OFFICIAL REPORT
AITHISG OIFIGEIL

Education, Children and Young People Committee

Wednesday 7 May 2025

Session 6

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EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE
15th 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:

Martin Boyle (Scottish Funding Council)
Jenny Gilruth (Cabinet Secretary for Education and Skills)
Stephen Kerr (Central Scotland) (Con)
Clare Reid (Prosper)
Professor Nigel Seaton (Royal Society of Edinburgh)
Catherine Topley (Student Awards Agency Scotland)
Sue Webber (Lothian) (Con)
Martin Whitfield (South Scotland) (Lab)
Damien Yeates (Skills Development Scotland)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Education, Children and Young People Committee

Wednesday 7 May 2025

[The Convener opened the meeting at 09:15]

Tertiary Education and Training (Funding and Governance) (Scotland) Bill: Stage 1

The Convener (Douglas Ross): Good morning, and welcome to the 15th meeting in 2025 of the Education, Children and Young People Committee. The first item on our agenda is to hear oral evidence on the Tertiary Education and Training (Funding and Governance) (Scotland) Bill at stage 1.

We have two panels of witnesses with us today. I welcome our first panel: Clare Reid, director of policy and public affairs, Prosper; and Professor Nigel Seaton, fellow, Royal Society of Edinburgh. Good morning to you both.

I will kick off the questions. What is the problem that the bill seeks to address and does the bill address it?

Professor Nigel Seaton (Royal Society of Edinburgh): I am not sure that I would characterise it as a problem, but, as the information that has been provided with the bill indicates, the regulatory regime is quite complex, and regulatory regimes that are simple will probably save money and facilitate future reform. The bill is quite a technical measure, but it is a useful technical measure to prepare the ground for future reform.

The Convener: Should the reform have been done before now?

Professor Seaton: You can always look back when good ideas emerge and say, “Well, what a pity that we didn’t do it before now”. This reform could have been carried out earlier, but, nevertheless, I welcome it now.

The Convener: You will have seen some of the criticism of the bill from others, including those whom we will hear from today, but do you think that it is a good and adequate bill?

Professor Seaton: I think that the purposes of the bill are good. As you will have seen from the Royal Society of Edinburgh’s submission, we have some concerns about the implementation of it, and we see the possibility of a further reform in one area. We have commented on the bill, but, overall, we are supportive of it.

Clare Reid (Prosper): I would concur with that.

In our submission, you will see that we are broadly supportive of the bill. We see it as one step in a process of reform of the skills system. We welcomed a lot of the recommendations of the Withers review. As has been alluded to, the skills funding landscape is perhaps more complex than it needs to be, and the principles of making it more accessible for learners and more responsive to employers are good ones. There maybe needs to be more detail on how the bill is constructed and how it achieves that, which I guess we will come on to, but we certainly welcome it.

The Convener: In your submission, you speak a lot about what your members feel. You have to give a balanced view of the overall picture, but are some of your members particularly positive or particularly concerned about the bill?

Clare Reid: There are aspects of it that they would like to be clarified. Some of the issues that have come to the fore are about the bigger-picture skills landscape. To give a bit of context to our submission, I would say that the big theme and one of the biggest issues that is coming through from all employers that we work with is the need for support for all types of lifelong learning and for skills. The two areas on which we are engaging most with our members are housing and skills. Putting a bigger focus on skills is critical, but our members would possibly say that we need to see that in the wider context of the need for more support for a more diverse range of learners and for a more diverse range of workplace-based learning.

The Convener: Similar to my comment to Professor Seaton, I note that housing and skills are not new issues. They have not just come up in recent weeks or months; we have been debating them in the Parliament for many years. Do you think that we have failed to make adequate progress in those areas, if your members are still raising them as key barriers to progress?

Clare Reid: That was not something that we asked our members, so I cannot comment on that.

It is certainly the case that the needs from the landscape are changing all the time. At the moment, we are engaging with members on issues such as the big wave of investment in transmission, in construction and in renewables in the north of Scotland. That is bringing a whole new set of demands and a requirement for a responsiveness in the workforce that perhaps was not there a few years ago. The wider landscape is changing a lot of the time, but I am not in a position to comment on your specific question.

The Convener: In your submission, you say:

"Many employers do not believe that the Scottish labour market will be able to support the delivery of their future business plans and are facing immediate impacts with potential delays on their critical projects."

Do you think that that issue will be resolved through the bill and, more widely, through what you heard in the programme for government yesterday?

Clare Reid: First, the additional college funding that was announced yesterday is welcome. Secondly, as I said, the bill is an important step in the reform of the skills landscape, but it is not the only thing that is required. We have encouraged people to have a wider conversation about how lifelong learning is delivered, how we encourage a shift in mindset towards lifelong learning and how we properly fund the sector. To the extent that the bill is looking to simplify funding, make it easier for employers to access funding and, as Nigel Seaton highlighted, perhaps make some savings in the way in which funding is delivered, the bill is an important step.

The Convener: Professor Seaton, did you find that there was a great deal of enthusiasm about the bill? Was there much knowledge of it? When you asked your members for their views and opinions, did you find that the bill really got people motivated to get involved?

Professor Seaton: As I said, the bill is quite technical. It is probably perceived as being quite low key across higher education and across tertiary education in general.

The Convener: Should we seek to change that?

Professor Seaton: I am probably stepping into the territory of committee members, but it might be quite hard to get a high level of enthusiasm for bills that are quite technical and that will have quite an indirect impact in reducing costs in the medium term, facilitating reform and delivering greater coherence. Those are exactly the kinds of things that I am interested in, but I think that the wider tertiary education community, perhaps understandably, regards the bill as a facilitative measure. Perhaps that is just what it is from our perspective.

Pam Duncan-Glancy (Glasgow) (Lab): I thank the witnesses for the submissions that they sent us in advance, which were really helpful.

Professor Seaton, you note in your submission that "key metrics" could be used to determine success. What metrics should be used to show whether the bill has been a success?

Professor Seaton: I do not think that we have a view on the precise metrics that should be used, but I will outline what we mean. In the end, all of this is about the learners—any reform to tertiary education funding, regulation or governance should, in the medium term at least, have an impact on learners. My suggestion is that the metrics should include primarily the impacts relating to opportunities and clarity for learners. They should certainly focus on learners rather than on institutions.

Pam Duncan-Glancy: Regarding helping with the landscape, you mention that

"smaller, incremental changes such as alignment of approaches and processes could facilitate a smoother and more manageable reform process."

Could you give us a bit more information about that?

Professor Seaton: We are making a general point that integrating activities that have been under different umbrellas will be a major project, and it is not necessarily obvious that the way to do that is to make a big transformation and then work out everything within that. Quite naturally, this point has not arisen in our discussion of the bill, but, should the bill be passed, there will be a need to construct a project that will consider the right way to do that. We think that some sort of incremental approach should at least be considered.

Pam Duncan-Glancy: Should that be done as well as the bill or instead of it?

Professor Seaton: It should be done as well as the bill. We are supportive of the bill. The bill gives the desired outcome in relation to organisational change and a direction of change in relation to the impact on learners, but project planning comes in after that.

Pam Duncan-Glancy: Clare Reid, do you have any comments on those questions?

Clare Reid: We did not comment in our submission on the key performance indicators or measures per se, but we highlighted two points. One is whether the transition is perceived to be smooth. That would be based on the experience of both learners and employers, and whether they feel that business as usual is being disrupted, and whether, on the measure of employer engagement and satisfaction, employers feel that they are seeing more responsiveness or feel that their views are more represented as part of the process in addition to the views of learners.

Pam Duncan-Glancy: Do you think that the bill as drafted will increase the likelihood that more people will undertake apprenticeships?

Clare Reid: That is a great question; we hope so. Prosper is very supportive of the whole apprenticeship family, and we have seen huge success in the take-up of graduate

apprenticeships in particular, so we would be keen for that to be a more mainstream option.

I also go back to my earlier point. Whether an individual employer decides that an apprenticeship is the right thing for them slightly depends on the circumstances. You will see in our submission that we have highlighted the need for more flexible forms of funding in addition to apprenticeships in order to respond to the needs of some employers who are not in a position to take on apprentices.

The answer to your question is yes, but it is a wee bit more complex than that. We would like the bill to be a step on the road to having greater responsiveness to learners and employers, and greater flexibility in responding more quickly to changing skills needs and bringing forward more lifelong learning options.

Pam Duncan-Glancy: Would anything in the bill need to change to make that happen?

Clare Reid: Some of our recommendations are more about governance and the proposed apprenticeship committee. We have recommended that the proposed committee's remit be broadened to include all types of skills and learning, and that it should have greater representation from regional employers as well as national representation from trade associations and skills bodies. We also recommend that there should be a stronger statement of the Scottish Funding Council's duties to engage meaningfully with employers and learners as part of that. Our recommendations are more about the detail of how we make that happen in practice than the broader aspects of the bill.

Pam Duncan-Glancy: My final question is on graduate apprenticeships. Do you think that there is anything in the bill that would help to increase the numbers of enrolments in graduate apprenticeships, or should anything be done in that regard outwith the bill?

Clare Reid: More broadly, increasing awareness would help. Something could be done, perhaps not in the bill itself but outside it, to build more awareness of graduate apprenticeships as an option, and there could be more funding to support that type of learning.

Pam Duncan-Glancy: As opposed to other types of learning in higher education or in addition to those?

Clare Reid: In addition, so that graduate apprenticeships would become a more mainstream option alongside other types of apprenticeships and learning.

Pam Duncan-Glancy: Sorry—I said that that was my last question, but I have a brief follow-up. Have any of your members described what they think the implications of that would be and what would need to happen for them to be able to do that?

Clare Reid: Are you asking specifically about graduate apprenticeships?

Pam Duncan-Glancy: Yes.

Clare Reid: No, we have not seen that in evidence from our members, including in the evidence that we have collected on the bill. Part of the reason is that much of the broader evidence that we have had from our members is about the reality of what they are seeing in the workforce. The workforce is getting older, and it is quite diverse; the First Minister spoke in the Parliament last week about inactivity and the people whom we need to help to bring back into the workforce.

There is a desire among our members for a system that has a number of different career pathways and ways to support learners, whichever stage of their career they are at and whichever industry they are trying to get into. All the apprenticeship options are a key part of that, but they are not the only part of the bigger solution.

John Mason (Glasgow Shettleston) (Ind): From some of the evidence that we have had, we get the impression that the relationship between Skills Development Scotland and business and industry has been quite good, but there is some nervousness in some circles that that will be disrupted. For example, the UK Fashion and Textile Association said:

> "Historically, the SFC has been more focused around research and academia but if also taking over from SDS they need to hit the ground running in terms of being employer facing."

Is there a concern that the SFC will struggle to have as good a relationship with industry as SDS has had?

Either of the witnesses can answer that.

09:30

Clare Reid: I do not think that there is a specific concern about the SFC's abilities or capacity, but given that it has historically had more engagement with the university sector than with employers, we have made recommendations about the structure of the apprenticeship committee, how meaningful engagement happens and the skill set of the board. On-going and meaningful engagement with employers will be a key part of that.

John Mason: One of my colleagues will ask you more about the committees later on. I was asking more about the general relationship.

Clare Reid: I suppose that there are two concerns. One is about making sure that the SFC quickly takes on the responsibility to be more engaged with and to have a really good

understanding of both sides. Organisations such as ourselves and others will be very happy to enable that, either through that committee or through other functions.

There is also a concern that a shift towards more work-based learning erodes the focus on or support for the research and innovation side, which tends to be more linked to the universities. It is about maintaining the balance: bringing new skill sets into the organisation while not eroding the expertise that is already there.

John Mason: Okay—thanks.

Professor Seaton, you said that simplifying the landscape is a good thing, and I am certainly in favour of that. Are there risks to doing that? The SFC's staff numbers will grow dramatically. Will it be hard for it to get right the balance between the university-college side and the apprenticeship side?

Professor Seaton: I think that the SFC will succeed if it realises that that will be hard to do. I am sure that it will realise that that is hard, because it is integrating a different stream of work, new responsibilities, changes in governance, a new committee and cultural change. We all know that cultural change is important, but it is quite hard to describe cultures and to get them to change. It certainly must not feel like a bolt-on of a new activity.

Making all such changes is quite difficult. I know that the SFC will recognise that and I am sure that it will focus as much on the cultural change as on the organisational change. If it does that, I think that it will work fine.

John Mason: A lot of staff will be moving from SDS to the SFC, but that might not change the culture of the whole organisation, or is it inevitable that that will happen?

Professor Seaton: No. Making cultural change is probably the hardest thing to do in leadership. As I said, it is hard to describe and it is hard to change. In a sense, it changes itself. I am sure that SFC will have in mind the need to mainstream the new activities so that, after a while, they are seen as being absolutely core and as natural a part of the SFC as the activities that are undertaken now. I am sure that the SFC will recognise that it is a challenge and that it will rise to it.

Ross Greer (West Scotland) (Green): The SDS submission makes interesting points about the proposed new definition of an apprenticeship in the bill. Essentially, is it based on—it is certainly aligned with—the one that the Scottish Apprenticeship Advisory Board settled on in 2019.

However, there have been quite a few developments since then. The board has done a lot of work on the definition of an apprenticeship to make sure that there is alignment with Scottish Credit and Qualifications Framework Partnership qualifications, for example.

That concern about the definition has not particularly been reflected in the submissions from external organisations that I have seen—the focus is much more on the definition of a private provider. I would be interested to hear whether the RSE or Prosper have a view on the definition of an apprenticeship and whether you think that what is in the bill is adequate to capture that, or whether we should take a more comprehensive approach or perhaps set more specific standards.

Clare Reid: We have not had any feedback on that; the issue has not been highlighted to us. It might be too technical for some of our members. We would be content with the recommendations of SDS and others who are perhaps closer to some of the detail of how apprenticeships are structured.

Ross Greer: Is that the same for RSE?

Professor Seaton: I do not have anything to add.

Ross Greer: In that case, I will come back in on later themes, if that is okay, convener.

Jackie Dunbar (Aberdeen Donside) (SNP): Good morning, and thank you for attending. The responses to the call for views were generally supportive of the proposals to move support for further education students to the Student Awards Agency Scotland. What do you see as the main impacts of that change?

Clare Reid: Just to clarify, are you asking about student support moving to the awards agency?

Jackie Dunbar: Yes—to SAAS.

Clare Reid: I guess that the main opportunity is about streamlining, bringing everything together in one place and making it more accessible and clearer for learners to understand where the support is potentially coming from.

Did that answer your question?

Jackie Dunbar: I wanted to know whether you feel that there are any positive or negative impacts of streamlining the process so that it is under one body.

Clare Reid: In our original response post-Withers, we suggested that everything should come under the SFC, but we are equally content with the option that has been settled on, because it still brings consistency and clarity, and it is potentially less disruptive than bringing everything under the SFC.

Jackie Dunbar: Professor Seaton, do you have any views on that?

Professor Seaton: I am conscious that I said something similar before, but straightforwardness is a virtuous thing. If the process can look as integrated as possible to an outside observer, especially to learners who might benefit from it, that will make it easier for them.

Jackie Dunbar: Okay—thank you.

Willie Rennie (North East Fife) (LD): My question is for Clare Reid. Some, although not all, of the businesses and business organisations that I speak to are pretty angry about what is happening. They think that they are going to lose two things. One is business or employer involvement in the organisation that is responsible for the funding. Secondly, because they see that the university and college sector is under financial stress, they think that funding will be diverted away from apprenticeships. I am puzzled as to why your members are not reflecting that wider concern that I am picking up.

Clare Reid: The concern about the university sector is part of the concerns about maintaining support for further and higher education, as both are critical parts of our skills system. The specific question whether bringing the funding together will divert it away from one has not come up, other than the point that I have made about the committees, which I know—

Willie Rennie: That has not come up with your members?

Clare Reid: That broad point has not come up, but our members have been keen to ensure that the employer voice is there to ensure that work-based learning, which comes back to apprenticeships, is represented. To be honest, one of the biggest themes that came across was about the pace and scale of the changes. Our members see the potential disruption of the changes and are concerned about how long they might take to be put in place and what will happen in the interim. Our members really want support on adapting skills now. They want the upskilling programmes for the renewables sector, the construction sector and the defence sector now. Probably the main thing that has come across is just the—

Willie Rennie: Do they see the process as a bit of a distraction?

Clare Reid: It is potentially a distraction. It might be a good thing in the long term but, in the short term, it is not addressing any of the other questions that they have about starting to upskill people. The issue is not only about funding; it is about changes that the process will potentially allow.

One thing that came out in our research was that the evolution of the apprenticeship system has been welcomed, but there are areas where it could go further and faster and be more agile and responsive. For example, we have just done a big piece of work on housing and construction, and there were quite strong views in that. People asked why apprenticeships have to be a certain length. Could they not be shorter? Could apprentices not have more time with an employer, which would help to make the process shorter? Could apprenticeships be more modular? Could they be quicker to adapt and respond to changes in the construction sector and to modern methods and so on?

Some of the frustration was about how our members can get their views across and how quickly the system responds to those. However, that is a question for how the system operates now and for the SFC in the future.

Willie Rennie: You would have thought that the people who are in charge of the organisation—the decision makers; in other words, the critical people who consider such things—might be slightly distracted by such a big change.

Clare Reid: The challenge is for smaller employers. A lot of the really large employers are working with Skills Development Scotland. For example, we ran a skills summit—

Willie Rennie: I am sorry—I am talking about the people in SDS who would be transferred over. Surely they would be distracted by thinking, “Will I have a job next month?”, “Where will I be?” and “What will my terms and conditions be?”, instead of focusing all their efforts on trying to do the things that you are talking about.

Clare Reid: That has been a concern since the beginning of the Withers review, but it is acknowledged that it is an option for the system to change, and that some of the change that could come could be beneficial. The pace at which change is happening has been quite slow. Meanwhile, the world has moved on.

Working with the enterprise companies and Skills Development Scotland, large employers have made big investments to put in place training programmes that will happen sooner rather than later, which might not be accredited. The people who are perhaps losing out in the short term as the change takes place are smaller employers, who are no longer able to benefit from the flexible workforce development fund.

Willie Rennie: Nigel, you are not responsible for the Funding Council, but you have a significant background in and significant knowledge of that sector. With the fire that is going on in higher and further education funding—I am referring to the likes of the situation at the University of Dundee—do you think the SFC has the headspace to be able to do this?

Professor Seaton: It is important—particularly given the circumstances that you have mentioned—that any such change is properly funded. I am not necessarily talking about more money being provided to the organisations; rather, I am talking about people being required and empowered to make the change. When people are busy, you cannot just go to them and say, "We're having an organisational change. By the way, could you think a bit about cultural change?", because they will be busy doing other things.

As you have pointed out, the workload in certain areas of the Funding Council's work will have increased because of what is happening in the organisations for which they are responsible. If the bill is passed and implemented, a discussion will need to be had about who will do what in the organisation and the associated cultural change.

My other observation is that the process will not be quick. With any such change, there is a risk of declaring victory too early. People think that, because they have a new organisational chart and new processes, that is it, but it is not it. The process of making this change work will be a long one—I guess that it will take several years—and people need to have the time to do it. It is possible, but it is not possible if everybody who is responsible for making the change is working like mad doing something else.

Willie Rennie: I will come back on one of those points. Does that not slightly push against what Clare Reid expressed a desire for, which was pace, in order to make sure that we can get on with dealing with the substance rather than the structure? If you are saying that the process will take time, does that not undermine the solving of the very things that Clare wants to solve?

Professor Seaton: I agree with Clare that the change process should be undertaken as quickly as possible. However, with such changes, there is a risk that the changes that are most evident, which are those to do with organisational change, changes of responsibilities and new jobs, are seen as being the end of it. That is an important milestone, which allows you to start doing things in different ways. I agree with Clare about that.

However, there is also the question of what follows from that, which is the process of producing a culturally integrated organisation. We have discussed many of those topics already. That involves making sure that effective employer representation is ingrained in what the SFC does, rather than employers simply being represented on a committee, which will take longer.

I would say that there needs to be rapid action by people who are empowered to take it and have the time to do so, as well as recognition that the process of getting it all done will not be a quick one.

Willie Rennie: Earlier, you made a point about the need to have the proper resource to get the right people with the capacity to deliver the change. From your knowledge and experience over the years in various sectors—the public sector and the university sector—do you think that that is going to happen? From what you have seen before, do you have much confidence that the process will be properly resourced in that way?

09:45

Professor Seaton: Having worked in different organisations, mostly in higher education—this is a general comment, not a comment about the SFC—I see that there is a tendency for people to be expected to do something new and to be involved in a change process as well as doing their day job.

That is natural, because the skills that they need to reform the way in which things work in their area of expertise are the same, more or less, as the skills that they need to do their day job. I would even go so far as to say that the most natural thing is for that not to be properly resourced, because that is the way that it happens in those organisations.

As I said, I am not commenting specifically on the SFC, but organisations in which I have worked, even at senior level, were looking back and saying, "We should have resourced that better." It is difficult and tricky to do that in a situation where public funding is scarce and there are other priorities, but not doing so is a well-trodden route to incomplete, or not very successful, implementation. The SFC will need support, and will have to proceed in a way that empowers and allows managers to do what they need to do to make it work.

I am rambling on a bit now, but that is a common pitfall, and the SFC will need support to ensure that it does not fall into that pit.

Willie Rennie: You both started the session by being quite positive about the bill, but you are getting more negative as you give your answers. Is that a fair representation of where this is going?

Professor Seaton: We are responding to the questions. The devil is in the detail, and with any activity like this, it is quite hard to achieve the desirable objectives in practice. As we talk more about where the disadvantages and difficulties might lie, you are perhaps picking up a slightly more cautious tone, but that does not change the fact that we are supportive of the bill.

Clare Reid: I would not disagree on that point—I do not feel any more negative—but you are

asking the right questions. Organisations are made up of people, and that is often where implementation falls down, but that does not mean that having the right strategy, and—as Nigel Seaton said—viewing the bill as instigating a long-term cultural change and having a plan for that, does not help to mitigate some of the risks where things can go wrong when such integration happens.

The Convener: On that point, have the bodies that will be involved, and indeed the Scottish Government, learned enough from past mistakes? Professor Seaton, you said that history is littered with examples of where more funding and better resources could have been allocated. Are we in Scotland—the Government in particular, and the bodies involved in the bill—good enough at learning from the mistakes of the past?

Professor Seaton: I will make a couple of comments. First, I do not think that any organisation anywhere is good enough at learning the lessons; I cannot think of any exemplar organisations that always get it right. I am sure that we in Scotland collectively, including the Scottish Government and all the organisations operating in Scotland, are in the same category, in that we can always look back at the past and learn lessons, and do things better in the future.

