pam Duncan-Glancy: The point is well made. I note that I saw agreement from the cabinet secretary that stage 3 discussions are still on the table. That is really important. What I have tried to do with my amendments is recognise that we cannot reform the education system by continuing to do reform after reform and have a perpetual cycle of reforms. We have to get it right this time. I tried to create the space in the legislation for a body that could do what all the reports recommended, which is to reform the curriculum function and to separate the accreditation function. I have tried to do that by proposing a new body as a mechanism through which we could do it.

I still think that the bill was completely silent on some of the curriculum functions and that it could have done more regarding Education Scotland. There are amendments on that in my name and in other members' names, as well. I did not want to miss the opportunity in the bill for us to put the curriculum at the heart of what we are doing for education in Scotland—driven by learners and by what is happening on the front line and in schools, rather than driven by assessment. The amendments that I have lodged—I am, of course, still speaking to them—could do that. However, as I agreed last week, I will not move the amendments on the basis that we will continue to have this discussion at stage 3.

19:00

Ross Greer: I am glad that Pam Duncan-Glancy lodged the amendments. I thoroughly enjoy stretching the scope of a bill to its greatest possible extent, as anybody who is tracking the Housing (Scotland) Bill will have noticed.

This is a useful debate, because I agree that Education Scotland underperforms and needs to be dramatically improved. A legitimate debate is to be had about its status as an executive agency. It seems to be implicit, but not entirely clear, that curriculum Scotland would take a number of the responsibilities that are currently those of Education Scotland. Is it Pam Duncan-Glancy's intention that Education Scotland staff would transfer to curriculum Scotland? If so, would that be under the Transfer of Undertakings (Protection of Employment) Regulations? What kind of consultation would she envisage with unions?

Subsequent to that, despite the fact that she has, rightly, posed the question about regulation-making powers to the Government a number of times, the amendments as currently drafted—I take the point that they are not being moved—do not specify the use of the affirmative procedure. Does she agree that, if we were ever to go about such a dramatic change—which, apart from anything else, would involve large numbers of Scottish Government staff being moved into another body and having their terms of employment changed—there would need to be a high level of parliamentary scrutiny; and, if we were to agree to it, that we should not write a blank cheque to ministers to decide how to go about it without subsequent parliamentary scrutiny?

Pam Duncan-Glancy: I agree that there would need to be parliamentary scrutiny, and the affirmative approach would be appropriate. One reason why the regulation aspect was written into the amendment was because I recognised that I was doing it at stage 2, which is not ideal. As I think I have made clear, I would have preferred it to be set out by the Government, through its taking into consideration all the recommendations of the independent review.

Miles Briggs: I am not sure how Pam Duncan-Glancy intends to vote on my colleague Stephen Kerr's amendment 290, but that amendment would give Education Scotland the formal responsibility that, basically, her amendments would give to a new organisation. The minister is about to comment but I note that, currently, Education Scotland, Government departments and the University of Glasgow are doing work on that. Is there an opportunity, as part of the bill, to bring that into one single organisation, without costing the taxpayer more? That organisation could—and probably should—be Education Scotland.

Pam Duncan-Glancy: That gets to the heart of what, last week, probably all of us agreed needs to be considered about what we do with the accreditation function. I fundamentally believe that we cannot continue to do that after this bill. If we do not get the bill right, we will have failed a group of young people, because we will have to start again.

I wish that the bill had included some of it in the first place but it did not do so; I made that clear in our stage 1 debate and in the amendments that I have lodged so far. On the basis of our discussion last week—in that, at stage 3, we will consider how the options for accreditation could look—I am still hopeful.

We have spoken about the SCQF Partnership, the inspectorate, Education Scotland and a new body, which, for the purposes of my amendments, I have called curriculum Scotland. On that basis, I do not intend to support Stephen Kerr's amendment 290 at this stage, if it is pressed, not necessarily because I do not agree with its specific detail but because if, at stage 3, we look at one of those options, it would be neater to do it all at that point. I encourage Miles Briggs not to press amendment 290 on behalf of Stephen Kerr.

Jenny Gilruth: I thank Miles Briggs and Pam Duncan-Glancy for explaining the thinking behind the amendments and I thank committee members for their thoughtful contributions. Overall, I am pleased that we collectively agree that Scotland needs a national body with a clear focus on the curriculum to drive improvement and support implementation, although I argue that we already have that. That is why I announced to the Parliament last June, via a Government-initiated question, that the work of Education Scotland would be refocused, ensuring that its primary focus is on leading curriculum review and improvement. As members will know, the curriculum improvement cycle is now well under way, and Education Scotland is successfully leading that work through engagement with teachers and young people.

In considering the amendments, the principle of legislating only when necessary has been at the forefront of my mind, as has the intended purpose of the bill, which is to establish qualifications Scotland and the office of HM chief inspector of education. I ask members to keep those points in their minds as we consider the group.

I turn first to amendment 290. Although I understand Mr Kerr's rationale for setting out Education Scotland's functions in legislation, I believe that the same result can be achieved without the need for legislation. In fact, the cluttered landscape that Mr Briggs spoke to will not be aided by creating a new national body.

I recognise members' concerns that the role of Education Scotland, and its relationship to other national bodies and the sector more broadly, needs to be clearer. I agree with that sentiment whole-heartedly. It needs to be clear to local authorities, teachers and practitioners what services Education Scotland offers, and when and how to access them. There must also be confidence in the quality of those services.

After the separation of the inspectorate, which will follow the—I hope—successful passage of this bill, we will need to continue to work with Education Scotland to define its role in and relationship with the system and to clearly communicate that role to teachers, practitioners and children and young people. More broadly, however, teachers who have been working in Scotland for a number of years will be particularly au fait with Learning and Teaching Scotland, as it was, which existed previously. That support mechanism to the curriculum is currently well understood by many teachers across the country.

As I mentioned, Education Scotland has a key role in relation to curriculum review and improvement, which includes the curriculum improvement cycle and supporting local authorities. However, it also works on inclusion, behaviour, additional support needs and closing the attainment gap. It is important that we make best use of Education Scotland's professional expertise across priorities other than curriculum, some of which I just mentioned.

Another area that I am sure that Mr Briggs and Mr Kerr—although he is not here now—will be familiar with is developing leadership skills. Mr Kerr has been pretty consistent in making that point last week and earlier today. Education Scotland will build on its success in that area, creating leadership capacity across the system. With those points in mind, I am concerned that the amendment as drafted would narrow Education Scotland's focus too much. Building on its primary focus on the curriculum, Education Scotland has much to add across other national priority areas that impact our teachers and young people, and I would not want that to stop or be curtailed unnecessarily.

Mr Kerr's amendment does not take account of other national bodies and services that have a key role to play in delivering aspects of Scotland's curriculum. I am particularly mindful, for example, of Skills Development Scotland, which includes our careers service and Developing the Young Workforce.

In addition, Education Scotland is an executive agency of the Scottish ministers. Statutory functions should not be conferred on such agencies, as they do not—as I think that the committee has heard today—have their own

separate legal personality from that of the Scottish ministers. In legal terms, there is, strictly speaking, nothing on which that duty would operate.

For those reasons, I cannot support Mr Kerr's amendment. However, I note the committee's interest in the role of Education Scotland, and I would be happy to engage with members through the reform process outwith this bill. Education Scotland's functions and governance arrangements will continue to be published, as they are now, to ensure that there is transparency and clarity for the system.

Ms Duncan-Glancy's amendments 293, 294 and 296 would establish, as we have heard, a new body called curriculum Scotland, set out its functions and place requirements on it to prepare and publish an annual report. Although I appreciate the intention behind the amendments—and, again, I welcome the cross-party agreement that Scotland needs a national body that is clearly focused on the curriculum—I cannot support them. Indeed, as I have previously stated, I would argue that that body already exists.

As members are aware, and as we have discussed, Scotland's public services are currently under significant fiscal pressure. I do not believe that establishing a brand-new curriculum body in addition to Education Scotland meets the principles of public sector reform around driving efficiency and effectiveness. It would also run contrary to the Government's commitment to creating no new, small, stand-alone public bodies. I hope that committee members share the view that creating brand-new public bodies via amendments to legislation should not be done without first considering the necessary policy, legal, financial and delivery implications.

Pam Duncan-Glancy: Notwithstanding the point that we will all return to this discussion before stage 3, will the cabinet secretary set out how the Government will therefore implement the suggestions in the Muir review around creating a national body for the curriculum?

Jenny Gilruth: I would argue that Education Scotland fulfils much of the recommendations that were contained in the Muir review. My refocusing of the organisation last year has certainly helped to drive some of that.

If we go back to the wording that was used in the Muir review, we see that the report recommended a national education agency, which was to be an executive agency, not an NDPB. There is no need for legislation in this space, arguably. That is the point that I was trying to make in my opening response.

More broadly, and as I noted in my response on Mr Kerr's amendment 290, although curriculum review and improvement will still be the primary

focus of Education Scotland, the remit of our national education agency needs to extend further than just the curriculum. Professor Ken Muir noted the need to simplify the complex landscape in Scotland, which Mr Briggs alluded to, and I think that inserting a new education body into that landscape would add an unnecessary layer of complexity in the system.

Refocusing the work of Education Scotland achieves the overall aims of Ms Duncan-Glancy's amendments and ensures that we have a national body that is focused on curriculum and that is informed by teachers, children and young people, without the need for a new stand-alone body.

On that basis, I cannot support the amendments.

Miles Briggs: It is clear that there has been a cross-party discussion today on how the proposal can be formalised and on where formal responsibility for maintaining the curriculum is placed. I have not heard from the cabinet secretary that she is willing to take that conversation away from the amendments in this group, beyond considering the future of Education Scotland. That is something that we want, however, even as part of the bill. If the cabinet secretary is willing to pursue that conversation with members across the Parliament, that would be useful. Potentially, a workable amendment to direct or declutter could be produced for stage 3. That is the journey that members are trying to take the Government on.

Jenny Gilruth: I am happy to have those discussions. I take Ms Duncan-Glancy's points in relation to her proposals and the role of accreditation, which is a live topic that we will come back to. I am happy to have those discussions with members and to give Mr Briggs that reassurance.

Amendment 290, by agreement, withdrawn.

Amendments 291 to 296 not moved.