The Convener: I understand your answer, but we are scrutinising a bill, and you, as our first panel of witnesses, are saying that funding and resourcing are concerns. You are saying, from your vast experience, that there is a legitimate concern that the bill, if it is passed, will not be resourced properly and that we will meet the same pitfalls as we have in the past. What can the Government or these bodies do to reassure you that this time it will be different, or is it impossible to get that reassurance?

Professor Seaton: The reassurance comes in the doing. I do not want to give the impression that I think that the record in Scotland is worse than elsewhere; it is difficult everywhere.

In connection with that, and in relation to my earlier point about resources, I am not necessarily suggesting that the SFC would have to be given additional resources for the bill, but those will have to come from somewhere. There might be things going on in the SFC, or things that are currently going on in the relevant part of SDS, that are less urgent or important, and which could be postponed to release resource for implementing the bill. I am not simply talking about adding more resources to the organisation, but in one way or another, that issue will have to be handled.

John Mason: I will follow on from Willie Rennie's line of questioning. In its submission, Skills Development Scotland specifically said:

"the SFC is empowered to fund apprenticeships, however it is not legally required to do so".

There is a concern that it could go either way: the SFC might focus too much on colleges and universities and not enough on apprenticeships, or vice versa. Does there need to be something in the bill—such as ring-fenced money—to direct the SFC a bit more in that regard, or can we leave it to the SFC to get it right in the doing, as you said?

Professor Seaton: I think that you should leave it to the SFC. We mentioned employers' concerns. I have spent most of my career in higher education and have heard those concerns in similar contexts. People who are running colleges are worried that universities will receive too much of the funding, and people who are running universities are worried that colleges will get too much of the funding. It is natural for people to be concerned about that, but ring fencing funding would disempower the SFC to do what it needs to do in order to implement public policy. The SFC needs to keep everyone on board and ensure that everyone feels as though they are being treated fairly, which is a challenge, but it must have the authority that it needs to take decisions. From time to time, that will involve moving resources from apprenticeships to colleges, from colleges to apprenticeships, and from apprenticeships to universities, or vice versa, in furtherance of public policy. That is what the SFC should be doing. I would not ring fence anything.

John Mason: Ms Reid, are you as relaxed about that as Mr Seaton?

Clare Reid: I tend to agree. I made a point at the start that, in the long term, our members would like the system to be agile and responsive to a changing workforce and changing industries. The system needs to have options that meet the needs of learners as well as those of employers at different points in time. Rather than mandating one type of qualification or learning pathway over another, the system needs flexibility. That said, we support all parts of the apprenticeship family, but I agree that, as the workforce changes over time, we need flexibility.

John Mason: Another aspect of financial sustainability is that the SFC needs to identify at-risk institutions. My understanding is that it already has that ability, but that that will now be put into statute. The committee has looked specifically at the University of Dundee, where the SFC did not seem to pick up quickly that there was a problem. Does the bill go far enough in that area, or do we need to do more?

Professor Seaton: My reading of the bill is that it is not specific about how that should be done. I admit that, until I read the bill, I had not realised that financial oversight was not a statutory

responsibility but, clearly, it should be—that would clean it up. It would then become a question of designing the regime. I am not an expert in that, but lessons can clearly be drawn from the institution that you mentioned. There are other examples and lessons to be learned from England. The funding arrangements there are somewhat different, but without capped student numbers, the fluctuations in income, although large in Scotland, are much larger in England, so there is quite a bit of experience there, and I am sure elsewhere, of identifying and dealing with universities that are in financial difficulty. The design of the regime will be important, but the RSE certainly supports the change and making such oversight a statutory responsibility.

John Mason: Do we leave it to the SFC to work out the regime? There seems to be an expectation that colleges and universities will come to the SFC to say that they have a problem, although, clearly, some of them have not done that in the past. On the other hand, the universities are saying, "You shouldn't be interfering in parts of our work where the research is separately funded." It seems to me that we need a balance somewhere.

Professor Seaton: Yes, there needs to be a balance. I am going beyond what we have discussed at the Royal Society of Edinburgh. At the moment, it is about answering questions and reporting. It is not simply a question of waiting for universities or colleges to say that they are in difficulty. There needs to be a regime in which the SFC can ask tricky questions and expect those questions to be answered, as well as institutions going to the SFC to say that there are difficulties.

That relates to the question about giving recommendations, which is in the same part of the bill. The critical thing is that one should give advice and ask tricky questions always in the context of institutional autonomy. Of course, autonomy is not the same as independence. Universities and colleges are very far from being independent—they are highly dependent on the funding and regulatory regime of the SFC—however, they should be free to take their own decisions within that regime. Inquiries into finances and the making of recommendations should be done in a way that informs the SFC to give advice where it is needed, but at the same time does not unnecessarily impinge on the abilities of the university to operate autonomously within that framework.

John Mason: The problem is that if they are autonomous and make the wrong decisions, they come back to us and want to be bailed out.

Professor Seaton: That is the problem. As I say, this goes beyond the discussion that we had on this topic at the RSE. Financial monitoring must be sufficiently intrusive, if that is necessary to get the required information. There has to be an ability to constrain universities. Autonomy is based on the idea that universities operate within the framework, and the framework requires the university to remain solvent and fulfil its obligations to the Scottish people and to the SFC. If they are not doing that, there needs to be some sort of intervention.

John Mason: Does the SFC have sufficient powers, or is it more a question of how it uses the powers? The Educational Institute of Scotland feels that the SFC has not used its powers as much as it could have done. Is that more about attitude and culture?

Professor Seaton: The change is important, because it makes monitoring a statutory responsibility, but it is a change that reflects what is already a generally understood responsibility. Therefore, the change will primarily be in the practice, not in the effect of the legislation.

John Mason: Thanks. Ms Reid, do you have anything to say on that?

Clare Reid: I agree with a lot of what Nigel said. We would encourage the effective resourcing of part of the SFC to allow it to deal with that matter specifically, in the way that Nigel highlighted. That could involve reallocating some of the staff who are being blended, in order to look at that issue in particular. One of the consequences of undertaking greater scrutiny and asking for more information is the question of what you do with the resulting information. You need to be prepared for how that monitoring function will work and how you resource it internally.

Our main bit of feedback was that monitoring should not be a distraction from the other changes that are being made and that, where possible, resource should be allocated to address the issue.

John Mason: Has that been the problem for the SFC in the past? Has it just not had the resources to do the work?

Clare Reid: With regard to Nigel's point, monitoring has perhaps been less of a pressing issue, given some of the challenges that we have seen in universities more recently. I agree that, culturally, it has become much more apparent that there is a need for that scrutiny. Therefore, I imagine that it will change in the future.

John Mason: Thanks.

Bill Kidd (Glasgow Anniesland) (SNP): Thank you both for taking on board the background to the different questions that you have been asked, including many on the SFC.

I hope that my question is not as difficult as it sounds. What is your assessment of the bill's proposals to change the membership of the SFC, including the terms of reappointments and in

relation to the skills and experience of members, and to introduce co-opting powers for the SFC?

Professor Seaton: We support the change, which is necessary. There has to be more diverse representation on the board to reflect the broader focus of the Scottish Funding Council. The Royal Society of Edinburgh also supports the possibility of co-opting more members so that broader skills can be brought in for a period if that is necessary.

As you will have seen from our written response, we have a concern about the tenure of the SFC board roles. Rather than being unlimited, we would wish them to be limited, which we regard as good practice. That is a reservation but, in general, we support broadening the skills mix of the SFC board.

10:00

Clare Reid: We agree, but there are a couple of points to make. It would be helpful for any new appointees to have a skill set around financial due diligence and so on. One concern was about the intention, not necessarily to expand the size of the board, but to increase its diversity, and we wonder whether that would be a little restrictive in terms of bringing real diversity of insight from employers and learner representatives, for example, on to the board. We encourage a bit more flexibility around that.

Concern was expressed about funding for colleges being squeezed by the fact that the SFC has traditionally had more support for universities, but the alternative is also a risk in relation to focus. One of our proposals was to ensure that someone with research and innovation experience chairs the board's research and knowledge exchange committee and is also the vice-chair of the main board in order to retain that expertise and link to the university sector.

Bill Kidd: That is very positive. Thank you very much indeed.

Miles Briggs (Lothian) (Con): Good morning. As we have touched on, scrapping the Scottish Apprenticeship Advisory Board, as the bill proposes, presents many questions. I go back to a point that you made, Clare Reid, on further involvement from regional employers. How would you see an apprenticeship committee working, if one is established within the SFC? What role would industry play in that? I have specific concerns in relation to where private training providers who provide certification and registration would sit in that structure. I put that question to you again. What is your understanding of what that structure would look like?

Clare Reid: It is for the SFC to design and request views and feedback on the specific make-up of the committee, but we support it in two senses. It perhaps needs to look beyond just apprenticeships—I make that point again—and it needs to be representative of a range of employers, which could be key employers in different regions around Scotland. It is likely to reflect key sectors in Scotland. It may also include representation from key skills bodies and key trade bodies. We would like to get that kind of diversity, and we would certainly like to ensure that there is regional representation. As I mentioned before, Skills Development Scotland is doing some work in the north of Scotland. There are huge economic opportunities and associated skills needs connected to all that activity. That is a great example of the elements that we would need to ensure are properly represented in any make-up of a new committee. We would need to ensure a diversity of some of the large employers but also the key regional representatives. Prosper has regional committees; it is about the kind of structure that ensures that a mix of locations, sectors and particular key skills areas are represented.

Miles Briggs: Could another approach be to look at reforming SAAB? Any potential transition period raises concerns, and some of the things that you suggest could be included and taken forward by reforming SAAB, rather than almost throwing the baby out with the bath water as we transition. I take on board what you say about the economic opportunities that are coming, but we know about those and we see that different sub-committees have been working on some of that already. Those concerns, which I think that we are all hearing about, are taken forward without a completely new organisation having to set up the expertise.

Clare Reid: Do you mean not progressing at all with the reforms that are proposed in the bill? I am not sure that I understand the question.

Miles Briggs: The Scottish Apprenticeship Advisory Board is to be shut down, but we have no details of what will replace it. It has a key function in looking at the skills that we should be developing and having a voice about those.

The problem on the table is that we have 25,000 apprenticeships when 40,000 could have been delivered. Focusing on why that is, and the resources needed, seems to have caused a completely new restructuring, which will not necessarily help to deliver a solution to the problem of resourcing for apprenticeship places.

Clare Reid: All that I can do is share the view of our members, which is that we welcome a committee that includes looking at apprenticeships, but we would like it to have a broader perspective on skills and workplace-based employment and we would like it to be

representative of all the areas in the Scottish economy in which there is demand for skills. A reconstitution of the advisory board into something that reflects where the Scottish economy and skills are going is not necessarily a bad thing. However, we would welcome more detail and the opportunity to input ideas and feed back on it.

Miles Briggs: The bill has no targets or minimum levels of rights, either for apprentices or for employers. Is that something that your members have highlighted and fed back to you on?

Clare Reid: Would you mind saying that again?

Miles Briggs: The bill does not include any targets for apprentices or set minimum levels for service agreements, for example, for either apprentices or employers. Have your members raised that aspect?

Clare Reid: We have not had any feedback on that. It goes back to the earlier discussion about retaining flexibility. There is demand for apprenticeships, but it is key to have the flexibility to adapt both what is there and the mix of learning pathways, in order to respond to what employers need.

Joe FitzPatrick (Dundee City West) (SNP): I have some questions on what the bill says about the designation of private providers. On one hand, we heard in our call for views that there is potential for the bill to encourage growth in the number of such providers. On the other hand, some concern has been expressed that perhaps the bill is not as clear as it could be about the checks and balances that the providers would be subjected to in relation to student support. Do you have views about that?

Clare Reid: We did not get feedback on that from any of our members. Primarily, we got feedback on the non-private providers.

Professor Seaton: We had some discussion about it. The definition of a private provider was not clear from the bill, but it was clarified in the explanatory notes that were provided. We had that doubt, which was resolved when we saw the notes. Our principal concern was one of definition.

Speaking personally, if the objective is to open opportunities for apprenticeships in a range of subjects and for a wide range of students, then it is probably a good thing to have a broad definition of a private provider that might be able to contribute. It did not come up in discussion at the RSE.

Joe FitzPatrick: Do you have any thoughts about the concern that there is a lack of clarity about the responsibilities of those private providers to the students?

Professor Seaton: That did not come up in discussion at the RSE.

Joe FitzPatrick: Okay. Thank you.

George Adam (Paisley) (SNP): Good morning. I have the pleasure of asking you this question: is there anything else that should be in the bill or that we should consider? We have talked about a lot of things today—we have gone from one end to the other. Is there anything specific that either of you believes should be in the bill, or is there anything else that you want to say before you go?

Professor Seaton: The RSE submission briefly mentions the role of the tuition fee that SAAS provides to universities. It is part of the funding of an institution for teaching activity rather than student support, and it now sits within SAAS. It is a smaller proportion of the total university funding for teaching than the other funding that comes directly from the SFC. In the RSE's view, however, it is, if not anomalous, an unnecessary complication for the funding of the teaching activity to be split between SAAS and the SFC.

Our proposal is therefore that, as the pieces are moved around from place to place and from public body to public body, consideration should be given to moving the tuition fee element of university teaching funding from SAAS to the SFC. At first glance, that would not change anything—it would change only which organisation is responsible for it. However, integrating the responsibility for those two elements of funding for university teaching would facilitate future reform, should that be desired. That is one further element that we saw as an opportunity for changing responsibilities within this set of public bodies.

Clare Reid: The only point that I would make is one that I have made already. We should think about all types of work-based learning, not just apprenticeships, as our needs as learners change, and we could have an ambition for more lifelong learning as part of what the change can bring for all learners in the workplace.

George Adam: That is where some of the confusion comes in. Joe FitzPatrick and I were talking about this earlier. We come from backgrounds where, if someone has been an apprentice, they have a trade and people say, "Oh, he's okay—he's got a trade." Someone who is a lifelong learner does not have the same kudos among those from our background as someone who has gone through an apprenticeship.

Clare Reid: That is understandable, and there is still a strong desire among many learners to undertake apprenticeships. As we have said, we have seen a big increase in demand for graduate apprenticeships, so we could certainly have many more of those.

We are certainly not advocating for not enabling people to be accredited for their learning. I guess that it is about recognising that the workforce is changing—

George Adam: There is more flexibility for the employers to get what they want—is that what you are saying?

Clare Reid: It is about providing more flexibility for employers and learners. A lot of the shifts in thinking, including in the university and college sectors, have been around different ways to learn and to enable learning that allow for different styles of learning and enable people to meet the different needs of employers. For example, for work on a building site, there is a specific structure to the way in which an apprenticeship will happen, but it is very different for someone who is undertaking an apprenticeship in a service-based organisation or in healthcare, for example.

There is a lot of evidence that younger people are learning via YouTube, so there is also informal learning. The ways in which people are learning and the ways in which jobs are being learned—the type of workforce that we have and the ways that they will learn—are all changing. We need to be mindful of that and ensure that the system is supporting great qualifications, including apprenticeships, and that it is also flexible enough to allow for other, equally important types of learning, which could be already accredited or are yet to be developed.

The Convener: The Prosper submission discusses how apprenticeships work in England, particularly with regard to the flexible workforce development fund. Given that we have different approaches across the UK, are there models, or examples within models, that we could adopt from other parts of the UK that would benefit how we deliver apprenticeships in Scotland?

Clare Reid: One big change that is coming is the growth and skills levy. The intent that has been set out for that is about making the apprenticeship model more accessible to small and medium-sized enterprises and thinking about how it can be more responsive to local need and future proofed, given how quickly skills and employers' needs are changing.

There are some really good principles in there, so we have encouraged the Scottish Government, when it comes to think about the subject, to respond to that and consider how it might bring forward such a scheme in Scotland. There are opportunities to address similar principles in a Scottish scheme.

The Convener: Professor Seaton, do you want to come in?

Professor Seaton: That is quite a distance from my area of expertise, so I do not have anything to add.

The Convener: I thought that you might have had a wider discussion about that when you were discussing the bill. Did you look at examples elsewhere in the UK or wider international examples?

Professor Seaton: Do you mean in connection with apprenticeships?

The Convener: Yes.

Professor Seaton: I regret to say that we did not.

The Convener: I know that there is only so much time for fellows to discuss such things.

10:15

Pam Duncan-Glancy: I have a slightly different question, if that is okay. We have heard about various different models. What does the panel think the role of colleges is in all of this?

Professor Seaton: It is a short question, but it could have a very long answer. It is welcome that the bill creates a spectrum, from apprenticeships to degrees and higher degrees, and includes the idea of lifelong learning for people of all ages. Sorry—I am waffling slightly.

Colleges are central to the provision of skills, as that is understood in apprenticeships, and also to preparation for higher levels of study—with people potentially going on to university—through higher education programmes such as the higher national certificate and the higher national diploma. They are particularly important in facilitating social mobility among groups who are underrepresented in higher education. I see colleges as being integral to the whole thing, if that makes sense.

Clare Reid: I absolutely agree. You will have seen in this document and in other skills papers that Prosper has put forward that we support a strong college sector and a strong university sector as part of an education system. They are critical to the provision of vocational education, and some fantastic schemes have come up recently. I was looking at the work that is being done in Forth Valley College on welding and virtual welding. Colleges play a really strong role there.

We have been looking at examples around the country, and colleges are key partners in some of the partnerships between Skills Development Scotland, local employers and training providers. The university sector is sometimes also involved, but it is often the colleges, particularly with shorter and more focused courses. They are absolutely critical.

The Convener: Thank you, both, very much. You have kicked off our evidence session on the bill. We will have further sessions today and in the future, which I am sure you will be keenly interested in. Thank you also for what you submitted in advance of your answers today.

I suspend the meeting for about 15 minutes.

10:17

Meeting suspended.

10:30

On resuming—

The Convener: I welcome our second panel of witnesses today on the Tertiary Education and Training (Funding and Governance) (Scotland) Bill. We have Martin Boyle, chief operating officer at the Scottish Funding Council; Damien Yeates, chief executive of Skills Development Scotland; and Catherine Topley, chief executive of SAAS. Thank you for your time.

We will go straight to questions. I am not sure whether you were all here for the earlier session but, in answer to my first question, the witnesses told me that there is not a problem, but they would answer the question anyway. I will stick with the word "problem", because I do not believe that, in the final year of a parliamentary session, a Government would be dealing with an issue if it did not think that there was a problem to solve. What problem does the bill seek to solve? Does it solve that problem?

I will go to you, Mr Yeates, just because you are looking at me.

Damien Yeates (Skills Development Scotland): The SDS board has been grappling with that question. The board has identified two significant opportunities and risks. One is about Scotland's workforce. We have the immediacy of skills shortages today, but the likelihood is that those skills shortages will be exacerbated. Over the next 10 years, we can see that £230 billion-worth of spend could come into Scotland via shipbuilding, building out the electricity transmission and distribution grid, construction of offshore and onshore wind and so on. We need 1.1 million workers to unlock that £230 billion, so the chair and the board are very pressed about the immediacy of that issue.

The second issue is about the value of our higher education sector, which is in significant crisis and needs urgent attention. We need to develop a long-term strategy to protect the value of that sector in driving forward the economy.

In its submission, the SDS board questioned whether it makes sense to spend potentially £30 million on transition costs to move £100 million—a single apprenticeship fund—from SDS to the funding council, when today we have pressing issues that need attention and focus. In that regard, it almost feels as if the purpose of the bill or what it was intended for were conceived in a time past, and that events have overtaken that.

I led the merger of SDS back in 2007 and 2008—

The Convener: I was going to ask about that later. There are a number of questions about financing and transfer of staff and suchlike, so we will come back to that.

Damien Yeates: Right. I will stop there.

The Convener: I will bring in Ms Topley on the opening question.

Catherine Topley (Student Awards Agency Scotland): SAAS is an executive agency that sits within the Scottish Government. The purpose, certainly looking through our lens, is about the student journey. I heard the first part of the meeting, where there was discussion of institutions and organisations, but at the heart of this is the student. We must remember that the original direction that Mr Withers set out was about how it feels for the student and how the student manages the landscape of learning and funding. My understanding is that the aim is to ensure a more streamlined approach for the student.

Martin Boyle (Scottish Funding Council): We have a complex funding environment for post-school education, and the bill tries to simplify that by removing artificial barriers between vocational skills-based training and academic training. You could argue that academic training involves a lot of skills-based training, so they are all sort of the same thing.

Bringing the funding into one place will allow us to have a more holistic view of learner and employer demand and respond to learner and employer needs more efficiently and effectively. For students, it will bring funding for student support into one place, which will again simplify that for all students.

The Convener: To paraphrase what was said to me earlier, is it the case that there is not a problem and that this will just be a reorganisation, or is there an issue that the bill seeks to tackle? I seem to be getting conflicting answers at the moment.

Martin Boyle: The issue is the complexity. Things are in different places and there is not one view of the whole picture.

The Convener: Is this bill the answer to that issue?

Martin Boyle: The bill will address some of it. However, the Scottish Government has a wider

reform of post-school education on the go at the moment. There is a skills planning project—for want of a better word—which is an on-going piece of work. There are also reviews of the careers services and of apprenticeships. There are lots of different things happening at once and all that put together should help to simplify things and allow for things to be better targeted.

Damien Yeates: It is difficult for me to get my head around this. Some £2.2 billion already sits with the Scottish Funding Council and we are saying that moving 3 per cent of the funding will achieve a miraculous reduction in the complexity of the system. It just does not seem to add up. Apprenticeships—

The Convener: What is your response to that, Mr Boyle?

Martin Boyle: There are two different places that fund skills. If that were all to be put into one place, it would surely simplify the system. That one place would have a view of all parts of the system. One part of that would be having a view of apprenticeships. We already fund—

The Convener: But it would be a very small proportion of the funding that would move.

Martin Boyle: Yes, it would be a tiny part.

The Convener: Yes. Sorry—Mr Yeates.

Damien Yeates: The difference with apprentices is that they are not quite students, are they? They are employees of the companies that are developing their skills and that pay their wages. They typically pay £10 for every pound of public money that they receive. It is a different journey into the system compared to a typical student journey through college and university. There are more than 11,000 small to medium-sized businesses that contribute by offering places, so there is a natural complexity in supporting a young or an older apprentice through that system, which requires careful management. It is distinctive from a typical student journey.

Therein lies the difference. Are we moving towards a wholly academic, institution-focused system, or are we managing to get a balance? Most of what we hear from industry is that there is a recognition of the excellence in our colleges and universities but that there is also a need for workplace skills, and that we need to support employers to invest in the workforce for the future. It is a distinctive offer. We need to bring it all together.