The Convener: Amendment 297, which is in my name, is grouped with amendments 298 to 301. I thank the cabinet secretary and her officials for their time on Monday to discuss the amendments in this group. There have been a number of references to them, and they have so far been positive, which has encouraged me throughout the proceedings so far.

There is no doubt that my motivation behind the amendments was the situation around last year's higher history exam. We will come on to that in a moment. In preparation for a number of our evidence sessions on last year's higher history exam, I was alerted to a petition to the Parliament back in 2013. Petition PE1484, by Ian Thow, called for a number of things, including the setting

up of an independent regulator to consider examinations in Scotland. When I was considering my amendments, I contacted the petitioner, and he was extremely encouraged that, despite his disappointment some 12 years ago, the idea was still on the Parliament's radar and was going to be discussed and considered by the committee.

Not everything in the petition forms part of my amendments but, at its heart, my amendment 297 seeks to put in place an independent individual as a regulator to consider complaints about the exam process. I make the point about the petition back in 2013 because last year's higher history was not a one-off event; there have been other events where parents, pupils and staff have raised concerns about SQA examinations and the SQA has looked into those itself. Indeed, when the petition was dismissed in November 2013, it was because the Scottish Government said that it was a matter for the SQA—which I agree with—but the SQA said that things were working “effectively and efficiently”.

Anyone who has looked at last year's higher history exam results and the debate around them—whether they think that the outcome of the review is correct or still have questions—will notice, first, that that review was refused for some time. It took the former chief executive until September even to have a review. Then, the findings of that review were hotly disputed.

19:15

The Scottish Association of Teachers of History survey quotes teachers of history in Scotland who said that the review of the SQA into its own examination was a “whitewash” and

“the most biased and useless investigation I have ever seen a public body attempt to pass off as legitimate”.

John Mason: Some of what you are saying seems to repeat what we have heard before: that is, that the culture of the SQA has been seriously flawed. We are all agreed on that point. As I have done before, I question whether that is about the structure or about making sure that the right people are in place.

My second point follows on from my previous intervention about setting up a new body, which would also require premises, staff, costs and so on. I would hope that Mr Ross would be in favour of simplifying the public sector landscape and cutting the number of civil servants, but this amendment seems to go in the opposite direction.

The Convener: Mr Mason will have read my letter to the Finance and Public Administration Committee on my member's bill, in which I suggest savings that the Government could make by reducing the number of civil servants. I know

that that point has been made before and that others who serve on that committee have made it.

Adding the body that is proposed in the amendments would not mean that we believe that every other civil servant or public body and individual should remain in post. Efficiencies can be made without saying that there is no capacity, in some areas in which there are deficiencies, for new bodies to be established with very specific remits and roles.

Ross Greer: On that point about capacity, what consideration has the convener given to the Finance and Public Administration Committee's recent report on SPCB-appointed bodies? Bluntly, the conclusion that we came to is that, whether it is a matter of capacity or other structural changes that need to be made, as it stands, the Parliament is not effectively scrutinising and holding to account the existing group of SPCB-appointed bodies. That is why the finance committee recently put a motion to the Parliament, which was agreed to, that no more SPCB-appointed bodies should be created until we have taken stock of the whole landscape and what needs to change in it.

The Convener: I spoke to my party's SPCB representative this afternoon about that. I accept the points that have been made. However, I am clear that I want the role to be made through the corporate body, because I want that role to be completely independent from Scottish Government ministers and from the new qualifications Scotland.

When the amendments were first drafted by the legislation team, the role was to be an appointment by the Scottish ministers rather than the corporate body. I thought that, because of the concerns that the cabinet secretary has raised about the current operational independence of the SQA from Scottish Government ministers, it would be better to have a clean break and a truly independent individual and body. The way to facilitate that is through the corporate body—the parliamentary corporation.

I do not want to go over the ground of the discussions that we have had about higher history. However, it is worth remembering some of the comments that were made at the time. In response to a question that I raised in the chamber on the issue, the cabinet secretary said that she

“acknowledged the various concerns that have been raised by history teachers in the SATH survey responses and the need to rebuild trust and confidence.”—[*Official Report*, 9 January 2025; c 43.]

Some members of the committee believe that rebuilding trust and confidence will be done by the new individuals at the top of the SQA. I still believe that those people have to prove themselves in

those roles. They have been in them for only a short period. I have not had the same positive experience as other members have had of meeting with the SQA—only today, my meeting with the SQA chief executive, chair and chief examiner has been cancelled for the third time. That will be rearranged, but it is proving difficult to have those discussions.

There is no doubt that teachers were deeply worried about the outcome of the SQA inquiry—they were worried about the findings and about the way in which the inquiry was established and carried out. There is no proof of this, but I believe that, had similar or identical results been produced by an independent individual, there would have been more acceptance of them. People still might not have been happy with the conclusions and I would still have been challenging some of them, but I think that a lot of the issues were caused by the lack of an independent individual looking at the situation, taking evidence and determining the conclusion.

Willie Rennie: I have two quick points. First, we should recognise that the SQA leadership has changed. I have had the same issue when it comes to meeting people from the SQA but, to be fair, I think that that is because they want to meet in person.

Secondly, I hope that your amendments will be rolled into the wider discussions that, last week, we agreed to have, because the issue of regulation is along similar lines to that of accreditation. The proposed curriculum Scotland is another part of that discussion. Are you considering rolling your amendments into those discussions?

The Convener: Yes, I am considering that more, following the cabinet secretary mentioning the issue earlier. I will not pre-empt what the cabinet secretary will say but, if that is the direction of travel that the committee wants to take, I will certainly consider doing that.

Pam Duncan-Glancy: In principle, I support what the member is trying to do, so I am encouraged to hear that there is potential scope to incorporate such a change at stage 3. I agree with Willie Rennie that we could look at the question of accreditation more generally and what we will do with the structures.

Although we have had much discussion about the bodies, where we might place the accreditation function and whether we should have a new body, we really need to go into stage 3 with options available to us. We should incorporate what the member has tried to do in the amendments, but not until stage 3.

The Convener: I agree with that. I will certainly make a strong effort to speak to the convener

about the fact that the amendments were not grouped with the accreditation amendments that we considered earlier. Perhaps it would have been easier if my amendments had been included in that earlier group.

On a serious point, although we hope that the higher history problems that we experienced last year are behind us, there is still a great deal of concern and ill feeling among teachers, some SQA staff and many across the wider education landscape. Some of the people who have been most vocal have been retired teachers who experienced issues in previous years and were promised that the culture would change, but they saw history repeating itself. To reassure them that we are treating this seriously, it is right that the amendments have been lodged and that we are having a full discussion.

Jackie Dunbar: I am listening intently to what you are saying. Would the body that you suggest regulate only qualifications Scotland, and would that make other organisations exempt? A few organisations other than the SQA develop qualifications.

The Convener: The amendments would affect only qualifications Scotland. If it passes, the bill will establish a new body, qualifications Scotland, so I felt that it was right to strengthen regulation of it, but I totally accept that other qualifications are provided across Scotland that would not be covered by the amendments. However, to discuss the issue in relation to this bill, the amendments had to be about qualifications Scotland.

Jackie Dunbar: Would that not make the body too narrow?

The Convener: I do not believe that it would be too narrow. We have a bill in front of us that does two things. In the part that covers qualifications Scotland's formation, there is an opportunity to strengthen the capacity for investigation of complaints. If there is an opportunity to do that at a wider level, I might look at that. However, the opportunity that we have as a committee is to scrutinise the bill and the new bodies, so it is right to do so. The fact that the amendments are quite narrow might address some of Mr Mason's concerns that the proposal would be expensive—I hope that the fact that the proposal is so narrow means that it would not be.

George Adam: I am with Willie Rennie on the idea that the SQA has changed and things have moved on. A lot of what we are discussing and a lot of the amendments are a result of pushback because of the historical position that we have had with the SQA.

With the amendments in this group, I know that you are trying to find a solution to a perceived issue, but is it not too much to create another body

or appoint a new individual? I am checking whether this is in the amendments, but would the role be created through the Scottish Parliamentary Corporate Body? From looking at the amendment, I cannot see that, and I have concerns about how the individual would themselves be scrutinised. They could be so independent that they would be a lone wolf.

The Convener: The wording in the amendments is “Parliamentary corporation”—that is how the SPCB is described.

On Mr Adam’s first point about whether this is necessary, the arguments that he is making now—that there has been a change in the culture and leadership of the SQA, and that things will get better or that they are already good enough for change not to be needed—are the exact same arguments that were put to Ian Thow in 2013, 12 years ago. He was told, “You have an issue, but we think that things are efficient and effective.” Then there were the issues with higher history, and there were also issues with national 5 history this year, which might have elicited a complaint to be investigated if we had had the proposed independent regulator in place.

I accept and understand George Adam’s points. However, those points were also made some time ago. If the issues had been acted on then, there might have been an independent regulator in place that would have independently examined the higher history exam situation that happened last year.

George Adam: During the bill’s progress through stage 1, I said that the education landscape is already like an MGM musical in full Technicolor—Ross Greer used a similar line the other day. It is massive—

Ross Greer: That sounds brilliant.

George Adam: My point is whether we think that it is right to add another body rather than fix what we have already. The whole idea is about relationships. You cannot legislate for relationships when trying to make things work. I hear what the convener says, but I still feel that this is overlegislating for the sake of it.

The Convener: I absolutely believe that we need to add a body, because otherwise we will have the status quo, which, despite the changes that might be happening and will continue to take place, has lost the trust of teachers and other professionals in the education sector in Scotland. In the debate on amendment 232, the cabinet secretary said that there is an inherent lack of trust. We all know that—the cabinet secretary accepts it and every single member of the committee, and probably of the Parliament, accepts it. Given that inherent lack of trust, having

an independent body to look at such issues would resolve some of those points.

An independent regulator might have come to exactly the same conclusions as the SQA’s inquiry did last year, but it is more likely that those conclusions would have been accepted if they had come from an independent body rather than the SQA being seen to mark its own homework.

Ross Greer: I have already mentioned my concerns in relation to creating new SPCB-appointed bodies. However, I want to back up the point that the convener has made that this is not just about higher history and how, in response to the 2013 petition, the petitioner was told, “Don’t worry—the culture’s changing.”