Given the amount of money, which is about 3 per cent of the funding, I go back to the finances. Our estimate is that it could cost up to £30 million just to transition the £100 million in Transfer of Undertakings (Protection of Employment) Regulations transfers. That feels like a lot of effort for small gains when, today, there are significant skills shortages and a pressing crisis in higher education funding. The question is, what will the bill do to ensure that Scotland will have the workforce to unlock £230 billion-worth of investment? What will the bill do to give confidence to the university sector that it can thrive and continue to disproportionately contribute to growth in the Scottish economy? Both those questions feel unproven at the moment—that is for sure.

Catherine Topley: I do not want to speak for the Scottish Government, as I represent SAAS as the chief executive. I joined SAAS two and a half years ago, having come from working in the justice sector for nine years. On my arrival, I found that this is a very complex environment.

Although I do not disagree with Mr Yeates, my perspective is that education has evolved. A student is not just a student; they do not just go to school. However, neither does an apprentice just work in the workplace. The bill is intended to move towards a more bridged version of that.

You are right about the funding landscape being extremely challenging. When money is moved between several organisations and landscapes, it is difficult to know how and where to prioritise that funding and those organisations. The simplification of that funding in the bill allows a cleaner line of sight, which allows ministers to deploy it and deliver for the public.

The Convener: Another question that I put to the previous panel was whether that should have been done before now. I have heard their answers, and I accept them. Of course, we can always look back with the benefit of hindsight, but were there insurmountable blockages before that prevented the achievement of what the bill seeks to do now, or, given what you have said, Mr Boyle, about the complexities and other issues, is there a good reason why we are only doing this now, in 2025?

I think that, from what you have said so far, this is fairly straightforward. Mr Yeates does not agree with that, and certainly his board does not agree with that. Why are we looking at this now when we did not in the past?

Martin Boyle: Things have moved on during the past few years; there has been a bit of evolution. We took on the funding of graduate apprenticeships and half of foundation apprenticeships in 2021. When the European social fund ran out, we were able to step in and secure those two funds. Universities continue to deliver and grow their graduate apprenticeship offering, so we are already on that road. This is just the next step in completing that journey.

The Convener: Damien Yeates, you led SDS during the merger in 2007 and 2008. Do you want to give us some examples of what you experienced during that merger and some of your concerns that history may repeat itself?

Damien Yeates: Detail on that was written up by Audit Scotland in its good practice guidance. Structural change of itself seldom brings the benefits that we think it will, but we certainly want to have a clear sense of the measurable benefits that we are going to deliver and be accountable for. We certainly want to know the cost, and we want to be able to express the cost benefits of all of the work. The rationale for structural change should be very compelling.

I led the merger of SDS back in 2007 and 2008, and it was a challenging exercise. It took about three years to get through the process. It cost the taxpayer a lot of money, and in effect, we are now heading into almost a demerger. It feels like we are not learning the lessons of the past. Structural change is not an end point. The end has got to be what it feels like for the individual and the business. If we cannot express that clearly, and if we cannot deliver that within the tight fiscal envelope that we have, it will be difficult.

On 8 April, Professor Graeme Roy, the chair of the Scottish Fiscal Commission, said that we are now not on a trajectory towards only a £10 billion deficit in public finances—we are on a trajectory towards a £14 billion deficit.

In SDS, every pound of public money is a prisoner. We have been running a transformation programme during the past four years, and our budget has gone from £243 million to £202 million. We have reduced our headcount by 18 per cent, we have reduced our property costs by 50 per cent and we have reduced most of our back-office costs by between 30 and 40 per cent. We are working incredibly hard to reduce those costs so that we can protect the investment in apprenticeships. It feels like we are putting all of that effort in and, because of one bill, we could lose £30 million in transition costs simply to move £100 million to another agency. Will doing that impact the workforce and the skills shortages that we have, and will it impact the crisis in higher education? I do not think so.

Pam Duncan-Glancy: Thank you for the information that you have submitted in advance. I found it useful.

My first question is on foundation apprenticeships. They have played a key role not just in widening access to work-based learning but, in particular, for students and young people from socioeconomically disadvantaged backgrounds, and for others who might not otherwise have had a direct route into high-quality vocational pathways. In the evidence received by the committee, there have been concerns about how the new structure could manage the relationships between the organisations involved. Damien, could you set out the nature of SDS's current relationship with schools in delivering foundation apprenticeships? What infrastructure and partnerships have you got, and what will be needed in the future?

10:45

Damien Yeates: SDS, with the support of the Scottish Government and the First Minister, launched foundation apprenticeship some years ago.

We took the model from the Swiss system; it would be worth while for the committee to get a view on that system. Typically, between 56 per cent and 60 per cent of young people in Switzerland start their senior phase as apprentices, which is quite remarkable, given that the country has a population of about 8 million. According to the Organisation for Economic Co-operation and Development, Switzerland produces the most gross value added of any economy among the OECD countries.

It was on a visit to Switzerland that we were wondering how we could infect the senior phase of school with a better appreciation for the world of work, with it being more than just an experience for which pupils would get an academic tariff. The foundation apprenticeships are benchmarked at Scottish credit and qualifications framework levels 4, 5 and 6, which are equivalent to senior phase qualifications.

SDS, through our career services, has annual partnership agreements with every school in Scotland—that is more than 360 schools. As the committee will know, we work intensively with industry through the Scottish Apprenticeship Advisory Board, the industry leadership groups and a range of local and regional economic partnerships. We have a rich network of employers, and we have terrific relationships with local authorities. We typically have greater demand, and a supply of places, for foundation apprenticeships.

The stand-out regional local authority is probably Aberdeenshire Council, which has the most remarkable programme in Scotland. Of the 2,500 foundation apprenticeships that we support, nearly 800 are delivered in Aberdeenshire annually, with a completion rate of more than 80 per cent. It is a phenomenal programme, but it requires effort every year. It involves a different group of students and employers each year, so we have to put a lot of effort and engagement into it,

but it has been a highly successful part of what we deliver.

Pam Duncan-Glancy: What can you say about some of the outcomes for the students who have gone through that programme?

Damien Yeates: The outcomes are phenomenal. At a basic level, it is daunting for a young person to choose a career path, and the foundation apprenticeship offers a low-risk opportunity for them to see whether they want to be a technician or do the accountancy framework, or do construction or whatever. They will then at least have substantive experience with an employer of what that might look like.

The foundation apprentices typically complete 90 per cent of the first year of an apprenticeship, so if they get into an apprenticeship after the FA, they accelerate through the learning.

At a soft skills level, there are testimonies about confidence building, ability to communicate and a better appreciation for the world of work. In addition, with regard to widening access, the scheme is phenomenal. It gives people an opportunity to try something out at much lower risk.

Beyond that, one of the lessons that we took from Switzerland was the social support that comes from people in the workplace who want to see young people succeed. The scheme there attracts mentors in workplace, who say, “Oh gosh, I remember when I was that age—how can we help them and move them on?” It is a phenomenal programme.

Pam Duncan-Glancy: Thank you—it is helpful to put those comments on the record.

I have a question for Martin Boyle. What kind of relationships does the SFC currently have with local authorities and schools?

Martin Boyle: On foundation apprenticeships, our relationship is currently through the colleges—it is the colleges that have relationships with schools and local authorities. The colleges deliver at least half of the foundation apprenticeships in Scotland, and they engage schools, local authorities and others around the frameworks.

We are absolutely committed to FAs. As I said, we took them on when ESF funding ended. We did not get any funding for that; we had to embed the programme into the core funding that was already there, and we have continued to deliver those apprenticeships.

Pam Duncan-Glancy: Thank you—I appreciate that.

I am sorry to do this, but it is important that we try to tease out this question. Damien, what are your views on that particular structure?

Damien Yeates: It was really tricky. The development of the innovation involving foundation apprenticeships was supported through European structural funds, so Brexit was a disaster in that respect. We needed to mainstream foundation apprenticeships sooner. A decision was taken that half the funding would be provided through the Funding Council and half through SDS, but I cannot see a reason for that. We could have continued with all the funding coming to SDS, with the integration of the apprenticeship family being maintained.

There is a risk in that regard. Local authorities are very anxious, because we have a direct relationship with them, and I know from our engagement with the Association of Directors of Education in Scotland and the Convention of Scottish Local Authorities that they are quite anxious, because they see such apprenticeships as a high-value pathway for pupils in the senior phase, particularly given the world that they face right now.

Pam Duncan-Glancy: If the committee were interested in the outcomes from the different approaches, would we be able to access them?

Damien Yeates: Absolutely.

Pam Duncan-Glancy: I appreciate that. Thank you.

Ross Greer: I would like to go back to the convener’s initial line of questioning on the premise for the bill and the reform, which Damien Yeates and the SDS board, in essence, reject. However, in 2022, Audit Scotland published a scathing report on the lack of skills alignment. The report partly criticised the lack of leadership from the Scottish Government, but the stand-out criticism was of the inability of SDS and the SFC to work together. The report’s third conclusion was clear:

> “Current arrangements are unlikely to achieve the ambitions for skills alignment at the pace required”.

Could you reflect on that Audit Scotland report? We are three years on from the report, so have the issues relating to communication and lack of consensus between SDS and the SFC been addressed?

Damien Yeates: I think that they have. Events have overtaken Audit Scotland’s report. The Funding Council and SDS, with the Scottish Government, have made tremendous progress on skills planning, which was, I think, the nub of the issue.

In any situation in which public funds are highly constrained, there are pressures that pull on those funds. That is healthy, because we always try to achieve balance in how funds are spent.

We are very close to an announcement—I think that it will be made in the coming weeks—on our revised approach to skills planning. There are three partners. When a pound lands with the Scottish Government, it has no attachments, but the Government's priorities create the attachments for that pound. The new approach will position the Scottish Government as the lead organisation in defining the national priorities, and it will set those priorities for SDS and the Scottish Funding Council. The Funding Council will then commission provision through the colleges and universities, and SDS will commission provision through the apprenticeship programme.

As I said, in the next two or three weeks, there should be a formal announcement from the Scottish Government on the new arrangements that we have been working on for the past six or seven months, which are supported by the minister and his senior officials. The arrangements build on improvements that were made after the Audit Scotland report, so we were not in a standstill position.

I reassure the committee that there has been a lot of work in that area and that a lot of progress has been made. I am confident that there is now a much clearer understanding of where the policy priorities need to be set and how the agencies need to work together to deliver the Government's priorities.

Martin Boyle might want to comment on that, too.

Ross Greer: Before he does, I note that that is all very welcome, because the committee has, in the past, been critical of the Scottish Government's lack of clear leadership and direction on the skills agenda but, as I said, that was only part of Audit Scotland's criticism. The other part was about the lack of an effectively functioning relationship between SDS and the SFC, with poor communication, a lack of consensus and so on. Reaching consensus is obviously easier when both bodies receive the same ministerial direction. However, that aside—because it sounds as though the announcement in the next few weeks will provide a clear ministerial direction—have you addressed the issues that Audit Scotland raised about what was a dysfunctional relationship between the two bodies?

Damien Yeates: "Dysfunctional" is probably too strong a word. There was a difference of opinion in relation to the balance of spend.

Ross Greer: Yes—that is fair.

Damien Yeates: There has been terrific engagement across both organisations in support of the skills planning work. We both seconded in staff, and they have worked as a cohesive team, so I am absolutely confident.

I also make the point that there is nothing like a financial crisis to create a real focus. We do not have time to be going in divergent directions. We have very specific challenges in front of us. I have a huge amount of respect for Martin Boyle and his team, who are working day and night on the situation at the University of Dundee, which the Funding Council continues to work incredibly hard to support. We have nothing but the utmost respect for the SFC and the work that it does.

Ross Greer: Martin, what is your response to Audit Scotland's reflections and the progress that has been made since then?

Martin Boyle: I cannot disagree with Damien at all. I do not recognise some of what Audit Scotland said at the time. Day to day, lots of my colleagues and lots of Damien's colleagues work quite happily together on apprenticeships—graduate apprenticeships, foundation apprenticeships, modern apprenticeships and so on.

As Damien mentioned, once it has been delivered, the skills planning work could be a big game changer in how we ensure that the right skills are delivered. The work on that is being done by the Scottish Government, SDS and us, with others being brought in as required.

Damien Yeates: It is a great question, because it comes back to the convener's question about what we are trying to fix. I think that the work on the skills planning methodology and what will, I hope, be announced in the coming weeks could be a substantive part of addressing the original challenge. In fact, the bill is now superseded by the events that Scotland is facing and the work that has been undertaken across Government and the two agencies.

Ross Greer: Thank you. Unless anyone has anything else to add on that, I will ask just one more question, because I am conscious of the amount of time that I have already taken up.

Damien, you have touched on the issue of TUPE costs for staff. Given that what we are talking about will largely be a transfer from SDS to the SFC, do you feel that you have had clarity from ministers—I want to find out whether Martin Boyle feels the same way—on the operational arrangements for the transfer of staff and the expectations regarding costs, the TUPE element, terms and conditions and so on?

Damien Yeates: There is a lot happening, so I would not be hypercritical of anybody, but we are certainly at a point in time when a lot more work needs to be done. I think that we are all committed to doing that work. As things stand, the supporting evidence around the bill is very immature, and the

same is true with regard to where we are with the development of an implementation plan, a risk assessment, an equality impact assessment and a cost benefit analysis.

We are at a point in time when there is still plenty of time to invest to get the evidence that we need and to get to a good position with regard to ensuring that committees such as this one have oversight of that. However, there has been very little detail so far.

Ross Greer: Is there anything that could and should be in the bill that would offer further clarity in that respect? I also want to get Martin's view on that. Obviously, things such as equality impact assessments should not be in legislation, but is there a lack of clarity in the bill on the specific issue of staff transfer?

Damien Yeates: I think that the bill is underdeveloped. I know that there is a balance to be struck between primary legislation and specifics but, at the moment, the bill is very high level. It simply enables a funding move, but what that will enable is very unclear. There is a time horizon of 10 years. From talking to businesses, I do not think that they can wait 10 years to get the people they need to drive the economic growth that they want to make. I was talking to Scottish Power Energy Networks, which is investing £25 billion in the grid. It is about to triple its workforce, but it cannot get workers. I do not think that it will cut the mustard to tell that company that it will take 10 years to work through the shifting of 3 per cent of the budget, and that we will work out what to do in due course.

Martin Boyle: I agree with Damien Yeates. We have to balance what is in the bill and the need not to tie our hands going forward, so that we have the opportunity to work through various issues at various times through a framework that comes from a much higher-level bill.

11:00

Ross Greer: Are you perhaps looking for further clarity to come off the back of the bill in the form of secondary legislation? Should a lot of the clarity around the operational aspects of staffing come from ministers rather than being set out in legislation?

Martin Boyle: It is not for legislation; we need to get it from ministers. As Damien Yeates said, we are working on those aspects and discussing them. There is regular engagement on those issues.

Damien Yeates: The most credible report that I have seen recently on apprenticeships is from the OECD, which reviewed the Scottish apprenticeship programme and made some really valuable recommendations. The bill should take account of those recommendations, but I do not see that anywhere in the bill at the minute. That is an opportunity. There is a middle ground between having primary legislation that is very high level with absolutely no detail and having something specific.

Ross Greer: Thanks very much, both. That is really useful.

The Convener: It is interesting that you raise the OECD report, which I have seen. You have had meetings at ministerial level and, I presume, official level. In those meetings, have you asked why some of that report's conclusions and deliberations have not been included in the bill?

Damien Yeates: Yes—the SDS board has consistently advocated for that. Members have a lot to contend with and get their heads round but, just so you are aware, I point out that the Scottish apprenticeship programme is the best-performing programme in the home nations by a distance. Our completion rates are at 76 per cent; in England, they were at 54 per cent in 2022-23. The figures do not bear comparison.

The OECD report was about taking us to the next level. It said that the Scottish programme is "remarkable" and that the innovations in foundation and graduate apprenticeships have created

"one of the most flexible apprenticeship programmes"

in Europe. However, the report said that the next steps are around ensuring that industry is central and plays an even more substantial role in the programme than it does now, and that the protections for apprentices and commitments from employers that you see in other countries should be enshrined in statute. In total, the report has about nine or 10 recommendations, which are absolutely worth considering and taking forward.

Our board is in a position in which funding is constrained. There are no two ways about it: there is no new money. More than that, our money's purchasing power is reducing every year, because of wage inflation and so on. The untapped area that our SDS board looked at was that employers in Scotland annually invest £4.1 billion in workforce development. Across the UK, the figure is about £44 billion, which is based on a study that McKinsey did for the Confederation of British Industry. Much of the £4.1 billion investment is spent almost in spite of the £3.4 billion that we invest in post-school skills. The SDS board is saying, "Is there a way that we could empower industry to co-invest, particularly with colleges?"

Just now, we and the SFC are involved in a programme of work that is under way called workforce north. Simply put, the Highlands and

Islands are looking at £100 billion-worth of investment coming into the region in the next 10 years. The region has the most pronounced workforce reduction of any in Scotland, so we have to get around the table and sort that out today.

Over the past three months, our chair has led a mission for the Deputy First Minister in the Highlands and Islands. We have worked with all the major employers, Cromarty green freeport, the local authority, Scottish and Southern Energy, Highlands and Islands Enterprise and the University of the Highlands and Islands, which culminated in a workforce summit at the Kingsmills in early April. We are seeing whether we can get more of the £4.1 billion that employers are investing and considering whether they could invest alongside colleges. The combination of that would expand our programmes in a way that we have not seen before.

For example, in Glasgow, BAE Systems spent £12 million building an engineering academy to de-risk the workforce supply. If we had matched that with public money, we could have built a regional engineering academy to supply engineers not just for BAE Systems but for the wider greater Glasgow area. Going forward, the real prize will be in rolling up our sleeves, engaging with industry and getting it to co-invest with us. A big push would be reinvigorating colleges to do more of what they were traditionally very good at, which was technical and vocational skills. In recent times, the policy shift has pushed more output towards higher education, but the opportunity is in reinvesting in the college network—and more of that money might come from the private sector.

The Convener: Before I go to Jackie Dunbar, I want to know whether you have had any explanation from ministers or officials as to the reason for not supporting the recommendations in the OECD report. Is there anything that prevents them from taking on those recommendations? Has that topic been raised with the other panel members?

Martin Boyle: Not with me—no.

Catherine Topley: Not with me.

Jackie Dunbar: As I did with the first panel, I will ask a couple of questions about college student support. Some responses to the call for views raised concerns about the ability of the SAAS systems to cope with further student support responsibilities. My question is for Catherine Topley. How confident is SAAS that it can deliver not only the existing responsibilities but the new ones?

Catherine Topley: SAAS has a really complex landscape. We do not only deliver for universities; we also do nursing and dental bursaries, for example. The short answer is that SAAS is extremely confident, because our systems are already working on different programme lines, as I would call them, to cater to different student needs. We have the ability to take on additional programme lines with colleges, whether now or in future. We also have a fantastic team, which understands student needs and the college sector. Our team members engage with colleges, schools and universities, so we constantly do outreach, we understand what the needs are, and we constantly adapt our systems to ensure that they are fit for purpose for those needs. We are very confident.

Jackie Dunbar: Martin, what is the SFC doing to ensure that there will be no problems with the responsibilities that will be passed to SAAS?

Martin Boyle: We have been working with SAAS since day 1. Our teams are engaging with SAAS, and SAAS colleagues are learning how we deliver the student support system for FE students in colleges. We hope that that will be a seamless transition.

Catherine Topley: Our intention is to commence those responsibilities in March—sorry, not March. My team will be laughing at me at the back of the room, thinking that March would be far too soon. Our intention is to take budget responsibility from 2026 onwards. As we have said, the transition will take around a year; we will spend a full financial and academic year working hand in glove. Our teams are already working hand in glove on that—we have a plan, and we are engaging with colleges. We have spoken to a few colleges and provided them reassurance that nothing will change and that it will be a seamless transition. In other words, it will be an as-is change. However, we are also engaging with colleges to identify any quick wins—that is, anything that they would like us to look at and that we can do as part of the transition.

Jackie Dunbar: You have touched on the other question that I was going to ask. Concerns were also raised around the model of delivery for further education student support. Some responses said that colleges might have less flexibility in delivery. What are your views on that? How will the delivery of the support change?

Catherine Topley: As my colleague Martin Boyle said, we are doing a teach-in. It is a lift and shift approach—we will continue to pay colleges as they are currently paid by the SFC. In doing so, we will streamline the funding for students, so that it is in one place—that is the objective. Our objective is not to change funding but to ensure the streamlined delivery of the funding.

Over time, we want to ensure that, if there are opportunities for improvement, colleges reach in to us and we reach out to them to capture those. We

would base our continual improvement programme on that process. However, we are certainly not looking to make any radical changes such as changing the allocations that colleges currently receive.

Jackie Dunbar: So you do not see any changes to the way in which colleges deliver.

Catherine Topley: We see none. We will not be taking the role that they currently have in the college environment. SAAS will be making the payments, just as the SFC does currently.

Jackie Dunbar: Martin, have you anything to add?

Martin Boyle: Colleges do a good job at the moment. The staff on the ground know the students and can ensure that support is targeted towards the right ones. As Catherine Topley said, that approach will continue, which we feel is important. Some college students come from difficult backgrounds, in particular those who experience financial hardship, so, for them, being able to engage locally with someone about funding is vital.

Pam Duncan-Glancy: I want to move us on a little, to talk about financial sustainability and monitoring, on which the bill would introduce powers. I will start by setting the scene. Currently, about 84,000 young people in Scotland are not engaged in employment, education or training. More of them come from poorer areas than from other areas. Will the reforms that the bill proposes contribute meaningfully to addressing the immediate skills shortages that Scotland's key sectors face?

Martin Boyle: From my perspective, if we were to put all the funding in one place it would give us an overview that would enable us to target money in the right places and towards the right people. Once the skills planning function is delivered, with all the funding in one place, we will have a much better idea of which skills are needed and where, which will enable us to target money to ensure that colleges, universities, private training providers and so on are all focused on delivering what students across Scotland need.

Colleges currently do a great job of getting people out of poverty or out of not being in education, employment or training. They give people chances to learn by taking short, sharp courses and to look for things that they might want to do. We want to ensure that colleges keep doing that and continue to inspire people and engage with them.

I will give an example from a reception that was held last week, which I know some members attended. I know that Mr Rennie was there—I think that he was the only person from the committee that I saw. We heard from a young lady called Meghan, who had had a really difficult background. She had been taken into care and later ended up at college. She had started doing an apprenticeship but had realised that she could go further at college so she did courses leading to an HNC and an HND. She wanted to work in residential childcare so that she could go back and do things better than they had been done when she had been in care. She finished her college courses and will receive an honours degree this year. She spoke really well, not only about her experiences but about the importance to her of having her college's support.

That leads us back to questions about student support, what colleges are for, whether they can deliver end-to-end care and look after people, in particular those with a background of being in care, and how they can contribute to widening access.

Pam Duncan-Glancy: If the bill were to be passed and all the funding were to go to the SFC, how big a priority would apprenticeships be within the scale of your work more widely? We have touched on that aspect already, but I would like to hear about it in the context of the 84,000 young people who are not in education, employment or training.

Martin Boyle: We support all forms of post-school learning, education and training and we are committed to all forms of provision. We are already committed to graduate and foundation apprenticeships.

Going back to the skills planning work, we would have to ask where we would need to focus our energy and our resource. We would still be very committed to apprenticeships. We see the value of apprenticeships and what they deliver, and we also see the value of the work done by colleges and universities. We would have to take a wide view. I have heard many people saying that the Scottish Funding Council will not focus on apprenticeships, but we absolutely will do.

11:15

Pam Duncan-Glancy: From your perspective, Damien, is the bill the solution to the skills shortages that we have just now?

Damien Yeates: Both your questions remain to be answered. The question about financial sustainability has not yet been answered and I do not think that it will be answered by spending £30 million to move £100 million. That just does not add up. It is a really pressing issue because we know the pressure on the university sector and I can imagine that it is probably replicated in the college sector, although I have not seen the annual report that the Funding Council may be

due to publish soon on the financial sustainability of institutions.

Pam Duncan-Glancy: I am going to come to that.

Damien Yeates: I do not think that we know the scale of that. I know that the Funding Council is putting a lot of effort into sustainability, particularly for the University of Dundee. The bill focuses on a 10-year horizon, but we do not have 10 years.

We have all the intelligence about skills shortages. We know exactly where the jobs are needed and where the investment is coming from. We need to get on with it and that must be done urgently. The committee might want to have a look at the workforce north mission, which represents an example of immediacy and urgency and of the need for industry to collaborate with the public sector on what I would call a generational opportunity. Never in our lifetime have we seen anything like £100 billion-worth of investment coming into the Highlands region. That could be a massive opportunity to repopulate, grow and develop the whole region for the benefit of Scotland, but the bill just does not speak to that.

Pam Duncan-Glancy: You make an important point about the long-term sustainability of the sector.

This question is for Martin Boyle. The bill gives powers to the SFC to make recommendations, issue guidance and monitor the financial stability of the post-16 landscape. To what extent would that improve your ability to identify risk and could the proposals be further strengthened?

Martin Boyle: We already give a huge amount of advice and guidance. We collect a lot of data and evidence from colleges and universities and we engage with them all the time. In particular, we engage quarterly with universities and colleges on financial issues. We get reports from them, scrutinise them and are really focused on future financial sustainability. What is in the bill may put what we currently do into statute, but we are already all over that.

Pam Duncan-Glancy: Is there anything that you think we could do in legislation that might, for example, have highlighted some of the concerns that we see across the sector at the moment, particularly in Dundee?

Martin Boyle: There is currently an independent review of what has happened at Dundee. I know that you have talked about Dundee a lot. The independent review will get to the bottom of what happened there and we will take on board any lessons learned from that.

Based on our discussions with universities, we are pretty sure that what happened at Dundee is a one-off, but we have to wait for the independent review. Once we get that, if there are any lessons that we could put into the bill, that would be useful, but, at the moment, I do not think that we could add anything to the bill that would have changed what happened there.

Pam Duncan-Glancy: On the idea of Dundee being a one-off, the publication of the reports on the financial sustainability of colleges and universities has been delayed. They are normally due in January, so can you explain why the reports have been delayed and when they will be published?

Martin Boyle: We will publish those reports in the autumn. A couple of colleges delayed the publication of their accounts, which meant that we could not publish in January, so we decided to bring both reports out together and to publish them in the autumn. If we had published in March or April, the data would have been out of date. We will get much more up-to-date information in the coming weeks and that will inform our publication in the autumn, around September.

Pam Duncan-Glancy: There obviously is significant interest in the financial sustainability of the sector, not least as part of what the bill might do, but also in general. I do not think that anyone can escape the concerns that have been raised around this.

Is there any indication that you could put at least some information in the public domain on the financial state of the sector, even though you might have been waiting for a couple of colleges to complete their accounts?

Martin Boyle: We wanted to publish the full report. We want to publish a report that covers all the colleges and universities, not just a subset of them. We publish at a sector level, so if some of those were to be left out, it might not show you the best picture.

Pam Duncan-Glancy: Do you think that, with the new responsibilities on top of those current responsibilities, the SFC will be able to scrutinise the sector's financial sustainability to the level that is required?

Martin Boyle: The short answer is yes. We will inherit—I am not sure whether that is the exact word—staff, who would move from SDS.

With regard to our new responsibilities, a whole team of people from SDS will come and do that work. That will not change how we currently support our universities, except that we might be able to do more because we will have a bigger staff base and we can focus that staff base on what is important at the time. We might focus more on apprenticeships or on colleges and universities. With more people, we have a better chance to focus on the right space.

Pam Duncan-Glancy: My final question on this area is about the colleges. Colleges have said that they are concerned about some aspects of the current model for funding. In submissions on the bill, they have asked whether there will be a no-detriment principle in the way in which funding is distributed in the future. Are you considering that?

Martin Boyle: The Scottish Government has asked us to look at our funding model. It has evolved a lot over the past couple of years. The funding model evolves all the time because things change—training changes and the way that people learn changes. We do not want to put massive shocks into the system of how colleges are funded. If we make changes, we have to phase them in over two or three years. However, our funding comes from the Scottish Government, so it is up to the Government how things are done—the quantum of funding and how much is to go to colleges. However, we are committed to supporting colleges and to keeping them delivering the great work that they do.

Pam Duncan-Glancy: Okay. Thank you.

The Convener: Willie Rennie has some questions on the back of those points.

Willie Rennie: I am interested that you do not want to deliver massive shocks into the system at a time when you are transferring massive sums from one organisation to another, but I will leave that to one side.

Your colleagues spoke to the committee before about Dundee university. Our concern at that point was that they were not telling ministers the truth about the financial situation—or it might be better to say that they were not being frank with ministers about the dire situation in universities. Is it not a concern to you that, following that, we will not be publishing the financial sustainability report for our universities and colleges until months later? Might that not feed into our anxiety that you are not being frank with ministers?

Martin Boyle: We already share lots of information with Scottish Government ministers through our finance committee papers and other papers. At the time that the issue at the University of Dundee started, I was the SFC's interim chief executive and I talked to the minister regularly. Nothing was kept from the minister—absolutely nothing. I told the minister everything that we knew, and we continue to do that. We deal with issues a lot, but we deal with them in private.

Willie Rennie: Why do you not publish that?

Martin Boyle: Publish the report?

Willie Rennie: Publish the stuff that you have told ministers.

Martin Boyle: A lot of it is published, but we talk to ministers privately. It is about policy decisions and policy development. We will publish our financial sustainability report, so it is not—

Willie Rennie: It will be months late.

Martin Boyle: That is because institutions were late in delivering their accounts and we wanted to wait for updated financial forecasts that will be bang up to date. We will not get old data that is out of date—we will get data that is absolutely current.

Willie Rennie: Frankly, our concern is that the system is not responding to the crisis, and not just in Dundee, because Dundee is not a one-off. I think that it has been subtly acknowledged that there is a wider problem with the sector, and our concern is that you are not helping to expose that wider problem by having a public debate. Your having had that private discussion with ministers means not only that the report will be months delayed, but that we are not able to have that urgent debate about the future of our universities, which are under extreme stress.

Martin Boyle: Not just in Scotland, but across the United Kingdom and other places, universities are under extreme financial pressure because of how many students are going to university. Earlier, Professor Seaton said something about how variations in the numbers of students make a difference to the financial sustainability of universities. I do not know—

Willie Rennie: Do not worry; that is fine.

The Convener: What was the predicted date of publication of the financial sustainability report?

Martin Boyle: Do you mean when it would originally have been published?

The Convener: When were you planning to publish it, had those two colleges confirmed their accounts?

Martin Boyle: It is usually published some time around the end of January.

The Convener: You are now saying that it will be September.

Martin Boyle: Yes.

The Convener: Have the colleges signed off their accounts?

Martin Boyle: As far as I am aware, yes.

The Convener: What is the reason for the delay from May to September?

Martin Boyle: We are about to get more financial forecasts from them that we use to build the reports.

The Convener: Are you now going to take a year out? If you publish a financial sustainability

report in September, will you also publish one next January?

Martin Boyle: There is no reason why we would not publish one next January if we have all the information to hand.

The Convener: I just find it quite puzzling. You have set a bad precedent. If any college now drags their heels with signing off their accounts, you are basically saying that they can hold you to ransom and that nothing will get published until they have finished their accounts.

Martin Boyle: I do not think that is the case. There have been a few—

The Convener: Mr Boyle, you have been very clear to the committee that the only reason that a report that is important for ministers and crucial for the Parliament and the committee, which scrutinises this area of policy in Scotland, has been delayed for nine months because two colleges had not signed off their accounts. Do you not think that, in future, colleges that do not sign off their accounts would see that as a means to delay the report further, given that that is the only reason that you are giving us for a nine-month delay?

Martin Boyle: I do not think that the colleges have any particular interest in delaying the reports. It is not as though they thought that they would delay the report. That is not the purpose of it. I understand that part of the reason why the reports were held up was the questions that Audit Scotland asked and the issues that it had.

The Convener: So it is not just the colleges signing off their accounts late. Is Audit Scotland telling you not to publish?

Martin Boyle: No. Audit Scotland was part of the reason why the colleges were late. It was not just that colleges decided to be late.

The Convener: Right, so Audit Scotland was part of the reason why colleges had not signed off their accounts in these two cases.

Martin Boyle: Yes.

The Convener: They are now signed off.

Martin Boyle: As far as I am aware, yes.

The Convener: You are trying to explain to me why, when you have all the details in May, the reports cannot be published until September, and why there is not a risk—I do not put it any stronger than "a risk"—that it will happen again in future years.

Martin Boyle: I am not trying to avoid the question, but it might be better if we write to give a better explanation of the issue and explain why we have done what we have done. We are trying to get to a place where we are giving committees, the public, ministers and so on access to the right information at the right time.

The Convener: I am sorry, Mr Boyle, but getting a report in September that was due in January is not giving the committee the right information at the right time.

Martin Boyle: It will be much more up to date.

The Convener: If you had published the report originally in January, the information that covers May to September would not have been included in January's report, so it would not have been up-to-date at that point. I do not know why you cannot just publish it now.

Martin Boyle: I will go back and speak to my colleagues, and we will have a discussion about whether we should publish the report now.

The Convener: That would certainly meet with my approval, although I cannot speak on behalf of the committee.

11:30

Pam Duncan-Glancy: Have you had any intelligence about why there was a delay in the publication of the accounts of a couple of colleges? I think that you said that Audit Scotland was involved. Is there any other information that you can give us about that?

Martin Boyle: I am happy to include that in the written answer that I provide to the committee. I do not have information about that to hand.

The Convener: In response to another question from Pam Duncan-Glancy, you said that you had read the reports that there were concerns that there would not be a focus on apprenticeships if the transfer to the Funding Council goes ahead, but that that will not be the case. Given that you know that there are concerns about that, although we take you at your word, we need more than that. What is your evidence that there will not be a lack of focus on apprenticeships in future, given that you know that that is a concern of a number of people outwith the committee?

Martin Boyle: It would be hard to provide hard evidence—

The Convener: In fairness, that is why I asked the question. It is useful that you have told us that it is not the case that there will not be a focus on apprenticeships—that is now on the record, and it will be in the *Official Report*—but given that you know that people are worried about the issue, what substantial evidence can you provide as an example of why people should not worry about that? How can you confirm to people that the move from SDS to the SFC will not result in any dilution in the focus on apprenticeships?

Martin Boyle: I can mention a number of things in that regard. As I said, we inherited foundation apprenticeships and graduate apprenticeships a few years ago. Graduate apprenticeships have grown over the past few years. Universities such as Glasgow Caledonian University have doubled the number of graduate apprenticeships, and they want to provide more. We have recently worked with various colleagues to develop a new graduate apprenticeship framework in operating theatre practice, where there was seen to be a massive skills gap issue. We have delivered that.

In the past few years, we have pushed forward on graduate apprenticeships and foundation apprenticeships, so—

The Convener: Despite knowing all that and knowing the Funding Council's record in achieving that, people are still worried that, when you take on the proposed extra responsibility, there will not be the same focus on apprenticeships. That is what I am trying to get at. Even with your past record, people are still concerned about that issue.

Martin Boyle: From what I have read in *Official Report*s of previous committee meetings or in people's submissions, many of the comments have been along the lines of, "The Funding Council's focused on universities and colleges, not on apprenticeships, so it will continue to have that focus."

I do not see it that way. We are bringing two organisations together to create a new organisation that will deliver the full range of university, college and apprenticeship provision, and our focus will be on all three. We will have a whole new culture, structure and staff base. We will bring in many people who have years of experience of working on apprenticeships at SDS. That will continue—there is no reason for it not to continue.

John Mason: I want to pursue the subject of universities a little more. You talked about having discussions with universities, and you also talked about scrutiny. The words "discussions" and "scrutiny" strike me as being slightly different. Discussions involve sitting around the table and having a chat about things, whereas scrutiny is a much more proactive process that involves going into places and looking at things. Will you say a bit more about your present relationship with universities and colleges and whether you think that that might change in future?

Martin Boyle: We have discussions, and we also carry out scrutiny. With regard to scrutiny, we get lots of information from colleges and universities on a variety of timescales, whether monthly, quarterly or annually. We have people whose job it is to scrutinise that information, to look for issues and to ensure that the rules—including the Scottish public finance manual rules—are being followed.

We also have an outcomes framework, which we discuss with universities on a quarterly basis. We talk about risks, financial sustainability and their current outlook. As part of that engagement, we discuss issues not only with our part of the funding system but with the whole system. We talk about international students for example. Indeed, we talk about any issues that universities or colleges have, and we use that information to engage with our board or with ministers on what issues those institutions are experiencing. There are two parts to that.

There are many other discussions. We talk to Universities Scotland and Colleges Scotland, we meet the unions and we have various forums where we can go and engage on issues. We also have a scrutiny role and are very much ensuring that the sector will continue to thrive.

John Mason: The University of Dundee has been mentioned today. The committee has discussed the issues there. When did you pick up on the serious problems at Dundee?

Martin Boyle: I go back to my previous answer. There is an on-going review into what happened at Dundee.

John Mason: I am not asking what happened; I am asking when you picked up that there was a serious problem.

Martin Boyle: We picked that up when it started to emerge from the senior team at Dundee and they informed us.

John Mason: I think that that was around November, which means that, despite all the scrutiny and discussion, you had not picked up on the problem any more quickly than the university court. Is that correct?

Martin Boyle: Yes.

John Mason: Okay.

As I understand it, a lot of what you have been doing falls under your normal guidance practice, some of which will be put into legislation in future. Will that make any difference, or is it just a case of formalising what is already happening?

Martin Boyle: It just formalises what happens already.

John Mason: Mr Yeates, you have mentioned the figure of £30 million umpteen times already. Am I right in thinking that a lot of that is to do with pensions? I know that the Finance and Public Administration Committee, of which Mr Greer and I are also members, will be looking at that in more detail, but the issue has been mentioned so I

would like to touch on it a little. Will you clarify where that big figure comes from?

Damien Yeates: It comes from the TUPE obligations. As we understand it, there would be a TUPE transfer of staff from SDS to the Scottish Funding Council. There would be a number of elements to the transition costs and we could write to the committee about those.

Specifically on pensions, the civil service pension is much more generous than the SDS one, which leads to two effects. There is a requirement to pay into the civil service pension in order to allow staff from SDS to transfer across. All the staff who are in scope are members of the local government pension scheme and it is our view that 100 per cent of those staff would choose to transfer because they would have to pay less into the civil service pension scheme, where the benefits are greater.

John Mason: Is it the case that those staff are in a poorer scheme and would be moving to a better one, which means that there would be more costs in future? Is there also a backdating element?

Damien Yeates: Actuarial assessments show that a pension plan receiving new entrants typically requires an up-front payment, so that is where the vast majority of the cost would come from. Individuals who transfers would effectively attract a significant payment in order to be admitted to the civil service scheme.

John Mason: Would they not be admitted as if they were new employees starting on that date?

Damien Yeates: No. Their funds would transfer from the local government pension scheme into the civil service one and the scheme would then require an additional payment to cover the risks that they bring in.

John Mason: If someone had worked for 10 years in SDS, would that be treated as if they had worked for the Funding Council for 10 years?

Damien Yeates: Yes; they would effectively have to buy those benefits. It is a complex area to assess and manage.

John Mason: I accept that.

Damien Yeates: There is also a secondary benefit, which is that the running costs for the pensions of those staff who have transferred from SDS would be between £2.3 million and £2.4 million more going forward than if they were in SDS.

John Mason: I will leave that for my colleagues on the finance committee to dig into.

My next question is for all of you. One argument in favour of the bill is that it would simplify things by putting everything under one umbrella, which might help us to align the tertiary education system with the national economic and social goals. The need for investment in the Highlands has been mentioned. This is a general question, but would simplifying things mean that we could take a much more joined-up approach that could be tied in with the national economic and social goals, the national performance framework and all those things? Would that be easier?

Martin Boyle: I think that it would. It would give us an opportunity to take a view across the whole piece and ensure that we are targeting funding and resources to where they are needed.

John Mason: Okay. Ms Topley, I realise that I have not asked you any questions. Do you want to comment on that? Would that give us a more joined-up approach?

Catherine Topley: Yes, it would. I will give you some context. Student funding has gone from £441 million to £912 million since 2006. The ability to put funding in one place rather than across several places would allow us to look at things with a wider perspective to ensure that we are targeting that funding appropriately.

John Mason: Mr Yeates, if it is all more joined up, surely we are going to boost the Highlands and Islands more.

Damien Yeates: It beggars belief, does is it not? In a sense, the £2.2 billion is already joined up—it is sitting in one place. What is happening today and tomorrow to ensure that that will align? As we have heard, the reality is that there is severe pressure on that budget to sustain what we already have.

I can reassure the committee that the £100 million that is spent on apprenticeships is absolutely aligned with economic need and is absolutely driven by the key sectors in the economy.

The challenges that we have with the apprenticeship programme are not to do with the administration of what we have but to do with what we cannot fund. There has always been a sense, which the committee and the Parliament have shared, that young people might not be aware of the benefits of or that they do not understand the opportunities for apprenticeships. However, 60 to 80 young people apply for every apprenticeship place, and demand is upwards of 40,000 places from business. The £100 million is like the loaves and fishes. We cannot meet current demand.

We can fund 25,500 apprenticeships annually. We have been able to protect that number because of the steps that we have taken through our transform 27 programme, including by reducing our headcount by 18 per cent. The

overall turnover of the business is down from £243 million to £202 million, in order to protect that £100 million on apprenticeships. However, that amount of funding does not deliver the scale of what industry wants or and what young people and others who want to undertake an apprenticeship—

John Mason: Would the counter argument not be that, if it is all under one umbrella, and we have, for example, young people doing university courses that do not lead anywhere, the SFC would have the ability to switch some of the money into apprenticeships? In that way, it could be a better thing for apprentices.

Damien Yeates: It could be, but would you pay the money to achieve that when it is all under the same umbrella? It is all under the umbrella of the Scottish Government at the minute, and this is just about directing where that money will go.

Three interactions does not represent complexity to me. It is very easy for the Government to say, "We hold the pounds; the priorities are X, Y and Z; and therefore we commission the right agencies to do the right things."

There is a future focus to this. Much of what we need to do by way of reform is to work out how we engage industry to co-invest in workforce development at a rate and pace that it has never had before. The prize is achieving that. Simply moving money from SDS to SFC will not achieve that. It requires a lot of effort to engage and facilitate that.

John Mason: I am not arguing with that. I just feel that your evidence today and your paper are designed to undermine the bill and to paint it as being as awful as it possibly can be. For example, your submission says:

"we believe that the timelines for current reform means that any benefits or unintended consequences of this programme will not be understood for a decade."

Surely that is overstating the case.

Damien Yeates: That is what is described in the bill. That is what the board found astounding—that it was presented that it would take 10 years to deliver the benefits—

John Mason: It says "we believe", which suggests that it is your view.

Damien Yeates: The SDS board has presented that view. The view is based on advice from the Government about the timeframe for the benefits realisation. The submission from the board is positive, in the sense that it is focused on economic growth, on unlocking £230 billion and on protecting our high-value universities sector. Those are the pressing issues. Will this bill deliver benefits for those opportunities and challenges? That is the question.

11:45

Willie Rennie: Mr Yeates, the Withers report was pretty scathing about the SDS. I will give you a few snatches of the commentary. It refers to "competing narratives", "duplication", "lack of clarity",

"lack of leadership and effective governance",

and "harmful, false division". A particularly critical bit is the comment that it

"doesn't always appear that"

the SDS

"makes decisions or demonstrates behaviours which are focused first on public service delivery or the needs of learners. This dynamic is acting as a blocker for partnership working, joined-up thinking and delivery across the public sector."

What is your response?

Damien Yeates: The response from the SDS board was very clear. The board had a number of engagements with James Withers, who told the board that his report was opinion led. He did not take any evidence. To be fair to James, he said at the outset of undertaking the report that he would not take account of performance or finances. His report is an opinion, but it does not bear scrutiny against the evidence.

When you look at what the organisation does and what it achieves, the scale of the partnerships that it has and how it goes about its business, it is ironic that, in the year that James published his opinion piece, the European Foundation for Quality Management awarded SDS the 7-star award for excellence. It was the first public body in the UK to get a 7-star award. The EFQM is evidence led.

The board felt very frustrated at how the Withers report came to be. The board presented to the Scottish Government the opportunity to use UK Cabinet Office methodology, which was used in the Taylor review and is an independent, evidence-led approach.

As I said, to be fair to James, he absolutely accepts that the Withers review is an opinion piece. It is his opinion.

Willie Rennie: That is pretty dismissive of a Government-sanctioned report that has been embraced by ministers and has been implemented in legislation. Can you really call it an opinion piece?

Damien Yeates: That is what it is. If you look at the evidence that was submitted and review all the submissions, you will see that very few of the

submissions to the report were brought into the report.

Willie Rennie: You do not accept any of the quotations that I have read out.

Damien Yeates: Absolutely not. I do not recognise them.

Willie Rennie: Okay.

Mr Greer made a point earlier about the Audit Scotland report—which, again, was very scathing. Do you think that that is not relevant any more?

Damien Yeates: The Audit Scotland report was a very specific and technical piece of work, which required two agencies to engage with the Government on a range of data sets. Since the Audit Scotland report was published, the two agencies and the Government have got together to work more intensively on how to drive out the differences. I expect that, in the next two or three weeks, there will be an announcement from the Government on the way forward and on the strategic direction. That speaks to the positive and constructive engagement that goes on.