Shortly after I was first elected to the Parliament in 2016, there was a massive problem with the national 5 computing science paper. It was a very familiar experience—one that had happened before and has happened a number of times since—in which the SQA repeatedly refused to engage in good faith with those who were raising concerns, right up until we were past the point at which the issue had been raised in the Parliament. The SQA had sent out the then Deputy First Minister to insist that nothing was wrong. In the end, the SQA had to acknowledge, as quietly as possible, that the paper was seriously flawed and it had to significantly lower the grade boundaries.

The reason why that process was lacking and why I ended up having to raise the issue in the Parliament was that swathes of computing teachers across the country who were trying to raise concerns about the paper with the SQA had those concerns summarily dismissed. There is a place missing in the structure of Scotland’s qualification system where the professionals involved, learners and anyone else can go to raise complaints and legitimate concerns. The issue is that the body that is responsible for the system has, by default, dismissed those concerns and has often engaged in quite aggressive and defensive public relations exercises instead of engaging in good faith.

I want to back up the convener’s point. Higher history is an acute example that we have all been aware of recently, but there is a pattern of this happening over a long period, and it often goes back to that missing piece of the structure. There has been nowhere for people to go other than to those who are marking their own homework.

The Convener: I am grateful to Ross Greer for making those points and for his support of the points that I have made. That crystallises my view that something is required in the bill. I am interested to hear the cabinet secretary’s response and the further discussions that we will have.

A point that I put to the former chief executive of the SQA is that, if the body was so sure of its internal investigation, it would have had no fear or concern about having an independent review. If the SQA is happy with its procedures and with everything that it is doing and believes that it is effective and functioning properly, it should not be concerned about an independent regulator being put in place, because such a regulator would have nothing to investigate if everything is fine. I hope that that is a helpful discussion for us to have.

There is a deficiency in this area in the current set-up, which I would not like to see being replicated in the new body. With the bill, we have a unique and fairly rare—I realise that something cannot be both unique and fairly rare—opportunity to change the education structures in Scotland. In considering the creation of the new qualifications Scotland body, we have an ideal opportunity to debate the issue, which is what I am seeking to do with the amendments in my name.

I move amendment 297.

19:30

Jenny Gilruth: I enjoyed the exchanges with members and Mr Adam's description of the "lone wolf" regulator.

I want to pick up on the point that the convener made about engagement with the SQA, because it is my intention, when we complete stage 2—which I hope that we will do next week—to arrange a cross-party meeting so that all interested MSPs can talk to the SQA about its wider work in relation to accreditation and some of the options that have been discussed this week.

The Convener: I am grateful to Willie Rennie for his clarification about the change. I am glad to hear that it is not just me who has had an issue—not that I was worried about that. Today, my office told me that, for the third time, my meeting with the SQA has been cancelled. If other MSPs have had issues meeting the SQA, although that is not great, it is understandable. I think that most MSPs would welcome the opportunity to have a face-to-face meeting with the organisation.

Jenny Gilruth: I am not sighted on the specifics of that, but I would just observe that the exam diet began last Friday. That might have played a role.

The amendments in this group would create a new office-holder of chief regulator of examinations. Although I cannot support the amendments or the approach that they set out, I am interested to explore all the issues that the convener has raised and to work with other interested parties.

On Mr Rennie's point, I do not think that we can divorce the convener's proposals from our wider

discussion about accreditation. That has been a common theme in members' contributions to the discussion.

Mr Ross's amendments seek to add to the education system an entirely new regulatory role, the remit of which would be focused solely on examinations and assessment, rather than on qualifications as a whole. I want to talk about some of the challenges of such an approach, before going on to talk about the opportunities.

I am advised that there is no equivalent body in comparable jurisdictions—for example, in England and Wales—that regulates only the examinations and assessment part of qualifications. The regulators in comparable jurisdictions oversee all aspects of examinations, qualifications and assessment. As Jackie Dunbar said, it appears that the proposed regulatory office-holder would be responsible for regulating only qualifications Scotland examinations and assessments; it would not be responsible for regulating those of other awarding bodies that operate in the system.

Ross Greer raised issues—John Mason might have done, too—in relation to the Scottish Government's commitment to create no new small, stand-alone public bodies. Mr Ross's proposal would create a new office-holder who would be accountable to the Scottish Parliamentary Corporate Body at a time when, as members know, the Parliament has recently voted for a moratorium on the creation of other such bodies. I also believe—and I hope that committee members share this view—that creating brand-new public bodies via amendments should not, as we have just discussed, be done without first considering the financial, policy and legal delivery implications.

Although I do not believe that there is a need for such a body in the system, and I cannot support the amendments in the form in which they are currently set out, I very much understand the interest in ensuring that our examinations and assessments for qualifications are reliable in recognising attainment and achievement. I also very much recognise the calls that have been made for action to be taken to increase the level of trust in the system, which the convener rightly spoke about, in how qualifications are reviewed and in how any concerns or complaints are taken into account and listened to and responded to as part of those processes.

The Convener: Does the cabinet secretary also accept that independence is crucial here and that the role of regulating exams must be carried out independently from qualifications Scotland and from Government if we are to get trust back, or does she believe that that role can be part of the new body, which would, we hope, simply perform better in that respect?

Jenny Gilruth: I do not want to prejudge the outcome of the cross-party talks that we will all enter into, so I will leave that issue there. I am happy to engage with members on the substantive point. I hear the convener's point; others have made similar points.

Members need to be mindful of the fact that qualifications Scotland will have functions in relation to devising and reviewing qualifications and assessments. We will seek assurances on the validity of those processes, which will continue to play a key role. For example, in the same way that the SQA does, I would expect qualifications Scotland to have a head of standards to oversee and support the organisation's approach to maintaining and improving standards throughout all stages of qualifications Scotland's qualifications and awarding processes.

Members have recognised that the accreditation function that we discussed last week, which delivers oversight of the quality assurance of the assessment components within the qualifications system, plays an important role. We have already spoken at length about that, as I have alluded to, and we have discussed the role of accreditation in the system from the point of view not only of its location, but of its reach and scope. Last week, in response to Mr Kerr, I made the point that members needed to be mindful of the fact that not all qualifications in Scotland are currently accredited. When we talk about scope, we should be mindful of the effect on the qualifications portfolio in its totality.

It is clear that all those elements of Mr Ross's amendments cannot be discussed in isolation from one another, or from the points that Mr Rennie made. I would like to discuss all those matters in the round when we have our meeting on accreditation in the coming weeks.

For all those reasons, I cannot support Mr Ross's amendments in their current form. I ask Mr Ross not to press amendment 297 or to move amendments 298 to 301, with a view to our revisiting those points on a collective basis at stage 3.

The Convener: I will wind up the debate by thanking the cabinet secretary and other members for their contributions. It has been a helpful and useful debate. There is general acceptance that there is an issue here. How we solve that issue is something that we can discuss on a cross-party basis. I agree that we should not tackle the issue in isolation.

I take on board the points that were made by Jackie Dunbar and the cabinet secretary, but we can only deal with what is in front of us—namely, the bill that we are seeking to amend.

I remember the cabinet secretary's final words to me in our call on Monday. She said that she was going to look at the art of the possible with regard to this matter and, I hope, others. With a view to our looking at the art of the possible and having further discussions about that, I am not minded to press amendment 297.

Amendment 297, by agreement, withdrawn.

Amendments 298 to 301 not moved.

The Convener: The changing over of the cabinet secretary's officials gives us an opportunity to have a short recess for 10 minutes.

19:36

Meeting suspended.

19:47

On resuming—

Section 26—His Majesty's Chief Inspector of Education in Scotland

The Convener: Amendment 74, in the name of Ross Greer, is grouped with amendments 75, 76, 79 to 83, 96 to 107, 109, 110 and 114.

Ross Greer: I am sure that this is the group that we have all been waiting for—I can feel an outbreak of consensus coming.

Believe it or not, the presumption behind my amendment is not that I am trying to declare a republic one public body at a time. My views on the monarchy are well known, and I think that it is an antiquated concept to have inspectors and so on serving at the pleasure of His Majesty. However, that is not the motivation behind my amendment; it is about Government efficiency. I do not believe that orders in council and appointments via the head of state, whether that is the King or, if Britain ever becomes a republic, the president, are an efficient process, in particular in relation to a body such as the inspectorate.

Miles Briggs: The member will be unsurprised to learn that Conservative members are opposed to that view. Would he acknowledge, however, that the presence of the Crown in our institutions is a visible and stabilising expression of democratic accountability and constitutional continuity? The title "His Majesty's Chief Inspector" reminds us that, while the appointment may be made by ministers, it is made under the King in the interests of the people of Scotland. The current system reflects that balance, with the appointment being made by His Majesty on the recommendation of ministers.

If Ross Greer's amendments were to be agreed to, it would set a concerning precedent in that the

chief inspector of education in Scotland would become the first major public office in modern Scottish history to have the role of sovereign deliberately removed from its appointment process. Therefore, I urge members to reject those amendments. I also have a 20-page speech from Stephen Kerr on the issue. As my voice is starting to go and it is 10 to 8, I will not read that out, but I will give Mr Greer a copy or place it in the Scottish Parliament information centre. We very much oppose these amendments.

Ross Greer: I am grateful to the member for his intervention, and for not making the intervention that was requested by Mr Kerr, because I am about to conclude.

The principle of democratic accountability and the Crown are two somewhat alien and mutually exclusive concepts. In practical terms, however, the point that I am making is not about the institution of the monarchy, but about the head of state. Even a president should not be able to flick through the CVs of potential candidates for chief inspector. Indeed, given that we have—nominally, although I would disagree—a politically neutral and independent head of state in the King, it would be deeply inappropriate if they ever intervened in the process and rejected a nominee that was put forward to them by the Scottish ministers. That would go against the constitutional settlement that we have in the modern United Kingdom, and it would certainly go against the settlement that the monarchy purports to support in respect of neutrality in that regard.

As I said, this set of amendments is really about the principle of efficiency. I do not think that the appointments and oversight process should be done via the Crown, which is symbolically independent but not independent in practice. For it to be genuinely independent, the process would include the possibility of the Crown rejecting proposed appointments that were made by the Scottish ministers, which would violate a pretty core element of our existing constitutional set-up.

Miles Briggs: Given that the bill will be sent to the King to sign, has the member taken any legal advice on the prospect of it coming back and slowing up the creation of these organisations? I do not think that the minister—or, indeed, anyone—wants that to happen, but it could potentially occur.