Willie Rennie: What I hear from some employers and other people is that you are quite a difficult organisation to deal with.

Damien Yeates: We work incredibly closely with the Scottish Apprenticeship Advisory Board, which represents industry. We work with the industry leadership groups. More than 11,000 businesses support apprenticeships, year on year. The programme has grown from 9,500 apprenticeships in 2010 to 25,000 apprenticeships. That would hardly be achieved by an organisation that is difficult to work with.

If you look at Scottish apprenticeship week, you will see the turn-out of employers who work with MSPs and others to extol the virtues of the programme. The range of partnerships and engagements is second to none.

Willie Rennie: I admire your certainty but, as you might imagine, we have doubts. We have differing reports from various people whom we respect because we have dealt with them in other spheres, and they all say broadly similar things. However, you are certain that you are fine.

Damien Yeates: What I would say is that I have evidence. Opinion is opinion—we can all lead with opinion. We undertake extensive surveys across apprentices and businesses, both quarterly and annually, and we constantly listen to what we are being told. What you are saying to me does not resonate with what I hear.

Willie Rennie: You can see why we have a problem. Authoritative people, whom we respect, are telling us one thing, but you are telling us another—there is no coming together at all.

Damien Yeates: Again, I think that what you have heard so far are opinions.

Willie Rennie: Those people have practical, tangible experience of your organisation, and they are telling me the opposite of what you have said.

Damien Yeates: Beyond today's meeting, I would be happy to sit down and understand any of those opinions. I am very keen to follow up any issues with the committee. If we could learn anything from that, I would absolutely take it on board.

Willie Rennie: We have the bill to consider, though.

Damien Yeates: Yes, but, up to this point, I have not had any engagement from you on that.

Willie Rennie: Okay. I will come to my question for SAAS in a minute, but first of all I want to turn to the Scottish Funding Council. You say that you will prioritise apprenticeships, but let us consider the power that universities—and, to a lesser extent, colleges—hold versus that of the individuals and smaller companies who benefit from apprenticeships, and let us also compare the scale of the funding. If there were a crisis in some part of the other areas for which you are responsible—in other words, colleges or universities—you would surely be under enormous pressure to take funding from apprenticeships to plug that hole. Knowing the balance of power across the various areas that you fund, you cannot tell me that apprenticeships will not be vulnerable if there are problems elsewhere.

Martin Boyle: I just do not see that happening.

Willie Rennie: You are saying that you just do not recognise that power imbalance.

Martin Boyle: I recognise your view that colleges and universities are in a strong position, but the bill provides that we will have an apprenticeship committee as part of our board. That will be influential. Colleagues have already mentioned the skill sets of the various people who sit on our board. We do not currently have a college or university committee.

Willie Rennie: Yes, but you are all about colleges and universities.

Martin Boyle: Yes, but we will have a specific apprenticeship one.

We also get a clear letter of guidance from Government, as does SDS, which will say, for example, "We want you to deliver 25,500 apprentices." If we are told to deliver a certain number of apprenticeships, that is what we will do. We might even deliver more.

Willie Rennie: Again, you can understand our concern. Let us imagine that you put back in a

relatively small amount of money—say, 50 per cent of the apprenticeship funding will be put back in with the remaining 50 per cent. It is not quite the 3 per cent that you mentioned, Mr Yeates, but we will take that. You can see, then, how the apprenticeship aspect might be dwarfed by the rest of the sector and how it might be possible to siphon off money elsewhere when the pressure is on.

Martin Boyle: We should also remember that colleges already fund a lot of apprenticeships; our college funding pays for many of them. That funding is not being squeezed to cover other things—it is still all being spent. We will deliver what we have been told to deliver.

Willie Rennie: Who within the Scottish Funding Council will be in charge of the apprenticeships programme? The chief executive who is currently responsible spends all his time focusing on apprenticeships. When matters are transferred to the SFC, will the chief executive there, with all her authority, power and influence, be in charge of them?

Martin Boyle: She is the accountable officer, so she will ultimately be responsible for them.

Willie Rennie: What proportion of her time will she devote to apprenticeships? Surely you must have an idea of how she will divide her time in relation to an issue that is so important for the country, albeit that it involves a relatively small amount of funding.

Martin Boyle: We have a chief executive and a team, and we are going to take on a number of staff. Various figures have been quoted, and the number has still to be determined, but it will be a huge amount of staff. We will have massive support for apprenticeships in the organisation. Moreover, we will be advising the chief executive, who will focus her time on the current issues and on where it is needed.

Willie Rennie: If there is a fire or a crisis in apprenticeships and, at the same time, another university gets into great difficulty, where will the chief executive spend her time?

Martin Boyle: Seriously, you would need to ask her. She is—

Willie Rennie: You are here to represent the Funding Council. Surely you must have discussed those things.

Martin Boyle: I do not think that we are far enough down the road to comment on structures, other than to say that we will get more staff. I cannot say how the chief executive will spend a third, or whatever, of her time—I would just be making it up.

Willie Rennie: You have heard Mr Yeates say several times that the transition cost is £30 million, which is much more than what the Government is saying the cost is. Why have you not challenged that figure? Do you agree with the £30 million?

Martin Boyle: Today is the first time that I have heard that figure, but—

Willie Rennie: Again, you are taking this on. They are going to be your costs.

Martin Boyle: Yes, and those are discussions that we still have to have.

Willie Rennie: You still do not know what the figure is, but surely you must know whether or not Mr Yeates is right. You will have seen his evidence paper. All of this is making me believe that you are not ready for this. There is so much—

Martin Boyle: We have already had this discussion. We do not yet know exactly what is in scope. We are trying to engage with SDS and the Scottish Government to get a sense of what is in scope and we are still having those discussions. Once that is done, we will have a much clearer idea from working with SDS of what is in scope and what the costs are. I have been told that the Government got all the costs from each organisation.

Willie Rennie: Okay. I will move on to SAAS. Earlier, Professor Seaton made a point about the tuition funding going to SAAS, as it is basically teaching funding. Is that not right? Tell me why you disagree with him.

Catherine Topley: I disagree, because the funding goes with the student. The SFC does not fund all students at all colleges and universities, because there is a mixed bag. If you will remember, I said earlier that, if you were a student 20 years ago, all you were was a student; however, that is not the landscape that we have in Scotland any more. Therefore, the tuition fee is for the student, not for the university per se. Yes, it supports the student, but the student can transfer, and they can also have fees from SAAS that the SFC will not know about. Placing the funding for the student with SAAS means that it is all in one place, and we can then ensure that all the payments are made to the universities and colleges as necessary. That would be my view.

Willie Rennie: Are you satisfied with that, Mr Boyle?

Martin Boyle: I am satisfied with that answer. In our initial response to the consultation, we said that it would be useful to bring all university funding together. We would see that as including the tuition fee, but I understand what Catherine Topley is saying, too. It might make things simpler if it were all in one place.

The university tuition fee has been £1,820 since 2007—it has not changed. Take the money and roll it into the funding for universities, and we can move on. It takes some of the bureaucracy away from universities and from SAAS. I do accept, though, that not everyone pays.

It would also be an opportunity for people to pay for some of their tuition. Moving forward, we would have to have that discussion and engage with the question of how we ensure that someone who has already been to university pays a contribution their second, third or whatever time around. After all, many people do more than one degree.

George Adam: You have taught me something today, Mr Yeates. Any time I see an independent report that I do not agree with, I will say that it is an opinion piece. That will be my defence, and I hope that my colleagues will back me up when I use it.

James Withers has said:

"The skills system is not fit for the substantially different future approaching us. We need a radical rethink or the job opportunities that arise from a changing economy risk being lost; a repeat of the 1980s."

That is quite damning, and I know, too, that his report backs the merging of SFC and SDS. Surely that would be a way forward and would achieve what all of us want, which is to ensure that we give people opportunities to get jobs. When I asked a question about that earlier, I was politely told that it was an old-fashioned ideal that apprenticeships were the big thing, and that there is now greater scope in the educational landscape to find ways of delivering that sort of thing. Is that not what this is trying to do?

Again, I thank you for teaching me that lesson, Mr Yeates—that is, simply to diss every single report that comes in with that argument—but surely you take on board something of what Mr Withers has said.

12:00

Damien Yeates: The outlook for public finances in Scotland is hugely challenging. Coupled with the scale of the generational investment that we have coming to Scotland, we are being presented with an enormous opportunity and challenge at the same time. You will not hear from the SDS board that things need to be the same—that is absolutely not the case.

George Adam: But that is what we are hearing from you today—a very strong argument for things remaining the same.

Damien Yeates: No, I do not think so. The SDS board's submission talks about the need for an urgent response to grow Scotland's workforce. We need a rapid expansion of technical and vocational education to meet the jobs that, as you have hinted, are coming down the road at a pace and scale that we have never seen before. If you speak to the utility companies about the investments that they are making, you will see that this needs to happen soon.

Things will not be fixed by the investment that the Scottish Government is putting into the system at the minute. That will have to happen through deep collaboration and co-investment between employers and the public money that is available, and it needs to coalesce around the priorities that are straight in front of us, which are about how we grow the workforce in order to unlock that economic ambition.

Among the recommendations that we make in our submission is to rebalance policy and to ensure that the percentage of people progressing to higher education is rebalanced towards a growth in technical and vocational education. We also recommend that we engage industry and employers much more substantially in supporting and directing the system, so that more of what we deliver in technical and vocational education is industry led. There is also an ask of industry to co-invest—that is, to invest in the colleges, to invest through additional revenue streams and to invest in potentially seconding lecturers into colleges.

This is a national endeavour. The SDS board submission does not so much diss the bill as ask what we need to do today and tomorrow to get to a place where we can guarantee that we will have the workforce to drive that economic growth. The most pronounced need in that respect is in the Highland region.

George Adam: But one would argue that, if you streamlined the organisation and had just one organisation doing the delivery, you would still be able to do this. The report came to that conclusion.

Damien Yeates: I guess that that is the point of contention. The work that SDS and its partners have put into the Highlands and Islands workforce north mission is nothing to do with shifting money. It is about intensive collaboration with industry and then getting agreements to ensure that flexibility on provision aligns with that growth in technical—

George Adam: I do not doubt the skill of the people who work for SDS for one minute, but most of that talent will be transferred over to individual—

Damien Yeates: No. I guess that that is partly the challenge. This is taking a component of SDS—it is not taking all of SDS. The employer engagement team, the regional skills team and the careers teams are not transferring across. The integrated nature of what SDS does and its deep engagement with industry represent an opportunity when it comes to reform.

George Adam: Equally, we have heard today about similar connections with the SFC and other organisations, and the Withers report expressed doubt that SDS was engaging to the level that it should be.

Damien Yeates: If all of that is true, why do we have the level of skill shortages that we have today? Given the extrapolations that highlight the need for 1.1 million workers, we would still have to be doing something, even if we did not have the skill shortages that we have today. More of the same will not take us to where we need to get to.

George Adam: So the proposal is not the same.

Damien Yeates: It is simply about moving money.

George Adam: I think that we will agree to differ.

The Convener: Mr Boyle, I want to follow up a couple of your answers to Willie Rennie. Let me see whether I have got this right. You do not agree or disagree with the £30 million transition cost that Skills Development Scotland believes that the bill would involve, but are you honestly saying that you have come to the committee as a representative of the Scottish Funding Council without knowing what the cost of taking on the proposed new responsibilities will be?

Martin Boyle: I am sorry—I did not quite hear all of the question. There was some background noise. I think that you said—

The Convener: I will say it again. You have neither agreed nor disagreed with the £30 million figure that SDS has suggested will be the transition cost, but surely you have not come to the committee that is scrutinising the bill to say that the Scottish Funding Council does not know what the cost of taking on the proposed extra responsibilities will be.

Martin Boyle: As I have said, we have not yet had that engagement with SDS to enable us to clarify that. The Scottish Government—

The Convener: I am sorry, Mr Boyle, but you are appearing before a parliamentary committee whose job it is to scrutinise the bill. This is our first evidence session on the bill. You prepare for these sessions. You said earlier that you were the interim chief executive of the Scottish Funding Council; I presume that people in that organisation told you that you would be asked questions about this, that and the other, and that one of them would be about the cost of the bill—that is, how much it will cost, if the bill is put into law, to transfer people across from SDS and for the SFC to take on the responsibilities in question. As a representative of the Scottish Funding Council, which is an agency of the Scottish Government, are you saying that you have no clue whatsoever of the cost of the proposed legislation, if it is passed?

Martin Boyle: We still do not know how many—

The Convener: Is that a yes? You have no idea of what the cost will be.

Martin Boyle: The blunt answer is yes. Sorry—I want to make sure that I answer the question right. I do not know exactly what the cost will be, because we have not yet engaged with SDS on how many people will come to the SFC, what the numbers will be and what will be transferred.

The Convener: But you know that SDS has done that work, because it is saying that the cost will be £30 million. You know that.

Martin Boyle: Well, I know that now.

The Convener: Yes, but that is not a secret—that has not been revealed by Mr Yeates only today. Did the SFC did not scrutinise that figure?

Martin Boyle: I have not seen that figure.

The Convener: Is it the case that no one prepared you for this session by saying—given that you were to be on a panel with SDS—"You might hear that SDS believes that the cost will be £30 million. Here's how you should respond to that"?

Martin Boyle: Until we know exactly what will be transferred, we cannot know.

The Convener: So are you saying that SDS plucked that figure out of the air? Can it not know?

Martin Boyle: There are different views on the TUPE costs. Given all the different costs, it is an exceptionally complex picture. Until we know exactly what is going on, how can we—

The Convener: But because it is such a complex picture, the committee needs to be able to scrutinise it. I feel that you have come to this meeting ill prepared to allow us to challenge and scrutinise the Funding Council's response to the proposed legislation. The question about funding is a basic one that is asked by every parliamentary committee. Frankly, I am shocked that the SFC has been unable to prepare you to answer questions about the financial implications of the bill.

Martin Boyle: We have prepared. The answer is that, until we engage with our colleagues at SDS—

The Convener: When will you engage with SDS—when, as parliamentarians, we pass the bill?

Martin Boyle: We would engage tomorrow.

The Convener: You say that you would do it tomorrow, but why did you not engage with SDS yesterday? Is SDS refusing to engage with you?

Damien Yeates: To be fair to Martin, the scope of what might happen could be determined by the bill, which members could require to be amended.

The Convener: Of course.

Damien Yeates: So there is—

The Convener: I am sorry, Mr Yeates, but we need to watch the time. The committee is currently considering a bill—the Education (Scotland) Bill—big amendments to which could be made this evening that would change how much that bill will cost.

However, SDS has given us a ballpark figure for the cost of the Tertiary Education and Training (Funding and Governance) (Scotland) Bill—it has said that it will cost £30 million. Mr Boyle, the fact that you have not been able to provide even a rough calculation of what you think that the bill will cost is something that I would like you to take back to the Funding Council.

Martin Boyle: We have tried to engage with SDS, but SDS wants to wait—Damien should answer on this, rather than me—until it gets more clarity from the Scottish Government on what is in scope and what is not in scope. We have tried to engage on many occasions, but we cannot scrutinise a ballpark figure. I cannot turn up here and say, "The cost is going to be between this and that", unless we know exactly—

The Convener: Yes, you can, because that is what all other witnesses do. For example, when we have the Scottish Government in front of us, it will give us ballpark low and high figures. That is then scrutinised by the Finance and Public Administration Committee, which some members of this committee are on. That is exactly what witnesses do, bill after bill, time after time.

We have to make progress. Also in response to Willie Rennie, you said that you did not accept that there could be pressures between funding for university and colleges and funding for apprenticeships. It is only a few months since the Funding Council found an additional £10 million for the University of Dundee. There was a Government announcement in the chamber that there would be £15 million and that went up to £25 million, £22 million of which went to Dundee university. That was its request. The SFC was able to find £10 million for that. How can you guarantee that there will not be similar requests in the future that will mean that the SFC has to find sums of money, and that those sums of money will not come from apprenticeships?

Martin Boyle: The money for universities comes from the university budget.

The Convener: No. This was funding that the SFC had not spent—that is what we were told when we had the SFC's director of finance in front of us. We were told that it was a general underspend that would have been returned to the Scottish Government. What if there is a general underspend in the apprenticeship budget and there is another call for £10 million for universities, as we have just had for Dundee? Are you saying that, even if you have not spent all your money on apprenticeships, you will not provide that money to struggling universities or colleges?

Martin Boyle: There would be so many processes to go through to make that happen.

The Convener: So it could happen.

Martin Boyle: I cannot see it happening.

The Convener: If the SFC has to return money to the Scottish Government, which would have been the case with the £10 million that it then gave to Dundee university recently, why will things be any different if some of that money comes from an underspend in apprenticeships?

Martin Boyle: If we had an underspend on apprenticeships—which I cannot see us ever having—that money would be returned to the Scottish Government. We do not have the ability to spend it on universities.

The Convener: Well, you do, because you have spent a £10 million underspend on one university just this year. This is not hypothetical—it is exactly what the Funding Council has done in the past couple of months.

Martin Boyle: I do not really want to open this up, but we have a budget for universities and colleges and SDS gets a budget for apprenticeships. That is voted on by the Parliament. The Parliament decides—

The Convener: You are saying that there will never be any—

Martin Boyle: We cannot swap that money around. We are not allowed to swap that money around.

The Convener: Why would you not want to get into that?

Martin Boyle: Get into what?

The Convener: You said that you did not want to get into that. Why would you not?

Martin Boyle: I did not want to go into so much detail. It is more about the detail of how the Parliament works.

The Convener: I am not particularly reassured that, if there were a repeat of what we have seen at Dundee university and there were a rallying call for funding to save an institution from going under,

and if the SFC had not spent all of its money on apprenticeships, that money would not then go towards a struggling institution, as it did recently.

Martin Boyle: The money for Dundee came from the university sector—it came from the university budget.

The Convener: It came from the Scottish Funding Council's underspend that would have gone back to the Scottish Government.

Martin Boyle: It was from the SFC underspend on universities.

Miles Briggs: I want to go back to the question about annual reporting on the financial sustainability of the higher education sector. For clarification, is it correct that you have received the information about new financial forecasts that you have been awaiting?

Martin Boyle: I do not think that we have received it yet. We will receive it very soon. That is why, if we published the financial sustainability reports now, they would be out of date.

Miles Briggs: I raised the matter with the minister during education portfolio questions on 24 April, and the letter that he sent to me on 30 April said that the analysis would be received in June, which would then allow you to update your information. Is that still—

Martin Boyle: Yes.

Miles Briggs: So "very soon" is June.

Martin Boyle: Yes—next month.

Miles Briggs: Why would it then take until September for the reports to be published? That is the question that most of us would ask. Once you have received those forecasts, the work will have been done on that.

Martin Boyle: I say again that we will come back to the committee with an answer on that.

There are 19 higher education institutions and 24 colleges, and we have to scrutinise them all. We do a lot of work on that and we might have questions. We go back to the colleges and universities with those questions, and that happens over the summer period, too. To make sure that we deliver, I would say that that will take until September, but I am more than happy to go back and get more clarity on that and to make sure that we meet the needs of the committee.

12:15

Miles Briggs: I fully understand your internal processes. However, we are currently in a very different space, with lots of different organisations, including Edinburgh university here in my region, coming forward with major cuts to their institutions and job losses. That information needs to get to us almost live so that politicians and all of us can scrutinise that situation.

I want to move on to governance questions. Responses to the call for views highlighted a lack of clarity on the proposals on board reappointments, on the skills and experience of council members, and on co-opting provisions. Can you outline further details around that and around the setting up of that, which you have said is planned?

Martin Boyle: Around what the—

Miles Briggs: The apprenticeship board.

Martin Boyle: The bill says that we will have an apprenticeship committee. We already have a skills committee, which looks after a range of skills but also foundation apprenticeships and graduate apprenticeships. How an apprenticeship committee would operate is still a matter for agreement, but it would have to take on all the good stuff that currently goes on. Can we improve it? Currently, the Scottish Apprenticeship Advisory Board looks after apprenticeships. Could we have an apprenticeship committee that includes employers and other people?

We looked across the whole skills remit, which includes the skills that come out of university, college and apprenticeships, and the high-level skills that this country really needs. It cannot all be about apprenticeships. Professor Sir Anton Muscatelli has said that if the Scottish Government wants to deliver its economic strategy, we need more high-level graduates in the economy. We need more apprenticeships and more high-level graduates. The issue is how we get a committee together that looks at all of that in the round and that is able to advise Government on all of it at once and to say to Government, "We need more money here and more money here." It is not a case of moving some money from one place to another. We need more money to deliver the skills that the economy needs.

Miles Briggs: The responses to our call for views highlighted concerns around a lack of representation of employers in industry. Have you read those responses? What is your take on how you would ensure that that works?

Martin Boyle: We already engage in a number of spaces with employers and industry. Our board also includes employers and people who have been working in industry; it is not a board full of people who are academics. Earlier in the meeting, Clare Reid said that she would meet us soon. We have meetings arranged with a number of bodies, including the Scottish Training Federation, Prosper and some others, to have an initial discussion about how we might move ahead on that.

We are involved in lots of things. We are involved in the Highlands and Islands initiative that Damien Yeates has talked about a couple of times. We are involved in many other initiatives around Scotland, and so are our colleges and universities. Our colleges engage with employers every day. That is their job—to meet the needs of the local economy and the local population. They are out there talking to employers, local government and so on.

Miles Briggs: I will bring in Ms Topley in relation to the concerns about the winding up of SAAB, which I also raised with the previous panel. The bill does not provide detail on what will replace it; that is all up for discussion. I have concerns about that. A lot of people who submitted evidence to the committee said that we could lose a lot of good value by doing that. What are your views on the questions that I have put? Is there another way of preserving what has been going on and improving the provision of advice? We are all acutely aware of what is needed in relation to the skills shortages, but the bill will not necessarily be the answer to that problem—it might simply shift organisational responsibility.

Catherine Topley: Professor Seaton said it best: the bill allows for the change in the law. It is a very instrumental piece of work, but the devil is in the detail. From my perspective, for this to be successful, it is really important—in fact, it is critical—that, in relation to what Damien Yeates has in place and what the SFC will inherit, there is a complementary journey that ensures that there is a transition of knowledge, information and approach, but which also takes into account the views that others have represented of what is currently missing.

We do not want to replicate what is currently happening if there are gaps in it, and it is clear that there are. We want to build on what is good and ensure that we take that part forward. I am not sure that we need legislation to do that; we need assurance that the Government, the minister and the two agencies have heard the concerns and that they will approach the new SAAB, whatever that looks like, in a way that ensures that all the views have been captured. The terms of reference for that will be fundamental.