Ross Greer: On exactly that point, if the King were to refuse consent for the bill on that basis, I think that that would be a constitutional crisis, because we operate on the principle that our monarchy is politically independent. I do not agree that that is the reality, but that is the position that the Crown has set out: that it is independent on political matters. To veto a bill on that basis would, I think, be unprecedented and would cause a

constitutional crisis. Much as that may be entertaining for some of my colleagues, I do not think that it is a likely outcome in this case.

I come to my very last point—as you will be glad to hear, convener. Members will note that I am talking about orders in council not being an effective process for appointments. The reason that I have not included all of that here is a simple practical one. Between us all, and those lodging amendments to the Housing (Scotland) Bill and other bills, we have put a heavy burden on Parliament's legislation team in recent weeks. Therefore, I asked the team to draft a set of amendments that would test the issue in principle, and if the committee were minded to agree to those, I would lodge subsequent amendments at stage 3 to lay out the alternative process to orders in council. That would be the regular appointment process that is used by all other public bodies that are not Crown appointments. At that point, I will conclude.

I move amendment 74.

Jenny Gilruth: Perhaps unsurprisingly, I cannot support this group of amendments lodged by Mr Greer. For more than 150 years, the process of appointing the sovereign's inspectors of education and naming them after the sovereign has been used to underline their responsibility to evaluate and report independently without interference from ministers.

I have been clear on the need to increase public confidence in the independence of the inspectorate, and the continuation of that—which was recommended by Professor Muir—emphasises the distinctive and historical role of inspectors in our education system.

John Mason: Surely the argument that something has been done for 150 years is hardly an argument when we are trying to revamp the Scottish education system to keep it going. Would the cabinet secretary not accept, based on what Mr Greer has said, that the process is not independent? The Crown is only doing things that the ministers recommend.

Jenny Gilruth: I am afraid that I cannot agree with Mr Mason's assertions, and I am not able to support the amendments.

The Convener: I ask Ross Greer to wind up and to say whether he wishes to press or withdraw amendment 74.

Ross Greer: Despite the notable absence of the 20-page speech and our much-missed colleague Mr Kerr, the issue has been well aired. Given the time, I am happy to conclude there. I will press the lead amendment in the group, but, in expectation of the result, I will not subject members to having

to vote on every amendment in the group once we come to them.

The Convener: The question is, that amendment 74 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Greer, Ross (West Scotland) (Green)
Mason, John (Glasgow Shettleston) (Ind)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
FitzPatrick, Joe (Dundee City West) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: I could have got a knighthood if it had gone to a casting vote.

The result of the division is: For 2, Against 8, Abstentions 0.

Amendment 74 disagreed to.

Section 26 agreed to.

Schedule 2—The Office of His Majesty's Chief Inspector of Education in Scotland

The Convener: Amendment 140, in the name of Sue Webber, is grouped with amendments 141 to 156, 307, 158 to 164, 174, 179, 180, 340, 182, 183, 342, 184, 345, 185, 349, 186 and 187 to 205. I draw members' attention to the procedural information relating to the amendments in the group, as set out in the groupings. I call Sue Webber to move amendment 140 and to speak to all the amendments in the group.

Sue Webber (Lothian) (Con): Thank you, convener. It is nice to be back at the committee this evening. There are some familiar faces in the room and a couple of new faces online. You will all be delighted to learn that, although there are 44 amendments in my name in the group, it will not be an arduous task to go through them, because they are all linked and serve the same purpose of strengthening the independence of the chief inspector.

As members will remember, I was on the committee when we took our stage 1 evidence, and the one thing that I remember hearing loud and clear is that, as it stood, the Education (Scotland) Bill did not go far enough in securing the independence of the chief inspector's role.

As the bill stands, it states in schedule 2 that

"the Chief Inspector is not subject to the direction or control of any member of the Scottish Government"

other than where that is explicitly set out in legislation. Ultimately, ministers will retain the ability to direct the chief inspector to secure inspections of specific types of educational establishments. Those broadly reflect the current powers of ministers that are contained in the Education (Scotland) Act 1980.

As I said, we heard repeatedly that the new His Majesty's chief inspector of education needs to be—and, almost more importantly, needs to be seen to be—independent. Organisations including the Association of Heads and Deputies in Scotland, the Educational Institute of Scotland and children's services at East Renfrewshire Council all argued that

"consistent reference throughout the Bill to the Chief Inspector carrying out inspections at the request of ministers ... suggests the Chief Inspector is not independent but is an officer who acts on behalf of the Government."

John Mason: Does the member accept that it would be different if ministers had the power to take away some responsibility of the inspector, but that ministers having the ability to add something on surely does not affect the inspector's independence?

Sue Webber: I remind the member of what I said. It is equally important for the inspector to be seen to be independent and to reinforce their independence if we want the role to have kudos and if we want to drive reform, to restore confidence in the inspection process and the outcomes of that process, and to enable the public to have trust in our system.

The reason that there are 44 of my amendments in the group is that, time and again, the bill refers to the chief inspector acting on behalf of the Government. Many of the provisions were open to a lot of interpretation.

On how the independence of the inspectorate is to operate in practice, I will read out some excerpts from paragraphs 269 to 272 of the stage 1 report, which was very well drafted.

Professor Graham Donaldson was the head of the inspectorate from 2002 to 2010, when it was a single body, before it became part of Education Scotland. He told the committee that he had

"more operational independence than the chief inspector of education would have under the terms of the bill"

as it is currently drafted, and that

"Some of the provisions in the bill mean that the chief inspector would be in a position of constantly having to negotiate what he or she does, rather than having operational freedom and being accountable for their decisions".

Furthermore, he said that, in order

“to provide on-going monitoring of how the system is serving young people, and to provide, where necessary, sometimes difficult messages to Government or to others about where policy is not working in practice or where it needs to be changed”,—[*Official Report, Education, Children and Young People Committee*, 18 September 2024; c 42, 44, 43.]

there needs to be further independence. He also argued that, if the current inspectorate had felt able to deliver difficult messages, the OECD reviews might not have been needed. He said that amendments were therefore required to “better enshrine” the independence of the chief inspector. That is why all these amendments are in front of the committee this evening.

Despite the assurances that the cabinet secretary gave, I did not feel that the bill created a fully independent inspectorate, which is why I lodged my amendments.

Amendment 140 seeks to make it clear, by removing the caveat

“subject to any contrary provision in this or any other enactment”,

that the chief inspector is not subject to the direction or control of any member of the Scottish Government.

20:00

Amendments 144, 155 and 158 all seek to remove the influence of the Scottish ministers on the office of the chief inspector in relation to the authority to perform and carry out its function, so that it can operate fully independently from ministerial interference.

Amendments 163 and 164 seek to change the accountability of the chief inspector by ensuring that he or she will report to a committee of Parliament whose remit includes matters relating to education—which, as it stands now, would be this committee. I seek to reinforce that in various other amendments. Amendments 141 to 143, 153, 154, 146, 148 and 150 would replace references to “Scottish Ministers” with references to “Parliamentary corporation”, and amendments 152, 200 to 205, 198, 199, 196, 197, 191, 192, 193 and 194 would replace references to “Scottish Ministers” with references to “Chief Inspector”, which is required to permit the role to function fully independently and report to Parliament or, as stated in the amendments, the Parliamentary corporation.

Amendments 183, 184 and 185 all seek to remove the requirement to send any reports to the Scottish ministers; instead, amendments 186 and 182 would have the effect that the chief inspector “must”, rather than “may”, report to the Scottish Parliament.

In summary, all those amendments in my name would basically remove references to “Scottish Ministers”.

Amendments 179 and 180 seek to delete the authority of the Scottish ministers to determine the frequency of inspections. Amendment 180 would ensure that, when preparing an inspection plan, the chief inspector and ministers must also involve the parliamentary committee.

Amendment 189 would remove section 46, “Necessary improvements: referral to Scottish Ministers”. That is self-explanatory, given that we want to remove any influence of the Scottish Government on the office of the chief inspector.

I move amendment 140.

Willie Rennie: With the various amendments—and, indeed, the bill itself—we have been trying to strengthen the central organisations that have a major role in the performance of education in Scotland. Confidence in those bodies was shattered by a number of different experiences, from the performance of the SQA through the pandemic to the inability of the inspectorate to identify the relative decline in the performance of Scottish education. The fact that it never identified that throughout that whole period raises a big question.

In order for Scottish education to function, we need to have central bodies that have the confidence of not only pupils and teachers but the wider educational movement, including local authorities, which are major players in the performance of the education system. We need local authorities to be subject to good challenge, which is why we need strengthened central bodies.

We have made significant progress by separating Education Scotland from the inspectorate so that we are not marking our own homework. That is a good step, and I hope that we are able to appoint significant people to run both organisations, because people believe that they are bodies of consequence in Scottish education. That is incredibly important.

We are trying to strike a balance between George Adam’s lone wolf, which has the potential for making something too independent, and ensuring that we have sufficient independence to give confidence to the wider system. We are trying to strike a balance between those two priorities.

I am mindful of what Graham Donaldson said about the fact that he had more independence in his day than the bill proposes to give the chief inspector. It is significant that somebody of his stature said that, and it indicates that we can perhaps go further than the bill proposes to go. My amendments, although they are in some ways

quite minor, would provide a greater degree of independence, as they would remove the power of the Scottish ministers to appoint the deputy chief inspector, while the chief inspector would still be appointed by ministers.

Unlike Sue Webber, I do not want to abolish Jenny Gilruth. I want to keep her important role—alongside that of the King—in Scottish education.

Amendment 147 provides that the inspectors of education would be appointed on the recommendation of the chief inspector. The deputy chief inspector and the inspectors would be under the responsibility of the chief inspector. Decisions on the number of inspectors and their terms and conditions would also lie with the chief inspector.

Ross Greer: On the issue of terms and conditions, my concern is that the Scottish Government sets a floor on terms and conditions through its fair work policies, on which a lot of progress has been made in recent years. It seems that amendment 147 would take the inspectors out of that process. Could you address that concern?

I get the broad direction of travel, and I will talk about the amendments more widely in a moment, but on terms and conditions specifically, my worry is that the amendment would take the inspectors out of alignment with other Scottish public sector workers, who benefit from fair work policies that have long been campaigned for, particularly by trade unions.