Miles Briggs: You said that you have been at SAAS for two and a half years. Do you fear that things will be lost in translation? We are hearing that none of this work is happening. I am not sure that I have heard a commitment on where the responsibility will sit—will it sit with the board or with a subsection of the board? You are doing a lot of important work, which could potentially be lost.

There is also the 10-year projection—we do not have time to wait 10 years for the system to deliver for our economy. It should already be delivering.

Catherine Topley: Some of the really pertinent issues that the Government faces are always going to be trailing, whether that is in education, health or justice. As public sector organisations, we have to get better at changing more quickly.

You asked whether I have confidence. I am a senior civil servant who just happens to have moved portfolios—well, it did not just happen. My confidence comes from the fact that I know that there is a team in the Scottish Government that is now set up to look at the issue. I know that team, and I think that it is a very good, competent and credible team that will pick up that work. That is where my assurance that that work will not be lost comes from.

Miles Briggs: Mr Yeates, do you have anything to add in answer to that range of questions?

Damien Yeates: We are always incredibly obsessive about improvement, developments and so on. However, at the heart of the challenge at the moment, particularly in relation to apprenticeships, is the balance of spend. That is a really challenging issue. If 60 or 80 young people are applying for an apprenticeship and 59 or 79 are not successful, that is not good. If 15,000 businesses are looking to offer apprenticeships but they do not have funding, that is not good.

I herald the incredible work that the employers do through the Scottish Apprenticeship Advisory Board. They do that free of charge. They have a technical expert group, they have reviewed more than 11 frameworks and they give a significant amount of time. They advise SDS on what we contract for in apprenticeships. They are incredibly valuable.

As I said before, there is a missed opportunity to engage more of industry and more employers in the system so that we unlock more of the £4.1 billion spend. That money is not coming together with the public money in the way that it might.

Joe FitzPatrick: We are tight for time, so I will keep this as short as I can. We have had some responses to the call for evidence about what the bill says on the designation of private providers. What are your thoughts on that?

Catherine Topley: SAAS is responsible for the private providers. As you have heard in evidence today, some of what is in the bill is a result of work that was already under way. SAAS has already undertaken a project with Education Scotland in relation to full-time private providers, to ensure that a robust process is in place to protect the student and the public funds. Likewise, SAAS is doing a similar piece of work for part-time private providers.

Joe FitzPatrick: Are you confident that what the bill says—or what regulations might say—about the private providers' responsibility to the students is clear enough, or does more work need to be done?

Catherine Topley: Yes, I believe that it is clear enough. There will always be some businesses or organisations that are successful and others that struggle. Our approach to the bill aims to ensure that students are protected through such processes. We have already managed a couple of instances where organisations have been challenged, and our primary responsibility is always to ensure that students can complete their courses. The bill aims to do that, and I am really happy with it.

The Convener: I have a final question for Mr Boyle. The bill would potentially take a function from SDS into the Scottish Funding Council. In several of your answers, you have mentioned that you have previous experience of that, in that you have taken on extra responsibilities before. What have been the levels of growth and improvement in the graduate apprenticeship programme since the SFC took it on?

Martin Boyle: The number of apprenticeships has gone up from about 1,150 to about 1,500 over the past four years. There is demand for more places, but the Scottish Government currently has a moratorium on developing new frameworks, except in urgent cases such as the operating theatre practitioner scheme that I mentioned earlier. A review of the graduate apprenticeship scheme is currently being conducted to ensure that it is meeting all the policy and other requirements. Once we get the chance to develop more schemes, there will be lots more opportunities.

At the same time, universities are also pushing ahead if they have to. The University of the West of Scotland is introducing a work-based learning degree in town planning, because there is a massive shortage of town planners in Scotland. Much of the stuff that Damien Yeates mentioned about energy issues for the future will need planning permissions and so on. Universities are already on top of that—they are recruiting people to meet Scotland's needs. Therefore, although we have a specific graduate apprenticeship scheme, other initiatives are going on as well.

The Convener: You cited the success of the graduate apprenticeship scheme, in that the number of places on it has gone up from 1,150 to 1,500, but you also acknowledged that industry demand is for far more. Are you saying that you are currently being constrained from doing that because of the moratorium?

Martin Boyle: We are being constrained a bit just now by the inability to produce new frameworks unless they are vital.

The Convener: If it were not for that moratorium, would the numbers be higher?

Martin Boyle: They could be higher. Lots of employers want to take part, but we also have to balance the student demand and what universities are able to offer in terms of being cost effective. There would be opportunities to do more in that space, and some providers—Glasgow Caledonian, the University of the West of Scotland and others—are keen to do so.

The Convener: Is the success of graduate apprenticeships not a compelling enough reason to override the moratorium?

Martin Boyle: The Scottish Government—

The Convener: I am sorry—you gave an example of an area in which you could do something in spite of the moratorium.

Martin Boyle: Yes.

The Convener: Is that not an example of an area where you could make a case to do something in spite of the moratorium?

Martin Boyle: Which one?

The Convener: Expanding the graduate apprenticeship scheme.

Martin Boyle: Yes, we could do that. We are engaging with SDS and the Government on what is required. If frameworks are needed urgently, we will push them through.

Damien Yeates: There are sufficient frameworks at the minute, but our evidence is that there is easily demand for between 4,000 and 6,000 graduate apprenticeships. That has been well understood for a long time. There is a challenge in getting a substitution effect, but I think that the benefit would be huge.

I cite the example of the University of Glasgow's degree course in software engineering, which is phenomenal. Its work with the financial services sector has been pretty unbelievable. For the benefit of members, I point out that its graduates are typically paid between £22,000 and £25,000 per annum, and they contribute £2,500 in tax every year. They are very productive within their first year. In fact, British Telecom outsourced some of its graduate apprentices very early on in its programme. In addition, no student debt is created, so it is a win-win situation. If we are to address the shortages of critical skills in our economy—for example, in the construction, engineering and health and social care sectors—we will need to expand the programme urgently.

The Convener: Thank you all very much for your evidence today. I will briefly suspend the meeting to allow our witnesses to leave. The committee will then move into private session to consider its second agenda item, after which I will suspend the meeting until 5.45, at which point the committee will again sit in public to continue its consideration of the Education (Scotland) Bill at stage 2.

12:29

Meeting continued in private.

12:58

Meeting suspended.

17:45

On resuming—

Education (Scotland) Bill: Stage 2

The Convener: Good evening, and welcome back. Agenda item 3 is the continuation of our stage 2 consideration of the Education (Scotland) Bill. I welcome back the cabinet secretary, her supporting officials and members.

Section 27—Deputy Chief Inspector of Education in Scotland

Amendments 145 and 146 not moved.

Section 27 agreed to.

Section 28—His Majesty's Inspectors of Education in Scotland

Amendments 79, 80, 147, 148, 81, 149, 150, 82, 151, 152 and 83 not moved.

Section 28 agreed to.

Section 29—Assistance with inspections

Amendments 153 and 154 not moved.

Section 29 agreed to.

Before section 30

The Convener: Amendment 84, in the name of the cabinet secretary, is grouped with amendments 304, 85, 313, 86 and 111. I point out that amendment 85 is pre-empted by amendment 158, which was previously debated in the group on the independence of the chief inspector, and that amendment 86 is pre-empted by amendment 162, which was previously debated in the same group as amendment 158.

The Cabinet Secretary for Education and Skills (Jenny Gilruth): I thank Ms Duncan-Glancy and Mr Kerr for their amendments. I am pleased to see that we agree on the value of setting out the purposes of inspection in the bill.

The amendments that I have lodged set out clear purposes for inspection, which will ensure that the chief inspector carries out their functions to promote improvement in education and to hold relevant educational establishments accountable for the quality of the education that they deliver. By including a ministerial power to amend the inspection purposes through secondary legislation if those purposes ever need to be changed, my amendments will also allow a degree of flexibility.

It is important to note that I am minded to seek to withdraw amendment 84. Fundamentally, I remain open to further consideration of the purposes of inspection. I have a number of

concerns about other members' amendments in the group, which I will explain in a moment. Although I believe that there are many similarities between those that I have lodged and Ms Duncan-Glancy's amendment 313, at this point, I cannot support what she has set out, because, as well as making no reference to the importance of accountability, the amendment would appear to extend the chief inspector's role to providing support for improvement, which would take resource and focus away from their core role, while risking blurring the very boundaries that removing the inspection function from Education Scotland will help to clarify.

Pam Duncan-Glancy: I understand the cabinet secretary's point about the inclusion in my amendment of a purpose that relates to improvement, but does she recognise that the Muir review and the Organisation for Economic Co-operation and Development review suggested that inspection should have an improvement focus?

Jenny Gilruth: I recognise what Ms Duncan-Glancy is saying, and I would be keen to work with her on that aspect ahead of stage 3. There is much common ground in that area that we can work on, and I hope that, through joint consideration, we can reach a mutually agreeable position.

My concern with Stephen Kerr's amendment 304 is that it is overly prescriptive. Including amendments of such a nature in the bill would make it difficult for the new chief inspector to develop their role organically and, importantly, it would limit their ability to respond to the changing needs of the education system over time. Although I agree on the importance of each of the issues that he has listed, they are not high-level purposes for the chief inspector to have regard to over the longer term. They would prevent the carrying out of focused thematic inspections by requiring every inspection to cover each of the matters listed. For example, discipline policies would always have to be inspected, as would the employment contracts held by teachers, even when those aspects were not relevant to the theme that the chief inspector wanted to examine.

Many of those matters are already included as quality indicators in the "How good is our school?" framework that is currently used by the inspectorate. I hope that that reassures Stephen Kerr that the concerns that his amendment 304 looks to address are currently, and will continue to be, of importance to the chief inspector.

It is important to highlight that the purposes specified in amendment 84 have been consulted on and align with those identified by Professor Muir—which was Pam Duncan-Glancy's point—and that the drafting delivers a strong position on the purpose of inspection. Notwithstanding that, although I will move amendment 84 for the purpose of opening up this group for debate, I will be happy to seek to withdraw it if Pam Duncan-Glancy does not move her amendment 313, and I suggest that we work to identify an agreed position for stage 3. That will also allow me to ensure that, when we bring the matter back, we address a concern that has been raised by the EIS, which is that it be made clear that the purpose of inspection is to hold to account institutions, not individual teachers, which I agree with.

I urge Stephen Kerr not to move his alternative amendment—amendment 304—and I urge members not to support it if he does.

I move amendment 84.

Stephen Kerr (Central Scotland) (Con): I wish to say some words about why I felt the need to lodge amendment 304 in the first place. I think that many members will sympathise with the reasoning as to why these are salient issues in our education environment.

Amendment 304 states:

"An inspection under subsection (1) must include an assessment of, and any recommendations for improvements relating to ... the implementation and effectiveness of discipline policies ... the quality of the learning environment ... the support provided to persons with additional support needs, including access to appropriate resources and specialist support ... the morale and wellbeing of teachers and staff ... whether the number of teachers and staff in the establishment can meet the needs of the persons undertaking a qualification in that establishment ... the type of employment contract held by teachers and staff in the establishment ... the number"—

John Mason: Will the member take an intervention?

Stephen Kerr: Of course.

John Mason: Would the type of employment contract not be fairly standard throughout a number of establishments? Would there not be a lot of repetition in that regard?

Stephen Kerr: I imagine that John Mason has a point, but, in effect, he makes my point for me, because it has now become a feature of teacher employment that a large number of teachers have no permanent employment contract. As I will come on to, that creates all kinds of problems for those professionals—they are professionals—who cannot get on with the rest of their lives. They cannot establish themselves financially, and they cannot apply for certain products that might require them to have a permanent position of employment.

I understand why John Mason offers his intervention, but my amendment is grounded in the experiences of teachers and covers an issue that we should address.

Amendment 304 also provides that an inspection must cover

"the number of teachers in the establishment who ... are completing probationary service, or ... are newly qualified teachers, having completed their probationary service no more than 5 years before the date of the inspection".

Those issues have been well covered in the chamber and elsewhere.

Finally, the amendment states:

"such other matters as the Chief Inspector considers appropriate."

I am not seeking to be overly prescriptive, which is why that line in the amendment is included. I want the chief inspector to be fully independent and completely free to make observations and reports in relation to the broad remit that they will have in carrying out their function.

The first pillar of amendment 304 is

"the implementation and effectiveness of discipline policies".

I make no apology for raising the rising incidence of violence and disruption in Scottish schools, which is affecting staff and students. The Scottish media has recently reported a disturbing surge in classroom violence, including assaults on teachers, support staff and even other pupils. There are such headlines in all our news outlets—*The Courier*, the *Daily Record* and BBC Scotland all speak of a discipline crisis in schools, with staff describing their daily exposure to aggression and fear.

It is therefore vital that the implementation and effectiveness of discipline policies are monitored and that—this is the critical point—good practice is shared and concerns are highlighted and remedied. I think that we all agree on the point, which I made in our earlier debate, that school leadership is a critical factor in the learning environment, particularly for discipline. It is therefore a crucial observation that school discipline is contingent on the quality of the learning environment, which is the second part of amendment 304, so it ought to be at the forefront of consideration during an inspection.

Education is not only about academic performance; it is about the development of healthy and resilient young people. That is what the curriculum for excellence and the pillars are all about. Concerns arise about whether the learning environment is dealing with the whole person, rather than just one aspect. I acknowledge that that is the danger of league tables, which highlight one aspect of a school's performance, perhaps without any recognition or cognisance of the other issues that create a holistic learning environment.

The recent mental health crisis among young people has brought the issue into stark relief. Multiple reports across all forms of media have highlighted increased numbers of referrals to child and adolescent mental health services, long waiting times for mental health support and a growing number of pupils disengaging from school altogether. We have frequently discussed non-attendance at school, which is at critical levels. School staff who are already overstretched are often the first responders to mental distress, but they are rarely recognised or supported in that role. Those factors all contribute to the learning environment.

An inspection framework that ignores wellbeing is therefore out of step with the reality in schools and the priorities, as I understand them, of Scottish Government policy, including the national performance framework. By including wellbeing explicitly in the inspection criteria, amendment 304 will ensure that we evaluate not just what is taught but how young people experience their education. Are they safe? Are they supported? Are they thriving?

Jackie Dunbar: Will the issues that you are raising tonight not be dealt with tomorrow when the Cabinet Secretary for Education and Skills gives a statement to the chamber? Will those issues not be addressed then, rather than as part of the stage 2 debate tonight?

Stephen Kerr: I am sure that they will feature in the cabinet secretary's statement and that there will be questions along those lines, but we are talking about the Education (Scotland) Bill. It is appropriate for us to lodge amendments that we consider would be helpful in giving the bill the value that it ought to have in transforming educational opportunities for young people in Scotland. It is appropriate for the committee to discuss wellbeing, for example, which is a systemic issue that inspections must confront directly.

Amendment 304 would require the chief inspector to consider the extent to which learners' needs were being met and their wellbeing safeguarded. The key point about why the amendment has some worth is that it would provide a statutory basis for more serious and consistent inspection of behaviour, discipline and safety in our schools.

Martin Whitfield (South Scotland) (Lab): I remind the committee and those watching of my declaration of interests.

Stephen Kerr highlights a number of points that, to a great extent, fall within the current inspection environment. I am slightly concerned about paragraph (c) of proposed new subsection (1A), because what, in essence, he is inviting the inspection to look at through amendment 304 is

the qualification and competence of a teacher. The reference to

"undertaking a qualification in that establishment"

would tend to link to what are known, in the current parlance, as national 5s in high school. Is that not properly the responsibility of the management in the school in the first instance, and then the local authority? Indeed, if there is a question about competence, any approach to such matters lies with the General Teaching Council for Scotland, instead of an inspector being put in the position of having to comment on a professional status that has already been gained, in respect of which, I should add, there are protections, should someone be falling short.

18:00

Stephen Kerr: Amendment 304 refers to the complement of staff available to meet needs. An issue that comes up quite frequently—which I know Martin Whitfield will be aware of—is that, in many schools, it is felt that there are not sufficient numbers of classroom assistants. The intention behind that element of my amendment is to give the inspector the independence to be able to look at all those issues, and to put that in statute so that they are looked at very deliberately.

Returning to what I was saying about wellbeing, I do not know whether I need to stress this—I am sure that every member of the committee will already appreciate it—but, if schools are not safe environments for teaching and learning, every other objective of Scottish education will be jeopardised. Improvement, attainment and inclusion all depend on calm, secure and respectful classrooms.

I am not suggesting a return to punitive models of inspection; instead, amendment 304 would insist that inspectors asked the right questions. Are staff safe? Are learners being protected? Is disruption being addressed? Are the causes being tackled systemically? Those are the questions that I believe we should be enshrining in law.

I will move on quickly to talk about curriculum for excellence, which was designed with a focus on the four capacities. I believe that my amendment underpins that approach. The third pillar of amendment 304 is the requirement that inspections evaluate how well the education that is provided meets the needs of learners with additional support needs. That brings us back to Martin Whitfield's intervention, so let me address the issue again.

This is not some vague generality; it goes to the heart of the national mission for excellence and equity in education. Across Scotland, however, there is mounting concern that that mission is falling short in practice. Audit Scotland's report, "Improving outcomes for young people through school education", which was published in 2021, made it clear that there is significant variation in outcomes between schools, councils and demographic groups; indeed, later reports have made the same point repeatedly.

That all points to the need for inspections to look not just at policy implementation or compliance with frameworks but at whether schools are actually meeting the specific and diverse needs of their pupils. Are disadvantaged learners receiving the support that they need? Are looked-after children being prioritised? Are learners with English as an additional language being included meaningfully?

Jenny Gilruth: I am listening to the member develop his points, and I do not deny the importance of all the issues that he is highlighting in relation to amendment 304. However, the issues that he is talking about in relation to additional support for learning, for example, could in themselves form the basis of one inspection, never mind being in addition to, say, a thematic inspection on numeracy. A thematic inspection on numeracy would itself have to adhere to all the requirements that he has stipulated in amendment 304 with regard to

"an assessment of, and any recommendations for, improvements relating to ... discipline policies ... the learning environment"

and so on. Does the member recognise that, if all of that, together with the issues that he is raising in relation to additional support needs, has to be taken into account, it might detract from the purpose of, say, a focused inspection on numeracy, where we have seen challenges in recent years?

Stephen Kerr: I understand—or I think that I understand—the cabinet secretary's point. I am not seeking, through amendment 304, to restrict an inspector's ability to inspect schools in the way that they, as an independently operating agent, feel is appropriate to the establishment that they are in. However, there are some issues common to the education system that deserve a proper underpinning in statute to ensure that they are looked at and that there is an independent voice speaking truth to power—to Parliament and Government—about what is happening in our schools, without fear or favour.

I understand the discomfort about there being too much detail in the amendment, but if there is not sufficient understanding of what the detail leads to, we are no further forward. It is great that we will have an independent inspector. My party, among others, has campaigned for that development, which I think we welcome, but at the same time, we need to be sure that the

inspections are of a nature and a culture, and have sufficient elements, to address the fundamental issues that we all know exist in the system.

I will move on to the next pillar, which is the morale and wellbeing of teachers. I know that the cabinet secretary is well aware that that is a fundamental issue, the root causes of which we would probably all broadly agree on. Including the morale and wellbeing of teachers is deliberate on my part. I believe that it is a necessary cultural intervention, which I will come back to with my later amendments.

Jenny Gilruth: We broadly agree on the need to improve the morale and wellbeing of teachers and staff, but I am conscious of how that requirement would interact with the fact that local authorities have a statutory responsibility for the delivery of education; in particular, they—not the Government—employ our teachers. Would there be a conflict in requesting, under amendment 304, assessment and recommendations for improvements relating to the morale and wellbeing of teachers and staff, given that local authorities—not the inspectorate—employ our teachers? I am interested in how that would work in practice.

Stephen Kerr: I see the role of the inspector as speaking truth to power. I mentioned Government and Parliament, but any stakeholders, including local authorities and teaching unions, should listen to a voice of authority that reflects the reality that the inspector finds and reports. That is the voice of authority that an independent chief inspector ought to have, hence the consideration of culture, because it is a cultural issue.

John Mason: Stephen Kerr mentions the reality that the inspector might find. Can that be objectively measured, and how would the inspector do that? They might speak to the trade union representative, who might say, "Oh, morale is terrible," but I presume that they would have to do something more than that.

Stephen Kerr: John Mason makes a good point. The issue is not unique to this situation. Whenever there is an evaluation or assessment of a workplace, behaviours would have to be evidenced that demonstrate that certain situations are prevailing. It is not just about opinion. It would be evidenced by, as I say, demonstrated behaviours and reported incidents, because we need to listen to our teachers.

I have a concern, which I will come back to later, that our teachers feel a little beaten down and do not feel sufficiently confident in their own voice to speak up for themselves. The EIS has repeatedly raised concerns about the nature of inspections and how they might lead to the undermining of teacher professionalism, with members reporting that the process is often stressful, unpredictable and poorly aligned with educational priorities.

Amendment 304 is an attempt to address that by asserting that inspections engage with and give weight to the views and professional expertise of educators. It puts their voice at the centre of the inspection. That does not mean that the inspectors must accept every view uncritically, as John Mason says. It means that they must recognise that teaching is a profession, and that teachers are not merely implementers of policy but reflective practitioners with insight, experience and skill. To go back to my earlier points about school violence, we need to listen more carefully, and directly, to our teachers.

I will move my remarks along, as I can tell that I am testing the patience of the committee, but these are important considerations.

A growing proportion of newly qualified teachers are being placed on temporary or short-term contracts. I understand the business logic behind that, but it is leading to instability in staffing and less consistency for learners. That lack of permanence and continuity undermines a school's ability to establish and maintain a strong culture of discipline and respect. Younger, more inexperienced staff with limited classroom management experience and minimal job security are being asked to manage increasingly complex behaviours in settings with reduced staffing, fewer classroom assistants and rising levels of need.

It is vital that inspections ensure that not only pupils but teaching professionals are safe and looked after, which is why I have included provision for that in amendment 304. For an inspection to be truly effective, it must assess whether the school has all the skills, expertise and personnel that it needs in order to be successful. There is no point in a school's having first-class facilities without the correct—or enough—personnel to utilise those.

Amendment 304 requires inspectors to take account of

"the type of employment contract held by teachers and staff in the establishment"

and

"the number of teachers in the establishment who ... are completing probationary service, or ... are newly qualified teachers, having completed their probationary service no more than 5 years before the date of the inspection".

That is essential to understanding the culture and diversity of experience in a school. If there is no diversity of experience, an establishment is less likely to succeed. We must take that into account when inspecting schools.

Putting all those elements together, including my catch-all at the end of amendment 304, we

have a coherent framework that aligns inspection with the broader values and goals of Scottish education: equity, excellence, wellbeing, professionalism and learner empowerment. Without such alignment, inspection risks becoming a hindrance rather than a help. With the elements that I have described, inspection can become a key driver of change and improvement.

I know that I have gone on a bit, but, as members can probably tell, I feel passionately about the opportunity to transform the culture in our schools that having an independent chief inspector will bring.

It is about not just changing how we inspect our schools, but the purpose of inspection. It is about saying that what matters most in Scottish education is not just that our learners achieve, but that they thrive, progress and are taught by professionals who are trusted and respected. That is what amendment 304 enshrines. It describes the standard that is worthy of being aspired to. I therefore commend amendment 304 to the committee.

Some of you will be thinking that I am making up for my lack of attendance last Wednesday night, but I genuinely believe in the elements of amendment 304 and I lay it before the committee for your consideration.

Pam Duncan-Glancy: Good evening to the cabinet secretary, officials and others. I have listened carefully to the debate that we have had so far. I will go through amendment 313 in my name, but I take the cabinet secretary's point—or offer—about my not moving amendment 313 and that we could work together at stage 3.

My amendment 313 follows on the calls in the independent reports of the OECD, Professor Ken Muir and many others that urge us to create an independent inspection body that is focused on improvement and collaboration with the establishment and local authority and which supports excellence in our learning establishments. I think that the amendment does that. It tightly defines the purposes of an inspection and it requires the independent inspection body to be focused on those areas.

Through various reviews and experiences, some of which the cabinet secretary and my colleague Stephen Kerr have spoken to, we have seen that things in schools have gone unnoticed for probably too long. That is why review after review has found the circumstances that have been found. Getting the purpose of inspections right will be absolutely crucial.

18:15

I have two concerns about the cabinet secretary's amendment 84. I note that she will not press the amendment, but I will put my concerns on record for the purposes of negotiations at stage 3.

The fairly extensive regulation-making powers that would allow the Government to determine the purpose of inspections could threaten the independence of the inspector, and I will look to discuss the proposal at stage 3. I am concerned about the points raised by the EIS, as alluded to by the cabinet secretary, that individuals, as opposed to establishments, could be inspected. I think that enough has been said on that, because the cabinet secretary has acknowledged the concerns and I do not think that that was the intent. Therefore, I would not expect to see such a proposal in a negotiated amendment at stage 3.

The issues that are outlined in Stephen Kerr's amendment 304 are critical to the future of Scotland's education system. The lack of permanence in the teaching profession has meant that more newly qualified teachers have left the profession than before, and we know that the profession is considered to be quite precarious. We also understand that morale in the teaching profession is low, which I think we need to do various things to address. I say to both the cabinet secretary and Stephen Kerr that if laying out that we should inspect on the basis of teacher morale, contract type or ASN support is too much to include in legislation, where should we set out those requirements, so that we can guarantee that those things are considered and systematically and regularly reviewed, and so that we do not reach crisis point? Committee members and those watching the meeting will understand that those things are a significant concern.

I am not sure that it is quite right to include some of the detail in Stephen Kerr's amendment 304 in the bill, but I understand why he has lodged it. I would be prepared to negotiate at stage 3 to see whether the bill could include something on the purposes of inspection that works for us all. I encourage the Government to consider carefully whether it considers that matters of teacher contracts, permanence, morale and ASN support should be covered in the bill. If not, at some point, the Government will have to be clear to members across the chamber what it is going to do about those key issues.

The Convener: I call the cabinet secretary to wind up and to press or withdraw amendment 84.

Jenny Gilruth: In the stage 1 report, the committee recommended that a statement on the purposes of inspection should be included in the bill. I agree on the value of setting out the

purposes of inspection, but it is also my view that we need to strike a careful balance to ensure that we do not hinder the flexibility or independence of the chief inspector, which I believe Mr Kerr's amendment 304 would do. As committee members will know, Professor Muir highlighted the importance of that balance when he gave evidence during stage 1. He advised that the bill should set out only the

"high-level principles in relation to how the inspectorate should operate",—[*Official Report*, *Education, Children and Young People Committee*, 18 September 2024; c 18.]

leaving operational detail to the chief inspector.

As I said earlier, I remain open to further consideration of the topic. I note that Ms Duncan-Glancy raised a pertinent issue in relation to teacher recruitment. She will be mindful of the issues that I raised in response to Mr Kerr about the responsibilities of local government. However, I am also mindful that the inspection plan could set that out as a national focus, for example. The committee will have the opportunity to review the inspection plan and feed into it accordingly.

I intend to press amendment 86, as it is a minor, technical amendment that clarifies how an existing power in section 31 of the bill can be used. That is being done to ensure that the end result is transparent and accessible, with a full definition in one place, rather than a definition being split between the bill, when enacted, and regulations. I will not press my other amendments in the group, and I ask that Mr Kerr and Ms Duncan-Glancy do the same in order to create the opportunity to bring forward a strengthened amendment at stage 3.

Amendment 84, by agreement, withdrawn.

Section 30—The inspection function

Amendment 304 not moved.

The Convener: Amendment 305, in the name of Stephen Kerr, is grouped with amendments 306, 309, 310 and 312. I point out that amendments 309, 310 and 312 are pre-empted by amendment 158, which was previously debated in the group on the independence of the chief inspector.

Stephen Kerr: Amendments 305, 306 and 310 address the crucial matter of the frequency of school inspections. The amendments that I have lodged in the group all stem from one central belief, which is that every learner in Scotland, regardless of their postcode, has the right to attend a school that is regularly and rigorously inspected. It is a matter of equity, quality assurance and public trust.

Amendment 306 introduces a statutory requirement that every education authority establishment be inspected

"at least once within every 3 years".

The amendment is straightforward but essential, because it is a response to a long-standing and well-documented concern—the absence of regular, consistent inspections across the system, which we have discussed many times in the chamber and in the committee. Audit Scotland has noted in multiple reports that there is no current statutory duty for cyclical inspections of schools in Scotland and that the current system relies on a risk-based and sampling model that leaves large gaps.

As of recent years, only a small percentage of schools have been inspected in a year. Many schools have gone 10 years or more without an inspection at all, and that is not accountability—that is abdication.

John Mason: On the risk-based approach, it is common for auditors in business and in all sorts of areas of life to focus more on risky subjects than on less risky ones. For starters, would the member not accept that that is quite a good principle? Secondly, can he tell us how many inspections there are at the moment, how many there would be under his plan and whether there is any costing of that?

Stephen Kerr: I will come to the frequency that I am proposing in a second. In answer to the specific issue that John Mason has raised, I understand the importance of risk-based and sampling approaches in inspections. However, the fact of the matter remains that many schools in Scotland have not had inspections for many years, which I do not think is acceptable in our system, because it leaves parents uninformed, teachers unsupported and learners unprotected from poor or stagnant practice.

On the second point that John Mason has raised, I think that a three-year cycle would not be overly burdensome—it would be modest, achievable and proportionate. It would ensure that every school received a visit within a reasonable timeframe without overloading the inspection body. Importantly, the amendment is consistent with the bill's structure, because section 30 currently allows the chief inspector to determine inspection intervals while also allowing ministers to set minimum frequencies via regulation.

Amendment 306 simply establishes a clear statutory baseline expectation for school inspection once every three years. It does not conflict with the chief inspector's role, and it provides an essential guarantee for learners and parents.

Amendment 305 is a consequential change to make it clear that the inspector's discretion to determine the frequency of inspections is subject to that requirement. It does not negate the risk-

based approach that John Mason mentioned earlier.

John Mason: I asked the member about the frequency of inspections. I stand to be corrected, but my understanding is that there are about 250 inspections a year now and that his proposal would take that number up to 800, which is three times as many inspections as there are at present. There would be quite a cost to that.

Stephen Kerr: That is a fair point and I accept it as such. There is a famous old adage that, if you think education is expensive, try ignorance.

If there is a singular need in our education system right now, it is to provide a friendly critical voice to educationalists and school leaders, to allow them the opportunity for improvement and change. Providing that through inspection is a critical benchmark opportunity. If it is done in the right way, with the right cultural approach—which is the theme that I and many others keep coming back to—it might, as opposed to what happens in other jurisdictions, become an experience and an opportunity that school leaders and teachers look forward to. I know that the cabinet secretary, given her professional experience, is perhaps enjoying that comment rather too much. However, at the end of the day, if someone is leaning in to help and support you with the challenges that you have professionally, that is usually seen as a good thing.

It would be a really positive benefit of the bill if we established an inspections culture whereby school leaders, teachers and other staff felt that they were going to get some benefit—directly, professionally and personally, in their work environment—through an inspection. Although that perhaps sounds to some people's ears like an ambition that might be beyond reach at the moment, I do not think that it should be. We should be planning a culture change with the new office that we are establishing, which means that that is the appropriate attitude to be brought to every inspection.

George Adam: Given the figures brought up by my colleague John Mason—the fact that there could be 800 inspections a year—you run the risk of creating an administrative burden, with schools constantly under inspection and nothing getting done.

The evidence that we received from Professor Ken Muir from UWS—you have mentioned him on numerous occasions—was that the current inspection frameworks already provide sufficient flexibility to target resources where they are most needed while maintaining oversight of the system. He is someone who works in education and did a whole report on this and understands how everything works. Perhaps he would think that 800 inspections a year would be a bit much.

Stephen Kerr: I take the point that George Adam is making. I am not dismissing either his point or the point that John Mason raised.

I think that Ken Muir's position is that the establishment of the independent office of the chief inspector is a great opportunity to address the issues, particularly the cultural issues, around inspection that I am trying to highlight. All of my gathering of personal evidence from listening to Professor Muir has convinced me that we can have a different approach to school inspections in Scotland. I do not quite understand why having a frequency of around every three years would overburden school leaders and teachers.

Willie Rennie: I do not want to encourage Stephen Kerr to speak any longer—[*Laughter.*]—but I suggest that he is perhaps arguing for a budgetary decision, which is about capacity, rather than a legislative process.

Stephen Kerr: If there is no baseline in legislation as to how frequently, at a minimum, an inspection should happen, we could slip back into the situation that we have currently, which I do not find acceptable and which I think that Willie Rennie does not find acceptable either.

My amendments are well meaning—if members will forgive the verbosity on the side of their presenter. The idea is to establish a statutory expectation. It is in law that inspections will happen, but they do not happen currently. I have heard Willie Rennie speak about that issue in the chamber in relation to his constituency. It is a real issue that I think we should seek to address in the bill.

I shall press on, convener. I am driving at transparency, which is critical, because nobody wants schools to operate in the fog of uncertainty about when an inspection will come or how frequently they should happen. Neither parents and communities nor school leaders and teachers should be kept guessing.

Amendments 305 and 306 would give structure and predictability to inspections. Together, the amendments aim to professionalise and systematise—I hope that I have not invented that word—the inspection regime by bringing Scotland into alignment with international comparators. In England, Ofsted inspects state schools on a regular cycle, typically every four years; in Wales, it is every three years. I am not proposing anything all that radical; I am proposing that we, in Scotland, follow suit—or, in some respects, because of the lack of consistency and frequency of inspections, catch up.

18:30

Amendment 310 is an alternative approach to amendments 155 and 158, which would remove the Scottish ministers' role in inspections entirely, including the provision that the chief inspector

"must comply with any written request"

to carry out an inspection. I think that that debate might have been dealt with in the session that I was not able to attend, last week.

The proposals that are put together are fully consistent with the bill as introduced. The explanatory notes to the bill make it clear that, although there is provision for ministers to set the inspection frequency by regulation—I think that that is correct—the bill does not provide a statutory inspection cycle or follow-up duty. By enshrining a three-year cycle and mandatory follow-up, the amendments would fill a structural gap without undermining the flexibility or judgment of the chief inspector.

There is lots of evidence from other bodies that supports the idea of having a regular inspection, and I urge the committee to consider the amendments together. They are not partisan proposals; they are practical reforms that are rooted in evidence. They are aligned with my concern about the need for a change in culture, and they would benefit teachers, school leaders, learners and parents.

I move amendment 305.

Pam Duncan-Glancy: My amendment 309 would place an obligation on ministers to make regulations that specify the intervals at which establishments are to be inspected—the bill as currently drafted states that Scottish ministers "may" specify the intervals. That is incredibly important. As my colleague Stephen Kerr has set out on the record, it is important to continually understand what is happening in our schools and to get a regular picture of what is going on. It is not acceptable that ministers may not set out in regulation the intervals at which establishments should be inspected. That is why my amendment 309 would place an obligation on ministers to do so.

Amendment 312 would require ministers, before drafting such regulations, to consult teachers and

"people who ... represent the interests of ... teachers".

That is important, because we have seen how inspections can lead to significant stress and concern for teachers and in establishments, which is one of the reasons why, in the debate on the previous group, I said that I was concerned about the Government's amendment 84. It is crucial that we engage teachers so that they understand when and how often inspections will take place. The regulations must be laid and the sector should be engaged when the regulations are being drafted.

Jenny Gilruth: I thank members for their amendments. I appreciate that they are intended to secure the quality of education provision, but I have some concerns about their feasibility and the impact that they would have on the chief inspector and the wider education system. Some of those concerns have been raised by members this evening. John Mason spoke about the dramatic increase in the number of inspections that there would be for every school. If we moved to a three-year cycle, we would be securing roughly 800 inspections per year, and there would be even more once non-school inspections were factored in.

When Stephen Kerr says that he is not proposing anything radical, I tend to disagree. I am also intrigued to know what engagement he has had with the teaching trade unions on the proposal. I am sure that they would have some views. He spoke about the inspection being a friendly critical voice, which is somewhat of a contradiction in terms.

Pam Duncan-Glancy spoke about the stress that is associated with inspection, and I am mindful of the fact that, in addition to being inspected by the chief inspector, schools are inspected by local authorities. If we were to increase the number of inspections by having a three-year cycle, would Stephen Kerr expect local authorities to do likewise? Would schools be in a never-ending cycle of inspection by the chief inspector and the local authority, with perhaps only one year off?

Stephen Kerr: The friendly critical voice is quite a well-known concept in mentoring, coaching and supporting people. We all need a friendly critical voice in our lives, and I am proposing that that should be the cultural context in which the inspections take place. It is intended to be a positive culture, rather than the culture that might exist currently here, or in other places, in respect of school inspections. Does the cabinet secretary accept that that is a valuable role that a school inspector could play?

Jenny Gilruth: I accept the member's point, but I have a concern that brings me back to the point that Ms Duncan-Glancy rightly raised, which is that the current culture in our schools is not necessarily that which the member has alluded to. We need to work to support that culture through reform.

John Mason: Does the cabinet secretary have any idea what Stephen Kerr's proposals would cost in financial terms?

Jenny Gilruth: No. However, in answer to Mr Mason's question, I would suggest that, in order to meet the target, there would have to be a

recruitment drive to support the requirement for a significant number of additional inspectors. That would be extremely challenging, given the depth of experience that is required for someone to become an inspector. After all, inspectors do not come fully formed; we have to train people, and that will take time.

Inspectors often join the inspectorate directly from schools—I am thinking of, for example, headteachers and deputy headteachers. There are constraints on how quickly we can get staff out of school and trained up, which might compromise any approach to the associated challenges that we have already heard about this evening with regard to recruitment in the system more broadly.

There would also be an increased burden on teachers in having to prepare for the inspections; indeed, that is the point that I was trying to make to Mr Kerr. His proposal would add to the unnecessary pressure on schools, which, as we know, are already struggling with capacity issues. I therefore cannot accept Mr Kerr's amendments and I encourage him not to move them.

Stephen Kerr: The proposal in my amendments is an attempt to address culture transformation, which I think—I hope—we all agree is an important aspect of the bill. If the cabinet secretary thinks that a three-year inspection cycle is too much—although it is not considered so in other parts of the United Kingdom, by the way; I wonder whether she might comment on that—what does she think the frequency of inspections should be? They do not happen every three years at the moment. When she talks about the need for more inspectors and all the rest of it for a three-year cycle, I suggest that the same would be true for the creation of a four or five-year cycle, given the current sporadic nature of inspections.

I am sorry for going on a bit, but it goes back to the point that Pam Duncan-Glancy made: if this is not the place to set the benchmark of frequency, where is? That is my question. What frequency does the cabinet secretary have in mind?

Jenny Gilruth: I am coming to that exact point now, Mr Kerr.

I am more open to discussing the intention behind Pam Duncan-Glancy's amendments. Given the importance of inspection in the school system, in particular, it is an interesting proposition that ministers should set the frequency of the inspection of schools and other educational institutions, as amendment 309 suggests. That said, there could be potential downsides to it. There is a potential risk that, in focusing on the frequency and the number of inspections, we might lose sight of the trade-off that there might be with quality and appropriate focus. Hypothetically speaking, could the chief inspector, faced with a ministerial stipulation about how frequently schools should be inspected, seek to meet that requirement by carrying out a light-touch, simple inspection model, which might not always be appropriate?

I am also mindful of the fact that Professor Muir made no recommendation on the frequency of inspection in his report and that the associated consultation offered varying views from respondents.

Ross Greer: I wonder whether the cabinet secretary sees any value in the purpose behind Pam Duncan-Glancy's amendment 309, which seeks to set out in statute some kind of floor but with a recognition that, in policy terms, we would be aiming for something more regular. There might be quite a long duration between inspections, but there would still be a floor that it would be a breach of statute to go beyond, even with the recognition that something a bit more regular would be desirable. Would such an approach give flexibility while still providing some underlying reassurance?

Jenny Gilruth: Mr Greer raises an important point. Historically, schools were inspected on a generational basis—that is, every seven years—and we have moved away from that model in recent years. However, I am happy to investigate Mr Greer's point, because I think that it is an important one.

I ask Ms Duncan-Glancy not to move amendment 309. I will discuss the matter further with her and any other members, including Mr Greer and Mr Kerr, with a view to identifying what, if any, mutually acceptable provisions on the frequency of school inspections could be brought back at stage 3.

Pam Duncan-Glancy: I ask the cabinet secretary to give me two minutes to talk about the wording of amendment 309, which seeks to replace "may" with "must". It is already recognised in the bill that regulations could be laid; I am simply suggesting that they should be.

Jenny Gilruth: I am happy to investigate that with Ms Duncan-Glancy ahead of stage 3. The point that I was making in response to Mr Greer is that we need to be careful about what we do and that we should engage more broadly with stakeholders. I am mindful of the fact that the teaching trade unions, in particular, will have views on the issue, and it is important that those are heard.

I am also cognisant of the issues associated with stipulating, for example, the number of inspections that should be carried out in a school year, which I think that Mr Greer spoke about and which Mr Kerr addresses in his amendments. We need to be mindful of the fact that, by increasing

the number of inspections, we might be decreasing the quality of the information that would be made available.

Pam Duncan-Glancy: My amendment 309 is not about stipulating the number of inspections. The bill already suggests—so the Government must, at some point, have already felt—that there may need to be regulations. My suggestion is that, because of what Stephen Kerr has told us and because of the time that can pass between inspections, there should be regulations on the intervals between inspections. The Government has already accepted that there may be a need for such regulations; I am suggesting that ministers should produce them.

Jenny Gilruth: It is not in the gift of the minister alone to make affirmative regulations, which is why, I am advised, there is an issue with the word "must". However, I would be more than happy to engage with the member on the matter ahead of stage 3, so that we can reach a position that we agree on. I agree with the broader point that she has made.

Amendment 312 would add a requirement that ministers must consult registered teachers, as well as

"persons who appear ... to represent the interests of registered teachers",

before making regulations about the frequency of inspection. Given that ministers would consider it appropriate to consult such persons in any case, I am happy to support the amendment.

The Convener: I invite Stephen Kerr to wind up and to press or withdraw amendment 305.

Stephen Kerr: I am concerned about the cabinet secretary's latter comments in relation to Pam Duncan-Glancy's amendment 309 and its use of the word "must". Unless the word "must" is used, there will be no need for ministers to do anything. What the minister has said means that Parliament has no way of creating the circumstances in which a minister must make regulations, and I am a bit worried about that.

I sense that the cabinet secretary wishes to make an intervention.

Jenny Gilruth: I have been discussing the matter with officials. The issue pertains to the use of the word "must", which presumes that Parliament would grant the cabinet secretary or the minister of the day the permission to make the regulations in question. We have to give Parliament the final say in relation to the use of the word "must". I cannot compel Parliament—Parliament has to decide. That is my difficulty with amendment 309, which is why I said to Ms Duncan-Glancy that I would be happy to work with her on her amendment such that we can all agree on it and Parliament can be given its place in making that decision, because that is not for me to dictate. I hope that that gives the member some reassurance.

Stephen Kerr: I am always reassured when I hear ministers say that they are not seeking power to dictate. [*Laughter.*] I still harbour a concern, but I am willing to go along—

Martin Whitfield: We seem to be getting lost in relation to the vehicle that would be used. Regulations would be the vehicle that the Scottish Government—or, indeed, the Parliament—would be willingly bound to use. There is agreement on the vehicle that would be used. I think that the Scottish Government is offering to discuss the nature of what that vehicle would look like with regard to the items that have already been addressed, rather than whether a different vehicle would be used.

Stephen Kerr: On the basis of that helpful clarification from Martin Whitfield, I will not press amendment 305, but I will give way to Pam Duncan-Glancy.

Pam Duncan-Glancy: I ask Mr Kerr to forgive me for the rather circuitous nature of my questioning. The bill currently says that ministers "may" make regulations on inspection intervals. I am not sure that the point is to do with the vehicle. My amendment 309 seeks to say that the Government should lay such regulations. I wonder whether Mr Kerr is as curious as I am about whether there are any other examples in legislation of its being stated that the Government must lay regulations, because I feel that there might be.

18:45

Stephen Kerr: Ms Duncan-Glancy knows me only too well; the word curious is probably one of many words that might be applied to me. I am curious about what the frequency of inspection would be. I understand the point that Martin Whitfield made, but I am concerned that we will leave this debate without being entirely clear about what we are going to end up with.

I am seeking a frequency of inspection that is not out of line with other parts of the United Kingdom. We have a situation in Scotland where our regime of inspections has, frankly, pretty much collapsed under Education Scotland. There were schools that went a decade without any inspection—and not just a few. I do not think that that is fair.

If a school is inspected any less often than every three or four years, a whole cohort of young people will go through an institution where there might be issues that could be rectified and where

there are cultural issues that might be transformative and they will have been completely lost. The public would, rightly, be concerned to hear that we do not have such a regime in place or the number of inspectors that are required to do that properly in Scotland's schools.

The concern that the cabinet secretary expressed about the chief inspector using a light-touch model is pretty much what happens currently, which is that—and I do not wish to be disparaging—inspections happen once every blue moon.

Jenny Gilruth: Will the member take an intervention?

Stephen Kerr: Of course.