Willie Rennie: That is a very fair point that I should have recognised before. I will take that into consideration.

On the scrutiny of the intervals for inspection, amendment 156 sets out that the minister must also seek the relevant committee's view before issuing any directions.

My amendments are relatively minor, certainly in comparison with Sue Webber's amendments. I still think that ministers should have a role, but I think that we should pull back and give the chief inspector greater independence in order to give greater confidence to the central bodies in education. Other members have lodged other amendments that serve the same purpose, which is to nudge the role towards greater independence, but without it giving it the lone wolf status that George Adam so clearly craves.

Miles Briggs: I will speak to amendment 307, in the name of my colleague Stephen Kerr.

I support the substantial package of amendments in this group in the name of my colleague Sue Webber, which, together, go to the heart of ensuring the true independence of the chief inspector of education in Scotland.

In this group, we are considering a total of more than 40 amendments, from amendment 140 through to amendment 205. Collectively, they seek to establish the chief inspector as an independent, professional and impartial voice at the heart of our national education system.

Let us be clear from the outset that the creation of an independent inspectorate is not a matter of bureaucratic housekeeping; it is a matter of public confidence, professional credibility and constitutional principle. If the chief inspector is to play a pivotal role, as is envisaged in the bill, they must be seen to act free from ministerial direction, they must be immune to political pressure and they must be answerable, ultimately, not to the Government but to the Parliament. I am pleased to support the amendments that provide that the chief inspector must execute their functions independently of the Scottish ministers.

Amendment 307 helpfully provides the option that the Scottish Government would still be able to request an inspection, although there would be no obligation on the chief inspector to comply with such a request. On a number of occasions, the cabinet secretary has raised her concern about the role of chief inspector being completely independent of ministers. If specific concerns were raised with the Scottish Government about an establishment, the Scottish ministers could still request an inspection but, ultimately, it would still be for the chief inspector to decide whether the inspection should take place.

It is vital that the provision that is proposed in amendment 307 is included in the bill, in order to give ministers the ability to request an inspection if they have specific concerns. There is cross-party consensus that ministers need to have that ability, which amendment 307 provides for, alongside the complete—and wanted—independence of the inspector.

Pam Duncan-Glancy: In the interests of time, I will be as brief as I can. My colleagues Sue Webber, Willie Rennie and Miles Briggs have spoken about the chief inspector's independence. We have heard a lot of evidence in committee about that, and the evidence that Sue Webber cited a moment ago from Professor Donaldson, about the independence of the chief inspector, was compelling.

The amendments seek to rebalance the relationship between the Government and the scrutiny function by making the chief inspector accountable to the Scottish Parliament, which is the right forum in the interests of transparency, oversight and public trust. Recent reforms to other scrutiny and oversight bodies have, rightly, focused on reducing direct ministerial control, and it is only right that Scotland's education

inspectorate be held to the same standard of democratic independence.

This is not about weakening accountability; it is about putting the accountability in the right place. Ministers should not oversee the body that scrutinises their own practice. The chief inspector must have the freedom to act decisively, report openly and enforce change when needed.

Jenny Gilruth: The member talked about the inspector scrutinising ministers' practice, but the job of the chief inspector is not to scrutinise ministers' practice; it is to scrutinise learning and teaching practice in our schools. It is important that we make that differentiation. I am sure that you can all pass judgement on ministers' practice.

Pam Duncan-Glancy: Indeed. The intention here is to recognise that the chief inspector must be independent of the Government. That is incredibly important but, as we heard in the evidence that was given to this committee, the bill does not recognise that.

I will speak to the amendments in the group that are in my name. Amendment 340 requires the chief inspector to share a copy of any report that is requested by the Scottish ministers and for it to be presented to the Parliament and to ministers at the same time.

Jackie Dunbar: In relation to the chief inspector not being accountable to the Parliament, surely this committee can call the chief inspector to give evidence, so they are accountable to the Parliament in that way.

Pam Duncan-Glancy: The member is aware of the powers that committees have to invite witnesses and the extent of, and restrictions on, the circumstances in which witnesses can be compelled to come. She will also know the circumstances in which people can be compelled to act on committee recommendations. In fact, there have been amendments to this legislation on that very point.

We need to do everything that we can, across the bill, including in the amendments on the chief inspector's role, to create that independence. The amendments in Sue Webber's name, to which I have added my name, do that.

Ross Greer: I would like to clarify something regarding what Pam Duncan-Glancy said about amendment 340. My understanding is that, under the current practice, the chief inspector provides ministers with copies of all the reports on the multiple inspections that are undertaken every week. My reading of the amendment is that it would require every inspection report to also be laid before the Parliament. There are multiple inspections every week, although I do not know

how many. Is the intention of the amendment that every inspection report be laid before Parliament?

Pam Duncan-Glancy: It is the intention that the reports that are requested by the Scottish ministers would be shared. I take the point about the numbers that are involved, and I am happy to reflect on what that could mean and come back to the issue at stage 3. I appreciate the member's contribution.

Amendment 342 requires the chief inspector to share a copy of their annual report, to be presented to the Parliament and to ministers at the same time. Amendment 345 requires the chief inspector to share a copy of the report on the performance of the education system, to be presented to the Parliament and to ministers at the same time. Amendment 349 requires the chief inspector to share a copy of any other report, to be presented to the Parliament and to ministers at the same time. Given what Ross Greer has just put to me, I will reflect on his point before stage 3 in relation to amendments 340 and 349. Nonetheless, amendments 342 and 345 are important.

All of those amendments would give Parliament an opportunity to have real scrutiny of the education system in Scotland. I recognise the important role that the chief inspector of education plays and the importance of the role having a strong degree of independence from the Government. Hence, I support a number of the amendments in the name of Sue Webber—in the interests of time, I will not list them all—that strengthen the independence of the chief inspector by, among other things, making several functions accountable to the Parliament rather than to ministers.

However, there are some aspects of the role of the chief inspector that should not be politicised in the way that being accountable to the Parliament might make them. Therefore, I cannot support Sue Webber's amendments 146, 153, 154 and 155, which relate to matters such as the terms and conditions of staff employed in the chief inspector's office. Those should continue to be determined with the approval of ministers.

20:15

A number of Willie Rennie's amendments are direct alternatives to amendments in the name of Sue Webber that I support, so I cannot support them.

Stephen Kerr's amendment 307 seeks to insert a provision that is already covered by wording in the bill, so I would be interested to hear why it is thought that the amendment is needed. At this point, I am not convinced that it is.

Amendment 187, in the name of Sue Webber, relates to powers of entry and inspection in respect of a dwelling house. I am not against it, but given that we have not heard any evidence on—

Sue Webber: Amendment 187 represents an attempt to provide clarity in relation to home schooling, residential education and boarding. That is why I lodged it.

Pam Duncan-Glancy: I appreciate that clarification, but, at this stage, given that I do not immediately recall our hearing much evidence on the inspection of home schooling, if Sue Webber were to move amendment 187, I would probably be inclined to abstain, although I would be open to having discussions about what an amendment on that issue could look like at stage 3. However, at this point, I do not feel that I have enough evidence to fully inform my position on the matter.

Ross Greer: My position on many of these amendments, especially the large group of amendments in the name of Sue Webber, reflects our discussion on the convener's amendments on a new independent regulator. The Finance and Public Administration Committee—of which, along with John Mason, I am a member—considered issues related to the creation of new public bodies and, in particular, SPCB-appointed bodies. In our report to Parliament, we made a strong recommendation and did something that it is unusual to do in the context of a committee report—we put forward a motion to Parliament in which, rather than asking Parliament as a whole to note our report, we asked it specifically to agree to a moratorium on the creation of new SPCB-appointed office bearers.

I also have some specific issues in relation to moving the inspectorate entirely within the purview of Parliament. Ultimately, ministers have responsibility for the setting of education policy in Scotland, which is a significant responsibility. If we were to have a wider debate about whether we should remove education policy entirely from the remit of ministers, I would have a lot of questions about that.

The example that I have used before—I think that I might have used it in the stage 1 debate—is that it is entirely legitimate for the Scottish ministers to decide on a specific element of education policy, to instruct and expect schools to implement it and, then, after a few years, to ask the chief inspector to conduct a thematic inspection on that. Five or six years ago, the Government made a decision on LGBTQ-inclusive education. It would be entirely legitimate for the Government to say that it wanted to carry out a thematic inspection to ensure that that has been implemented.

Recently, we have had many parliamentary debates about pupil behaviour and violence against women and girls in particular. It is right for the Parliament to hold ministers to account on such important issues, and it is appropriate for ministers to retain the power to instruct a thematic inspection on, for example, how schools deal with violence against women and girls. That is an issue that I think requires such examination, because there are significant inconsistencies in policy.

I want to strengthen Parliament's role in relation to, and its relationship with, the inspectorate. My amendment 92, which we will come to later, seeks to do that in relation to inspection plans, although I am open to other ways in which we can do that. The best way to describe it is that I want the inspectorate to have greater independence in most areas of practice, but not in relation to its form and not in every area of practice. For example, Pam Duncan-Glancy highlighted the issue of the terms and conditions of inspectorate staff, and I would probably share her position in relation to home schooling.

Turning briefly to Willie Rennie's amendments, I am minded to support amendment 147 in particular, although I have some questions about the practice of inspectors being appointed "on the recommendation of" the chief inspector when, in practice, they will be appointed by the chief inspector. However, the principle behind that amendment is sound. The same is true of amendment 160. I think that it is desirable to provide for some extra scrutiny of the regulations on the intervals for schools to be inspected.

I have significant concerns about amendment 156, because I can envisage situations in which ministers would want to instruct the inspectorate to inspect a school—for example, for specific reasons that relate to welfare concerns that have been raised—and the delay that would result from having to seek the approval or the input of a parliamentary committee would not be acceptable. There are non-urgent situations for which I would welcome some kind of mechanism whereby ministers would seek the input of Parliament, but I do not want anything that could delay ministers' instruction of inspections—particularly if there is a welfare issue. I am aware that that has been the case in the past.

I welcome amendments 342 and 345 from Pam Duncan-Glancy. However, on amendment 340, my concern—on which I would welcome clarification from the cabinet secretary—is that, at the moment, in practice, ministers request a copy of every inspection report, and there are a number of those every week, and the process of laying all those before the Parliament would be not just an unnecessary burden on the inspectorate but an additional burden on the Parliament. The business

bulletin would certainly get a lot larger each week. For that reason, I cannot support amendment 340. However, the proposals in amendments 342 and 345 are advisable.

Jenny Gilruth: I thank members of the committee for setting out the purposes of their amendments. I welcome Sue Webber back to the committee, even though she is trying to abolish my existence. Broadly, as we have heard, the amendments in this group seek to curtail or remove ministerial powers across part 2, with the aim of seeking further independence from Government of the office of chief inspector.

First, there are very good reasons overall why ministers should continue to have the direct relationship with the chief inspector that is set out in the bill. Members raised a contribution from Graham Donaldson, who served as the chief inspector some time ago. However, it is worth reminding members that Graham Donaldson, when he was chief inspector, had no power under legislation, and the same applies to our current interim chief inspector. Because their existence was not specified in legislation, every inspection that has happened under their watch has been ordered by ministers. Members should be mindful of that difference.

As we heard from Ross Greer, ministers have a duty to endeavour to improve the education system and to take necessary enforcement action, as well as having regulatory powers in relation to our independent schools. Without having even a limited power to direct inspection, it would be extremely difficult for ministers to fulfil those duties.

On a number of important issues around the system, ministers have used their powers to ask the chief inspector to investigate and report, using a thematic inspection model—again, I think that Mr Greer made that point. Those issues have included behaviour; attendance; the national thematic inspection on maths, which, as members will recall, occurred on the back of the results of the 2022 programme for international student assessment, on which I will not dwell; and local authority improvement functions, which Willie Rennie rightly raised. Members might be interested to hear that the chief inspector published a report on that—in February, I think; certainly very recently—and it is a really interesting piece of work.

In the past 10 years, Scottish ministers have used the power to request that HM inspectors carry out a special inspection on eight occasions—including twice since I took up post. On all occasions, those inspections focused on specific ministerial concerns that had been brought to ministers' attention in the first instance by HM inspectors or the registrar of independent schools.

Therefore, although it is anticipated that the power would be used rarely, it is important that it is available.

George Adam: Should something go wrong and the inspector report something, you are accountable to the Parliament. Every one of my colleagues can demand in the chamber that you do something about it. My concern is that, at that point, you could answer any question by saying, "Well, it's not really my job any more"—basically, telling us to talk to the chief inspector. Is there not a case that you would water down accountability if you supported the amendments from Willie Rennie and Sue Webber?

Jenny Gilruth: I broadly agree with the sentiment behind Mr Adam's question.

It is important that ministers hold the power to take that enforcement action, where necessary and proportionate, on the basis of information from inspection. In my view, the inspectorate of education is not and should not be about regulation. Taking on such an enforcement role, which it does not currently have, would fundamentally change its character. I therefore cannot agree with Sue Webber's amendment 155, even if that is accompanied by amendment 307 from Stephen Kerr—who, I appreciate, is not here—as it would leave ministers without the ability, under any circumstances, to require the chief inspector to secure the inspection of a particular establishment, including in cases in which significant concerns had been raised.

Similarly, I urge members to reject Mr Rennie's amendment 156, which would require ministers to seek the views of the committee before requesting an inspection. Given the circumstances in which powers are likely to be used, such as where there might be urgent concerns—the point that Mr Greer raised—it would not be appropriate to take time for that step if we had to move at pace.

I also urge members to reject Ms Webber's amendments 189 to 205, which would remove the role of ministers in relation to enforcement directions.

Additionally, as has been alluded to, Ms Webber's amendment 155 would remove the requirement for the chief inspector to comply with a request from ministers to inspect an educational establishment. It would also remove the power of the chief inspector to secure the inspection of an excepted establishment on the request of ministers.

Amendment 161 would remove the excepted establishment definition in section 31(4) of the bill. That would be problematic because, taken together, those amendments would bring post-16 further education colleges and the higher education institutions that deliver accredited initial

teacher education within the scope of the chief inspector's duty to secure inspection of educational establishments at such intervals and to such an extent as the chief inspector considered necessary. Under the current provisions, excepted establishments would be inspected only on the request of ministers.

I agree that there is a need for robust quality assurance mechanisms to be in place for post-16 further education for ITE. However, two separate oversight and regulatory mechanisms already exist. The Scottish Funding Council, which I know has written to the committee, already has a statutory duty to ensure that provision is made for assessing and enhancing the quality of university provision, including ITE and post-16 further education.

In relation to ITE specifically, a second layer of regulation is led by the General Teaching Council for Scotland, which is the relevant professional body—I refer members to my entry in the register of members' interests in that regard. Amendment 161 would create a third layer, adding further duplication, additional bureaucratic requirements and extra costs for higher education institutions, with no discernible benefit.

More broadly, members' amendments in the group have competing conceptions about whether power over a range of matters should be vested in the chief inspector alone or whether it should be vested in the Scottish Parliament's corporate body and in the committee.

On the latter, a range of amendments lodged by Ms Webber seek to place powers with the SPCB as opposed to with ministers. I am mindful of the fact that the Finance and Public Administration Committee, which includes Mr Mason and Mr Greer, reported in September 2024 on the number of bodies that are supported by the SPCB and recommended a moratorium on the creation of any more. The Parliament voted to accept that recommendation, and the convener and Ms Webber were among those who supported it.

More than that, the committee also noted that SPCB-supported body status was not necessary to demonstrate independence from Government, with policing and prisons inspectorates being cited as good examples of Government-led bodies that act independently and produce robust recommendations. Given that the model for HM chief inspector of education, which is set out in the bill as introduced, broadly follows that same approach, it is not clear why the education inspectorate cannot be equally successful.

In addition, the model as proposed in the bill would allow us to meet one of Professor Muir's key recommendations—that HM inspectors of education continue to be civil servants. That would

not be feasible if they were to become employees of the chief inspector, with all the implications of that for the transfer of staff.

Also, in its stage 1 report, the committee noted that some members did not consider it necessary for the chief inspector to be accountable to the Scottish Parliament.

Willie Rennie: I understand all the arguments that the cabinet secretary is making, but the education inspectorate is in a different position from the inspectorates of the police and the prisons, because we have had what some would call a crisis in recent years. Although we are separating the SQA from Education Scotland, we need to go further. Does the minister think that there is any avenue that she has examined that we could pursue to give greater independence? If she does not agree with any of the amendments, is there anything that she might consider in order to bolster that? I think that she agrees with me—because she was nodding away when I was contributing earlier—that we need to build up the confidence of the central bodies. Is there nothing that she has looked at that we could pursue to give greater independence in order to build that confidence?

Jenny Gilruth: I will come on to some of the points on which I agree with Mr Rennie. To pick up on his point about a crisis, we need to be mindful of some of the challenges that exist in our education system. However, in that regard the inspectorate has not been in the same challenging position as the SQA in recent years. I am not sure that a comparison can be made between those bodies.

There is a strength in the inspectorate, and it will be further strengthened by the Government putting those responsibilities into statute, which was not previously the case. I will go on to talk about some of the points—

Willie Rennie: Some people would say—and I would agree—that the inspectorate did not identify the international challenge that Scotland was facing with its performance in education. It did not report on that.

20:30

Jenny Gilruth: I am sympathetic to the point that Mr Rennie raises. Mr Greer spoke about the school inspection reports that I receive every Friday from the chief inspector and that I read diligently. Mr Rennie will know that there is a review being led by the interim chief inspector in relation to inspection reports and how those are compiled. I hope that he is engaged with the chief inspector on that. However, I take his point about identifying those challenges and giving advice to

and challenging ministers, as is the responsibility of the chief inspector.

John Mason: It strikes me that, listening to Willie Rennie's intervention—I obviously cannot intervene on him at the moment—part of the answer to that is surely related to the fact that the inspector could come before the education committee. Through the committee's questioning, challenging and whatever, the inspector would have the opportunity to demonstrate their independence just by their attitude at the committee.

Jenny Gilruth: That is, indeed, the case, Mr Mason.

I am conscious of the time, convener.

In its stage 1 report, the committee asked the Government to

“strengthen the measures within the Bill”

that relate to the inspectorate's accountability, including to the Parliament. I listened to Mr Rennie's point. I also support, subject to the use of a slightly shorter timeframe, Mr Greer's amendment 92 in the “Inspection plans” group, which would require the chief inspector to lay a draft inspection plan before the Parliament. That amendment would give the Parliament an opportunity to review and comment on the operations of the chief inspector directly to the chief inspector.

Mr Rennie's amendment 160 aims to add recognition of the important role of Parliament in relation to the ability of ministers to make regulations to specify intervals at which educational establishments are to be inspected. I emphasise that any such regulations will already be subject to the affirmative procedure, which means that they will not become law unless they are approved by the Parliament.

Ms Webber's amendment 180 seeks a role for this committee in reviewing regulations that would set the frequency for reviews of an inspection plan. Those regulations will already be subject to the affirmative procedure, and I submit that that therefore already fully involves the committee.

To return to Mr Rennie's amendment 160—apologies, convener—it appears that it is intended to create a special class of regulations that would be subject to an excessive period of parliamentary procedure that is significantly longer than the period that is used in the super-affirmative procedure for other regulations. Although the content of any regulations made under the bill will be important, they will not be as complex as some other regulations that are subject to a shorter laying period. For example, even the creation of the register of persons holding a controlled interest in land, which was incredibly detailed, was subject

to only a 60-day laying period. Although I am unable to support the amendment in its current form, I would be happy to work with Mr Rennie on a revised amendment that fulfils his intent in a more manageable way.

More broadly, Mr Rennie has lodged a range of amendments that would remove powers from ministers in relation to inspection staff and would invest those instead in the chief inspector. Generally speaking, the amendments would give a great deal of largely unchecked power to an individual office-holder without any obvious restrictions or safeguards. That would be concerning and likely to bring unintended consequences that are yet to be fully understood.

For example, the chief inspector alone would be empowered to determine the number of inspections that would be employed, without any apparent limit. The amendments could also introduce an element of inconsistency into staff terms, which could vary depending purely on who the chief inspector is at the time of appointment. Once again, it would be difficult, if not impossible, for such staff to continue to be civil servants, as was recommended by Professor Muir. For those reasons, I urge members not to support Mr Rennie's amendments in that area.

Amendment 182, lodged by Ms Webber, appears to be intended to require that every individual inspection report be laid before Parliament—something that have we heard about from other members. However, as Mr Greer pointed out, it is difficult to envisage that the Parliament would have the capacity to do much with the individual reports on every establishment that is inspected, which are expected to number around 250 a year. I contend that it would be better for the Parliament to focus on the annual report of the overall performance of the Scottish education system, which is already allowed for in the bill. I also emphasise that every inspection report will be published—as they are today—so that they will be available to the public and MSPs from publication. I therefore urge members not to support amendment 182.

I have more sympathy with Ms Webber's amendment 186, which would replace the chief inspector's power to lay any other report before the Parliament about any matter relating to their function with a duty for them to do so. Although that arguably removes an area of discretion for the chief inspector, I am happy to support that in further recognition of the importance of keeping the Parliament informed of the chief inspector's judgment.

Ms Duncan-Glancy has also lodged amendments to ensure that certain reports that the chief inspector produces are simultaneously sent to the Parliament and Scottish ministers. I

sympathise with the intention behind those amendments. Therefore, I support amendments 342 and 345, which relate to reports that must be laid before Parliament as is set out in the bill.

However, I am concerned that applying the same restriction to reports that “may” be laid before the Parliament would have the unintended consequence of reducing the number of reports that are laid, because it would essentially prevent reports from being laid if they had not been laid in the narrow window of time that the amendments set out. Therefore, I urge members not to support amendments 340 and 349. I would be happy to further discuss the issue with Ms Duncan-Glancy if she has any concerns about it.

Sue Webber: I thank the cabinet secretary for responding in such detail. I also thank Pam Duncan-Glancy for her support and the variety of her amendments, which are scattered and peppered throughout the list. To different degrees, we have all been hoping to rebalance the chief inspector’s role in our schools, in order to bring back confidence and trust. We want accountability to be in the right place.

You mentioned some of the competing conceptions, cabinet secretary. Although you raised the moratorium on new SPCB-supported public bodies, which I tend to support, I go back to the convener’s earlier comments—

Jackie Dunbar: Will the member take an intervention?

Sue Webber: Can I finish my sentence?

Jackie Dunbar: Of course.

Sue Webber: The fact that we have the moratorium does not mean that regulation should cease. Education is critical to so many people’s futures, and if we think that a new function is needed, it should not be dismissed offhand on the back of such a report.

Jackie Dunbar: With regard to the amendments that relate to the SPCB, do you know whether it has capacity for such a function? Our Scottish National Party group member continually tells us how busy the SPCB is and has raised concerns about its capacity—I hope that she is not watching the session just now. If such a function was given to the SPCB, would it not need to have an in-depth knowledge of what to do in order to deal with matters and make decisions? I am thinking aloud, but it might dilute the SPCB’s responsibility if it had to take advice on what it needs to call in or not call in.

Sue Webber: Regarding expertise, amendments 163 and 164 state that the chief inspector must report to a

“committee of the Scottish Parliament whose remit includes matters relating to education”.

It is this committee—the Education, Children and Young People Committee—that would have the ability to drill down and understand what the inspector was doing.

Every committee is extremely busy and pressed—hence why we are sitting here at 8.38—so you could not say that one committee is more busy than another. I am a member of the Standards, Procedures and Public Appointments Committee, which is currently undertaking an inquiry into committee effectiveness, and capacity can perhaps be considered as part of that. I hope that that answers your questions.

Jackie Dunbar: Sorry—perhaps my wording was unclear. You are right to say that we are all busy, but do committee members have the capacity to undertake that work all the time?

Sue Webber: In reference to where we are tonight, does the Education, Children and Young People Committee have the capacity to deal with nearly 400 amendments to an education bill to the point that we are having to sit for a number of evening sessions? We need to look long and hard at the Scottish Parliament’s capacity and the amount of legislation and other work that committees are asked to deal with.

Audit Scotland is held up as being a really good and heavily critical organisation that is well respected for how it reports to the Parliament in its various inquiries. When it came to my intentions, my head was in that space: I was looking for the chief inspector of schools to have kudos, influence and the trust of the public, which have been absent in relation to a number of things in education over the past few years.

That is where we are. However, given the feeling and sentiment, I will not press amendment 140.

Amendment 140, by agreement, withdrawn.

Amendments 75 and 141 not moved.

John Mason: Can I make a point of order, convener?

The Convener: Yes, please.

John Mason: How long do you plan to go on tonight? I do not think that we will get through this by 9 o’clock.

The Convener: No—it was never my intention that we do. However, to continue until about 9 o’clock gives us an hour following the break that we had. I am sorry, Mr Mason—I tried to tell as many members as I could. I am aiming to finish at about 9 o’clock, if that suits members, the cabinet

secretary and her officials. We will go on for about another 20 minutes, if members are okay with that.

Amendment 302, in the name of Stephen Kerr, is grouped with amendment 303. I call Miles Briggs to move amendment 302 and to speak to both amendments in the group.

Miles Briggs: Amendments 302 and 303 concern the appointment of the chief inspector of education. The purpose of the amendments is to ensure that the appointment process for that crucial post is robust, transparent and principled. The bill, as introduced, creates a position of chief inspector, but it does so with minimal definition regarding who should be eligible to hold that office and how long they should serve in that role. In a role of such significance to the quality and integrity of Scotland's education system, that omission is neither trivial nor technical.

Amendment 302 proposes that, to be eligible for appointment as chief inspector, an individual must be a qualified teacher and have held a senior leadership role within a school or other educational establishment. That is not an exclusion clause; rather, it is a statement of principle that those who lead the scrutiny of education in Scotland should have substantial and relevant experience of the sector that they will be inspecting.

Pam Duncan-Glancy: I support the intention behind amendment 302, but can Miles Briggs clarify what definition of the term "registered teacher" Stephen Kerr is using?

Miles Briggs: The Muir review repeatedly stressed the importance of reconnecting national bodies with the lived experience of teachers. Professor Muir wrote that it is essential that those who hold leadership positions in national education bodies have experience of the sectors that they oversee and can demonstrate that credibility and understanding when engaging with practitioners. The definition is not outlined in amendment 302, so it is open to amendment at stage 3. However, amendment 302 looks towards leadership skills, which my colleague Stephen Kerr and, I think, the wider committee would be supportive of potentially outlining in further detail at stage 3.

Ross Greer: I have a lot of sympathy for the principle behind amendment 302, but I want to confirm that it will not be pressed at this stage, given that it is premised on the Scottish Parliamentary Corporate Body making the appointment recommendation. Amendments in that regard have not been moved, and we are taking that debate outside proceedings ahead of stage 3. The principle is useful to debate, but what is currently in amendment 302 would not be applicable to the system as it stands.

Miles Briggs: I would like to hear what the cabinet secretary has to say before taking that decision.

Amendment 303 proposes that the chief inspector be appointed for a fixed and non-renewable term of seven years. Again, that is about protecting the independence of the role. A non-renewable term removes the risk of perceived favour-seeking and liberates the postholder to lead fearlessly and impartially. Seven years is, I believe, a reasonable period—it is long enough to ensure that there is strategic continuity and that an impact is made. It also keeps fresh leadership in mind. That approach is consistent with other public appointments in Scotland and beyond. It is a safeguard against politicisation, entrenchment of authority and dilution of challenge.

At the committee's meeting last week, we had a long discussion about whether seven years was an appropriate length of time to be head of an organisation, and whether there would be unintended consequences in respect of forcing someone out of the role, even if they were performing highly. I do not think that that would be the case.

To summarise, amendments 302 and 303 would work together to professionalise and protect the role of the chief inspector.

I move amendment 302.

20:45

Jenny Gilruth: I thank Mr Briggs for setting out, on behalf of Mr Kerr, the purpose of these amendments. I believe that they both bring forward important points, but I am not able to support them in their current form.

Leaving aside, for the moment, the question of which entity would be appointing the chief inspector, I agree with the principle behind amendment 302, which I take to be that the chief inspector should have relevant educational experience, including at leadership level.

However, I believe that there are a number of issues with the amendment as drafted. The principal issue is that insisting that the chief inspector should be, or should have been, "a registered teacher" may unintentionally exclude excellent candidates. In particular, depending on how the idea of being registered is interpreted, and whether that means being registered with the General Teaching Council for Scotland, it may exclude someone from outwith Scotland who has not been registered here.

Amendment 303 limits the length of appointment to a maximum of seven years and prohibits reappointment. I suggest to members that that is unnecessary prescriptive, even if the original

appointment was for a much shorter period of time than seven years.

As I flagged to Mr Kerr in the debate on group 4 last Wednesday, when he sought to make similar provision for the chief executive of qualifications Scotland, the terms of chief executives and, in this case, other HM chief inspectors for other inspectorates in Scotland are generally governed by appointment contracts and governance frameworks, rather than explicit legislative term limits.

With regard to removing the ability to be reappointed as chief inspector, again, I point out to members that that would remove the flexibility that may, in certain circumstances, be needed to ensure the effectiveness of the office.

However, I understand the reasons behind both the amendments. I respectfully ask that amendment 302 is not pressed and that amendment 303 is not moved, and I commit to working with Mr Kerr, or indeed with Mr Briggs, ahead of stage 3 to agree a way forward.

The Convener: I ask Miles Briggs to wind up and say whether he wishes to press or withdraw amendment 302.

Miles Briggs: The cabinet secretary will know how keen a consensus builder my colleague Stephen Kerr is, so with that in mind, I will not press amendment 302 or move amendment 303, and we can all look forward to working together on what will, I hope, be workable amendments for stage 3.

Amendment 302, by agreement, withdrawn.

Amendments 76, 303 and 142 to 144 not moved.

The Convener: Amendment 77, in the name of Ross Greer, is grouped with amendments 78, 311, 314, 324, 325, 172, 326, 327, 329, 330, 91, 335, 336, 343 and 352.

I point out that amendment 311 is pre-empted by amendment 158; amendment 314 is pre-empted by amendment 162; and amendment 336 is pre-empted by amendment 179. Amendments 158, 162 and 336 were previously debated in the group entitled "Independence of the Chief Inspector".

Ross Greer: This debate will be pretty similar to the ones that we have had in relation to the interest committees, the board of qualifications Scotland and, in particular, the strategic advisory committee.

Amendment 91 is consequential, and amendment 77 would expand the starting membership of the chief inspector's advisory council because of what I am proposing in amendment 78, although members will note that

ministers would still have the power to vary the size of the council as required.

Amendment 78 is the substantive amendment that I have lodged in this group. It seeks to bring in those who have direct experience of actually being in educational establishments that are the subject of inspection by HMIE. Those are primarily schools, so it would therefore relate primarily to pupils in schools and to teachers, but also to college lecturers and college students. Amendment 78 also seeks to ensure that the voice of the staff in the inspectorate—the inspectors themselves and their support staff—is heard as part of the process and is represented on the advisory council.

As much as we have paid a great deal of attention to governance arrangements in other parts of the education landscape in recent years, it is fair to say that the inspectorate is a bit of a black box for a lot of people in our schools and colleges at the moment. There is a real lack of understanding about it. There is an element of a somewhat stand-offish approach, with people feeling that inspections are imposed on them, that the process is top-down and so on.

The advisory council proposals that are in the bill are very welcome. They can be strengthened, not in an exhaustive way, but by our being a bit more specific about the kind of people we wish to see as part of that advisory group.

I will touch briefly on Pam Duncan-Glancy's amendments. I would welcome it if she could explain her thinking a little. As I understand it, the amendments would replace the word "advisory" with the word "governing". However, the council would still not have any governing powers over the chief inspector. I am worried about the ambiguity that that might cause, so I would welcome it if Pam Duncan-Glancy could talk about that.

Amendment 326 mirrors an amendment that I lodged relating to the board of qualifications Scotland, and I am happy to support it.

I do not think that I will support amendment 172, which is in the name of Miles Briggs. I voted for a representative of parents and carers to be on the qualifications Scotland strategic advisory council. I am less convinced of the need in the case of the chief inspector's advisory council, but I am open to the case that Mr Briggs will make.

I move amendment 77.

The Convener: I call Pam Duncan-Glancy to speak to amendment 311 and the other amendments in the group.

Pam Duncan-Glancy: I thank the convener for inviting me to speak. I ask for two seconds to get my notes up to support my contribution.

As Ross Greer has already pointed out, my amendments in the group would change the name of the advisory council to “governing council”. This is about building a stronger, more independent and more accountable system of governance around the education inspectorate, turning it into an organisation that is trusted by the profession and the public alike. Renaming the advisory council would signal a fundamental shift from a body that advises to one that helps to govern.

This is not just semantics, although I appreciate that members might consider that to be the case. I take Ross Greer’s point about the word “governing”, but I am talking about reinforcing the independence and legitimacy of inspection. If inspection is to lead to real improvement, it has to reflect the realities of the classroom, not the corridors of government. Amendment 326 proposes that we give teaching professionals a majority on the governing council to ensure that those who are closest to learning help to shape how it is evaluated. Aside from the renaming amendments, that is my main amendment in the group.

Trust in inspection comes from transparency, credibility and the practitioner voice. The amendments take a vital step towards restoring that trust by creating a governance model that is representative, authoritative and independent. Amendment 311 would change the name of the advisory council to “governing council”, and amendments 314, 324, 325, 327, 329, 330, 335, 336, 343 and 352 are consequential.

Finally, amendment 326 would create a majority on the governing council of teachers and college teaching staff to reinforce the need for the inspection function to represent and respond to the current and evolving needs of learners, teachers, college teachers and training providers.

Miles Briggs: As with amendment 129, which was debated quite a long time ago and, with the kind support of my colleague Ross Greer, agreed to, amendment 172 would require membership of the chief inspector’s advisory council to include representatives of

“parents of children and young people receiving education in relevant educational establishments.”

I restate my argument about the positive contribution that parents make to the school community and how their expertise can be drawn on.

I do not agree with the point that Ross Greer made earlier. I think that having a parent on the advisory council can bring a lot of benefit, and I am surprised that people would argue against that. An increasing number of parents will raise concerns with the inspectorate, and my amendment will give a place to the parental voice

where it is needed and allow it to shape many of the discussions and potential reforms in the future.

I will move amendment 172. Given that the committee has rejected the idea of a parent charter, it will allow that parental voice to be heard, and I think that that is important.

Jenny Gilruth: I thank members for the amendments in this group.

Under the bill as introduced, the core purpose of the advisory council is to provide the chief inspector with advice, support and challenge, rather than to play a formal governing role. I also recognise the benefits of having a range of independent voices on the advisory council. The provisions in the bill require the chief inspector to establish and maintain an advisory council and to take independent decisions on its membership. The chief inspector must endeavour to ensure that the council is representative of those who are likely to be affected by inspection, and the provisions are intended to set a fair and flexible framework for the independent chief inspector to work with. The provisions provide the right balance: there are core requirements but they also allow for flexibility in how the chief inspector operates.

However, I agree that there are a variety of ways of achieving that, and I am open to discussing Mr Greer’s amendments 77 and 78 ahead of stage 3 to ensure that they are workable. For example, we would need to ensure that there was no conflict with regard to who appoints people to the council, given that amendment 77 specifies ministers and amendment 78 specifies the chief inspector. In addition, I am concerned that the list that is set out in amendment 78 is too prescriptive and that it could exclude some groups that are affected by the chief inspector’s work. I note that the Children and Young People’s Commissioner Scotland has expressed similar reservations. A further concern is that any provision relating to members of the council who are to be of a particular age group will have to comply with the law.

However, I believe that Mr Greer and I will be able to work together to develop a proposal that provides a level of reassurance on those specifics while still allowing flexibility for future proofing.

Ross Greer: I am grateful to the cabinet secretary for indicating her willingness to work with me ahead of stage 3 on these proposals. I would just like to test her appetite for the specific element of amendment 78 that relates to having someone on the advisory council who would represent the interests of the inspectorate’s staff. I am particularly interested in the Government’s position on that, because I think that there is broad consensus on other elements of the proposals.

When we were debating similar issues in relation to qualifications Scotland, there was not quite consensus in that regard—although the proposal was somewhat different—so I am keen to check the cabinet secretary's position, in principle, on involving inspectorate staff or those who represent their interests.

Jenny Gilruth: I give Mr Greer reassurance that I am supportive of that in principle. I will come to address that point later, actually.

Ross Greer: Oh—my apologies.

Jenny Gilruth: Ms Duncan-Glancy's amendment 326 stipulates that council membership must consist of a majority of persons who are registered teachers or college teaching staff. I cannot support that amendment, which I ask members to accept is too prescriptive and would exclude other important voices from the council.

I fully support the involvement of parents and carers in the advisory council, which Miles Briggs's amendment 172 seeks to achieve. I have some reservations that prescribing that in legislation is not necessarily the best way to achieve a balanced and fully representative council, but it would be possible to do something on that in conjunction with the changes that Mr Greer is looking to make.

Pam Duncan-Glancy: Amendment 326 is just about providing a majority; it is not about entirely filling the positions, so there would be space for others on the advisory council.

Jenny Gilruth: I recognise the point that the member makes, but I think that delivering a majority might deliver an unfair balance of voices. The advisory council is meant to be advisory and not tilted to one perspective, if that makes sense, so there is a concern that it would be, in some way, one-sided in relation to giving advice and challenge to the chief inspector.

I thank Ms Duncan-Glancy for her explanation of her amendments that relate to making the role of the advisory council that of a governing council, but I am not able to support that change. The intention behind the advisory council is to advise and to inform the chief inspector in the exercise of their duties—not to act as a governing body. I heard Ms Duncan-Glancy's points about semantics, but changing the name would suggest that the advisory council was something that it is not intended to be. That name change could be misleading and could cause confusion, particularly as no actual governance functions are being proposed.

I ask members not to support the amendments in this group. I ask Mr Greer and Mr Briggs to work with me on a workable provision in advance of

stage 3. In doing so, I am happy to assure Mr Greer that, although we must be mindful of the need to avoid undue prescription and inflexibility in legislation—to ensure that the council will remain relevant to the chief inspector's work in the long term—I accept, in principle, that the provision will involve a greater degree of specificity than is currently set out in the bill. That will include looking at how we can best give the guarantee of staff involvement that he is looking for in amendment 78.

21:00

The Convener: I call Ross Greer to wind up and to press or withdraw amendment 77.

Ross Greer: As I said, I am grateful to the cabinet secretary for the offer to work with me on my amendments. On that basis, I am happy not to proceed with amendments 77, 78 and 91 at this stage.

If Pam Duncan-Glancy were to press amendment 326, which relates to having a majority of teachers or lecturers on the advisory council, I would support it. However, I suggest that, much like our experience in relation to the discussion on the qualifications Scotland board, that amendment will not be agreed to. Perhaps, as an alternative, if Ms Duncan-Glancy wished to work with me and the cabinet secretary on finding an acceptable alternative to what I have proposed in amendment 78, we might be able to get closer towards the position that she and I share on the involvement of teachers and lecturers.

Amendment 77 withdrawn.

Amendment 78 not moved.

Schedule 2 agreed to.

Jenny Gilruth: On a point of order, convener. Amendment 73, in my name, adds a requirement for a statutory review to be undertaken on the accreditation function. I offer my thanks to Ms Duncan-Glancy for her eagle eyes on this, because, earlier tonight, I inadvertently moved the amendment and, in response, members—also, I presume, inadvertently—unanimously supported it. As I promised all members, I am entirely committed to cross-party discussions ahead of stage 3 on the location and scope of the accreditation function and the connected interest in the reviewing and quality assurance of qualifications. It is absolutely not my intention that amendment 73 pre-empt those discussions. I fully intend to remove or amend the provision at stage 3 to reflect the outcome of the discussions, and I want to put that on the record. I again offer my thanks to Ms Duncan-Glancy.

The Convener: Well, that was excellent work by Pam Duncan-Glancy—[*Laughter.*—shaming us all

for not noticing that, and I am grateful to the cabinet secretary for putting that on the record.

I will stop our consideration of the bill at this point. Members will be aware that we have not completed our consideration of stage 2. Therefore, the period for lodging amendments has reopened, and amendments in relation to section 27 of the bill onwards can now be lodged with the chamber desk between now and midday tomorrow. *[Interruption.]* I am sorry; I should have said that amendments can be lodged with the legislation team, not the chamber desk.

That concludes today's consideration of the bill at stage 2. I thank the cabinet secretary, her supporting officials, members and everyone else who was involved in tonight's meeting for their attendance. The committee will continue its consideration of the bill on 7 May.

Meeting closed at 21:02.

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