Jenny Gilruth: The member will recall that there is already stipulation in the legislation for the inspection plan to set out

"the period to which the plan applies"

and

"the frequency with which different types of relevant educational establishments, other than excepted establishments, will be inspected".

Frequency is already covered in the bill, but it is under the power of the chief inspector, who will stipulate it in the inspection plan, which will then be laid in Parliament, and the education committee will be able to interrogate that plan. As I understand it, that power currently rests with the chief inspector, not with ministers. Is the member content to give that power to ministers? Does he not trust the chief inspector to stipulate the frequency of school inspections?

Stephen Kerr: The cabinet secretary knows full well that I have great expectations about the trustworthiness of the chief inspector. So much hangs on the individual who will be the chief inspector, the culture that they will operate in their broader remit and how they will use their independence to the best effect.

However, I have concerns on behalf of the chief inspector; I am concerned that, in a flight of fancy, he might agree that we should do inspections every three years, given that we are being told that we will not be able to do them every three years because there will not be enough of anything to provide such an inspection regime, which would be the same as what is already provided in other parts of the United Kingdom. That concerns me.

I cannot speak for the committee, because I am not a member of it, but I cannot be the only one who is concerned. I am sure that members of the committee must be concerned to hear that we will not be able to have a more regular and cyclical approach to inspections because we do not have enough inspectors, or because we cannot—

Jenny Gilruth: There is nothing to preclude the chief inspector from stipulating that in the inspection plan. That is already provided for in the bill. The matter rests with the chief inspector. I understand the member's point, which is that he wants to give that power to ministers and take it away from the chief inspector. It is arguable that doing so weakens the strength of the committee in interrogating the inspection plan, because the bill is currently drafted to allow for that.

Stephen Kerr: That is not my argument. Amendment 306 lays in statute what the frequency of inspections would be; I am not leaving it up to ministers or anybody else. I still want to put it in the bill, because that way it commands the attention of all concerned.

As I said, I am grateful to colleagues who have intervened to point out the arithmetic of the number of inspections, but we have heard that we do not have inspectors and that we do not have the strength and depth to be able to perform those inspections on anything like the routine basis that they are done in England, for example. I do not want Scottish schools—

George Adam: Will you take an intervention?

Stephen Kerr: Of course.

George Adam: I just had a wee look at what the process is in England. Apparently, the three-year cycle is a policy aspiration. If a school is rated outstanding, it is inspected every four to five years, a good school gets done every four years and there is full reinspection within 30 months if a school requires improvement. That is a good idea.

However, the whole point is that it does not actually happen every three years. It would probably work out similarly to the system that we have, in which we ensure that, when there is an issue, there is a process—we do the inspection and the school gets the support that is needed. That is almost exactly the same, because outstanding schools and good schools will be the ones that are—

Stephen Kerr: George Adam's intervention is very helpful, because it adds weight to my concerns about frequency. Even an outstanding school in England is inspected every four to five years.

George Adam: Five years—not three.

Stephen Kerr: Okay, five years—great. Our problem is that—[*Interruption*.].

The Convener: We have done very well—I think that this is our fourth session, and most people have spoken through the chair. If we can continue with that, we will conduct our business in an orderly manner. Does Mr Kerr want to give way to Mr Adam?

Stephen Kerr: I am happy to.

George Adam: We are going round in circles, so I will just leave it at that.

Stephen Kerr: I think that I have explained my concern about what we have heard in the consideration of this section of the bill about the capacity, the resources and the idea of regular inspections. I believe that the latter are fundamental to the whole area of cultural change and that they also support the profession and school leaders and shed true light on what is happening in our schools for the benefit of learners and their parents.

I will withdraw the amendments in my name on the basis that there might be the possibility—as I think that I heard—that we can talk in detail about the issue before stage 3.

Amendment 305, by agreement, withdrawn.

Amendments 155 and 156 not moved.

The Convener: Amendment 157, in the name of Miles Briggs, is grouped with amendments 166, 315, 178 and 348. I call Miles Briggs to move amendment 157 and to speak to all amendments in the group.

Miles Briggs: Good evening, cabinet secretary and colleagues. I will speak to amendments 157, 166 and 178. As we have heard throughout the committee's deliberations, culture change is not easy to legislate for. In the area of child protection, we need to look to strengthen the specific safeguarding child protection responsibilities and place those into inspections. I have lodged these probing amendments to consider how we can provide for the complaints function and improve HMIE's inspection plans in relation to it.

I have developed the set of amendments as part of an ask that is contained in the on-going public petition PE1979, on whistleblowing and safeguarding. I pay tribute to the petitioners Alison Dickie, Bill Cook, Christine Scott and Neil McLennan for their on-going campaigns and important work in that area. The petition, in short—as the committee will be pleased to hear—calls for the establishment of an independent national whistleblowing officer for education and children's services. Although the proposal does not sit comfortably as part of the bill, I want to probe how the new inspectorate could take forward a new function or, indeed, how Parliament could create such a role at stage 3.

I welcome the amendments in the name of my colleague Stephen Kerr in this group, too.

I believe that there is a clear gap in relation to safeguarding and child protection responsibilities being part of a school inspection, and that is what has motivated the amendments. If we are to ensure that safeguarding and child protection are at the heart of any educational establishment, we need to look towards how that is being measured and taken into account. Specifically, establishing a complaint function would allow for a mechanism whereby the chief inspector could have confidence and means to hear from parents, carers, teachers and other persons who want to report concerns about any relevant educational establishment. Those concerns would be recorded and then used to inform HMIE's inspection plans.

As members know, I have tried throughout the stage 2 process to embed parent and carer voices in the matter of school inspections and in the bill. I believe that we need additional measures to take those voices into account.

Ross Greer: I am glad that the member is pushing the issue on to the debate and that he said that these are probing amendments. I have a lot of sympathy for what he is proposing.

Part of my concern about the operational aspect is the idea that the inspectorate would have to engage with every complaint that is received. I am sure that we have all had complaints in our email inboxes. I have had someone complaining about a school because the school was helping to deliver vaccinations to children and the individual who complained thought that the vaccinations included 5G chips from Bill Gates. Not every complaint is equal, so there needs to be some flexibility to ensure that spurious complaints can be dismissed, so that, if we assign such responsibility to the inspectorate, its focus can be dedicated entirely to serious complaints, although I agree that there is a gap in the system around addressing those.

Miles Briggs: I agree that it is not about every single complaint being investigated. The petitioners would certainly point out serious complaints that have not been investigated. As an Edinburgh MSP, I am concerned about Edinburgh schools, but this is not just an Edinburgh issue—it is an issue across Scotland.

I hope that, at stage 3, there will be a workable way of giving the inspectorate a new opportunity to hear concerns and decide which ones it should take forward under the complaints procedure. That is why I have tried to keep the amendments open for the inspectorate to be able to do that. I am happy to hear the cabinet secretary's view on the matter. The petitioners have a specific ask, and the amendments are just one step towards improving the whistleblowing and safeguarding culture in Scotland.

I move amendment 157.

Stephen Kerr: I am sorry that the committee has to listen to me again, but it just so happens that the amendments that have come up are in my name.

I agree with what Ross Greer said. It is not about dealing with complaints; it is about raising serious concerns—specifically, concerns that rest within the public interest remit in the statutory definition of whistleblowing.

It is important that I declare an interest. I have a long-standing connection with WhistleblowersUK, which is a not-for-profit organisation that supports whistleblowers. It is also a campaigning group that seeks to change the law to provide proper protections for whistleblowers. The issue has been a long-term interest of mine, because I genuinely believe that whistleblowers can be a positive antidote to some of the toxicity that can arise in closed cultures.

Amendments 315 and 348 are not merely about improving administrative processes; they are also about sending a powerful message about culture, trust and integrity in our schools and educational bodies. We must legislate not only for structures but for values. Among those values must be the protection of truth-telling, the safety of those who speak up and the accountability of institutions to those they serve. Amendments 315 and 348 seek to provide those values.

The amendments are not intended to be small bureaucratic changes. They are about encouraging moral courage, institutional integrity and the creation of a culture in which staff at all levels feel safe to speak up when they see that something is wrong and that it is in the public interest that they do so.

To be clear, whistleblowing saves systems from failure. It is not a nuisance that is to be tolerated and it is not disloyalty. It is the front-line defence of standards and safety. It means protecting the public interest and ensuring that the best interests of pupils, parents and the wider public are safeguarded at all times. That is particularly vital in education, and I believe that the cabinet secretary appreciates that. Schools are closed environments, power is hierarchical—that is particularly true in an educational establishment—and cultures can and do become toxic. When issues such as mismanagement, safeguarding failures, curriculum malpractice and the bullying of staff or pupils arise, the instinct too often, sadly, is to deny, deflect or retaliate.

In recent years, we have seen, tragically and repeatedly, what happens when staff feel that they cannot speak up. Across the public sector, we have seen whistleblowers suffer for doing the right thing. Careers have been ended, reputations have been shattered, and isolation, stress and even mental breakdown have followed. In many cases, the underlying issues were eventually proven to be real. We will all have had constituency casework that relates to the examples that I am citing.

19:00

The education sector is no different. Teachers, support staff and senior leaders across Scotland have shared—often anonymously—stories of having tried to raise concerns about child safety, exam integrity and leadership failures, only to be warned off, ignored or subject to disciplinary action. The Scottish Parliament has an opportunity in the bill to act to prevent that culture from persisting. We must, united, send a message that whistleblowing is not a betrayal but is a form of professional leadership. It is an expression of ethical responsibility and an act of service in defence of the public interest.

The amendments are modelled in part on the independent national whistleblowing officer, or INWO, role that was established in the national health service in Scotland in 2021. That role provides a clear, safe and structured route for NHS staff to raise concerns about wrongdoing or malpractice in their workplace. It guarantees that those concerns will be treated with seriousness, confidentiality and fairness, and it sits outside the management hierarchy.

Why should teachers, classroom assistants, early years workers and college lecturers be afforded any less protection? The argument for parity is overwhelming. The stakes in education are no less high than in health. Learner safety, wellbeing and outcomes depend on the honesty and responsiveness of institutions. The public trust that is placed in our schools is immense. When that trust is breached, the system must not silence or sideline those who speak up; it must embrace them. For the sake of pupils, for the peace of mind of parents and for the reputation of public education as a whole, we must protect the right to speak up in the public interest.

It is right that I mention the psychological and career toll that unprotected whistleblowing can take. Too many professionals who have spoken up have found themselves subtly or not so subtly punished—excluded from promotion, subject to hostile appraisals, moved between schools or stripped of informal support. Often, their colleagues fall silent for fear of guilt by association. Whistleblowing, in those instances, is a lonely and painful road. It should not be so. If the Scottish education system is to retain talented and ethical professionals, it must ensure that raising a concern does not become a career-ending decision. My amendments embed that principle.

My intention in the amendments is to create a whistleblowing framework, which is a practical and powerful way to reassure potential whistleblowers that the listening is real and to give every professional a route to be heard, even when their line management has failed them.

The approach is fully consistent with the direction of travel in Scottish public life. The whistleblowing officer role in the NHS, which I mentioned, was created following decades of failure in healthcare, with staff knowing about risks but feeling unable to speak. The Scottish Public Services Ombudsman, under whose auspices the INWO sits, has made it clear that every sector should have whistleblowing protections that are tailored to the sector's structures and culture, and my amendments seek to say loudly that it is time for education to follow.

I will expand on something that Ross Greer said earlier. Some people might say that we already have grievance procedures and staff complaint schemes. I would argue that those are not enough, because grievance procedures are internal and subject to management discretion. They are often used against whistleblowers. They do not have the independence, transparency or moral authority that whistleblowing frameworks require.

Other people might ask whether a whistleblowing framework will encourage vexatious complaints, but experience shows otherwise. Where whistleblowing systems are well designed, vexatiousness is rare, and it can be identified and addressed. The answer to misuse is not to deny use. The answer to due process is not silence.

Some may worry about workload or bureaucracy. Again, the NHS model shows that whistleblowing offices can operate efficiently when there are clear thresholds, defined procedures and proportionate oversight. They do not need to be large or costly; they need to be credible and trusted.

The moral case to support the amendments is clear. The policy precedent in the NHS is strong and the bill is the legislative vehicle to bring in what the amendments propose. We must now act. The amendments are not just about good governance; they are statements of values. They say to every teacher, learning assistant and administrator, "If you see something wrong, we want you to tell us. We will listen. We will protect you. We will act." That is the message that the amendments send and the infrastructure that amendment 348 would provide. Together, the amendments offer Scotland a national education system that is open, honest and accountable from the inside out.

Ross Greer: I have a lot of sympathy for Mr Kerr's amendment 315. Amendment 348, on the requirement to report, concerns me more, given that I hope—as I think that we would all hope—that, at least in some years, a relatively small number of complaints would be made via the proposed process. My worry is that, when we are talking about a small number of complaints that would have to be coalesced into a published report, the requirements on reporting that are in the amendment would be hard to reconcile with a need to make sure that there is absolute anonymity for whistleblowers and no prospect of jigsaw identification.

Stephen Kerr: I understand and respect those concerns. However, having transparency about the fact that whistleblowers were going to the officer concerned would be an important part of encouraging and supporting a culture of transformation with regard to whistleblowing. Currently, as I know that Ross Greer is fully aware, people have a negative connotation of whistleblowing. As legislators and public servants who have an interest in reforming Scotland's public services across the board, we should want to try to change the perceived culture that exists within organisations, so that people feel empowered to discreetly, confidentially and anonymously—to begin with, perhaps—speak up.

In comparison with my amendments on inspection, with these amendments I am not trying to be overprescriptive about how whistleblowing would work. However, it is important that it works. I invite the committee to support my amendments. The cost of silence is too high and the moral imperative that I mentioned earlier is too strong. We are talking about the public interest. This is too important not to deal with now, and the opportunity to do the right thing is sitting right in front of us with these amendments.

Martin Whitfield: I will not take up too much of the committee's time. As Stephen Kerr knows well, I have long been an advocate of whistleblowing. However, I have concerns about the amendments. He seems to be suggesting in the amendments that the chief inspector should become a prescribed person. That would cause concerns if the complaint were to be about an inspection.

Where the right criteria are met, the Children and Young People's Commissioner Scotland is available to young people, parents and others as a prescribed person for the purposes of whistleblowing. That relates to health and safety and would cover a significant number of areas of concern, along with any criminal acts, fraud or other matters.

To echo Ross Greer's comments, it is an interesting area to examine, but I am not sure that the bill is the right vehicle to address it, given the different role of the chief inspector, at a statutory level, and the requirements of the office. I have no problem with having a confidential means for parents to feed into an inspection; that would be beneficial. I know that others—

Stephen Kerr: Will the member give way?

Martin Whitfield: I am happy to do so.

Stephen Kerr: This is probably going to give you a clue as to how I wish to proceed with the amendments, but where the actual function sits could be the subject of further discussion. To be frank, I am not saying that what is written down in the amendments is the final total of the consideration that might be given to the office of whistleblower.

That is the critical thing. I think that it is very important that this be a clearly designated office. I come back to the old saying about something doing what it says on the tin. If it says on the tin that this is the office of the whistleblower, whistleblowers ought to feel confident, even if it has another title. I accept all of that, and I am open to considering whatever changes might be necessary to provide the basis for legitimising whistleblowing and to make it a means of supporting cultural change in education.

Martin Whitfield: With that assurance, I have nothing further to add. I see where the member is going, and I am grateful.

The Convener: I call the cabinet secretary.

Jenny Gilruth: I welcome the intention behind the amendments lodged by Mr Briggs and Mr Kerr. I understand that the petition that Mr Briggs has alluded to is still under consideration by the Citizen Participation and Public Petitions Committee, so I will make no further comment on the specifics.

However, I make it clear that I understand that the existing complaints processes can be perceived as fragmented and complex by complainants. I think that that was the point that Mr Briggs was making, and we should look at what more can be done in that area. Therefore, I propose today to discuss with COSLA and ADES through the recently established education and childcare assurance board—so, outwith the legislative process—the range of issues that have been highlighted in members' contributions. It would also be pertinent to involve wider stakeholders, such as the General Teaching Council for Scotland, as necessary.

I am more than happy to engage with the committee on that work, if members agree to the proposition. The discussions might lead us to considering proposals such as those put forward by Mr Kerr and Mr Briggs. However, I am not clear at this point that those are appropriate functions for the chief inspector to take on.

Miles Briggs: I fully respect the point that the petition that I have mentioned is still live, but will the potential discussions that the cabinet secretary has referred to include the establishment of what the petitioners have been seeking—that is, an independent national whistleblowing officer not just for education but for wider children's services in Scotland? That is currently missing, and I point out that we have moved to provide such a function for health services, for example. Is that something that the Government would consider?

Jenny Gilruth: I give the member the reassurance that I am more than happy to have those discussions with COSLA and ADES and to give the committee a fulsome update on the progress being made on those points.

It is important to set out that, as members will be aware, there are clear and very established routes for raising and escalating complaints and concerns within our education system, including through the General Teaching Council for Scotland. I am particularly concerned that layering additional functions on to the chief inspector's role would risk further complication, which would not be helpful to those with concerns, and would also draw the chief inspector away from their core role in the system.

Stephen Kerr: Does the cabinet secretary not accept, though, that currently there are cultural barriers to people speaking up and reporting or raising concerns, and that the existing procedures have, when used, resulted in individuals feeling that they have effectively committed a career-ending act by speaking up? That reinforces the need for—as Miles Briggs said, and as I said in my own remarks—a body that individuals with genuinely held concerns can approach and seek advice from.

Jenny Gilruth: Mr Kerr and I have discussed this privately, and I share some of his concerns about the cultural challenges in that respect in our education system. I would not want to apply this sort of thing in any blanket way across the whole school or education system; it will all depend on the school setting, for example, and the people involved. However, I take the member's general point about the challenges in this space.

I have a number of challenges with regard to amendment 315, which sets out the chief inspector's whistleblowing function. First of all, it would not fall within the Scottish Parliament's legislative competence, which would risk the bill itself being unable to become law. The scope of the amendment would also risk cutting across the Scottish Public Services Ombudsman's statutory remit, which, in broad terms, relates to maladministration and service failure.

Mr Briggs's amendment 166 would require the office of the chief inspector to investigate complaints. Again, it is important to note that there are already established routes for parents, teachers and others who want to raise concerns about a child's education provision. The delivery of

education and the duty to secure improvement are primarily the responsibility of councils.

Stephen Kerr: Does the cabinet secretary accept that the word "complaints" probably does not fully do justice to the issues that we are discussing? They are not so much individuals who are complaining as they are individuals who have seen something that they perceive to be against the public interest, which they wish to highlight but find in doing so that the organisation closes in on them due to its culture.

19:15

I think that the cabinet secretary understands what I am saying. Using the word "complaints" makes it sound like the issue that Ross Greer raised. We are not talking about people who are of a complaining disposition or who are in that space. We are talking about people who have heard or witnessed something that has led them to believe that they should do something as a professional because it would be against the public interest not to do so.

Jenny Gilruth: I understand the member's point. We have discussed the issue, but one person's complaint can be another person's whistleblowing incident. How we identify and determine what might constitute a whistleblowing incident is a challenge, but I take the member's point—

Stephen Kerr: That underpins the importance of what we have in place for NHS Scotland, where we have an independent whistleblower's office. The people who work in that setting are people who have the experience and professionalism to be able to make an initial judgment based on what they hear, hence the importance of establishing a whistleblowing office.

I accept what the cabinet secretary says about where the office sits, but the bill is still an opportunity to address the issue, and the longer we put it off, the harder it becomes. As we saw with NHS Scotland and health boards, organisations will close ranks to ensure that the process of establishing such an office takes as long as possible.

Jenny Gilruth: I will not comment on responsibilities that fall outwith my portfolio, but I take the member's point on the approach that has been taken in the NHS. My point was about the existing systems, which are important. Members will be well acquainted with the ombudsman. If parents are not content with taking that approach, they can raise with ministers their concerns that a local authority or other responsible body for a school has failed to carry out its statutory duties. If ministers are satisfied that there has been a failure, they can intervene or order the local authority or school to deliver on their duties.

Given the broad framing of the chief inspector's proposed additional complaints and whistleblowing functions, significant work would need to be undertaken to scope the likely costs of staffing and other resourcing implications, but we anticipate that the costs for both could be substantial. Although I cannot specify the costs at this point, I can say with some certainty that taking on such functions would draw the chief inspector's focus away from where I firmly believe that it needs to be, which is inspecting the quality of education and using their expertise and judgment to support improvement.

I hope that members agree that the complaints and whistleblowing functions that Mr Briggs and Mr Kerr suggest are not necessarily appropriate for the chief inspector and are likely to have significant resource requirements. Any changes to the processes that exist for raising concerns and the implications of those for children and young people would need to be properly considered and consulted on.

More broadly, my commitment to progress discussion with COSLA, ADES and others and to keep the committee updated on that will, I hope, give members some reassurance that, although I cannot support the amendments, I understand and am cognisant of their underpinning concerns. If amendment 157 is pressed and the other amendments in the group are moved, I ask members to vote against them.

Miles Briggs: I appreciate what the cabinet secretary has said and look forward to hearing about those conversations.

I put on record my hope that the petition will be heard—we will see how the Government responds to it. More importantly, some timescale for that is needed because, given the pace at which the Government wants the bill to be voted on and passed, the petition will not be part of that process. The petition has been sitting unaddressed for the duration of this parliamentary session, but I hope that it is progressed before the election so that a new organisation can be created or further inspection changes can take place.

I will not press amendment 157 or move my other amendments in the group.

Amendment 157, by agreement, withdrawn.

Amendments 306 and 307 not moved.

The Convener: This is an appropriate point to stop for a comfort break. I suspend the meeting for about 10 minutes.

19:20

Meeting suspended.

19:31

On resuming—

The Convener: Welcome back. Amendment 308, in the name of Willie Rennie, is grouped with amendments 24, 165, 88, 332, 26 and 209. Amendment 88, if agreed to, will pre-empt amendment 322, which is in the group on chief inspector: duties when exercising functions.

Willie Rennie: My amendments in this group are about safeguarding and the role of the inspectorate in checking the systems of, primarily, local authorities for identifying safeguarding issues and dealing with those appropriately.

The GTCS has a responsibility, but that is only for teachers, not other staff in schools. Also, the GTCS does not have responsibility for the system; its responsibility relates only to an individual's fitness to teach. There is therefore a vacuum—a space—which has been identified, apparently, by Neil McLennan and his colleagues, who have campaigned on the issue.

I have had several discussions with the GTCS. It recognises the issue but also recognises the limitations on its powers, because it is funded by individual teachers in relation to fitness to teach and the regulation of teachers, not in relation to the wider system.

I have therefore sought in my amendments in this group to give responsibility to the chief inspector to check local authorities, primarily, on their inspection processes to ensure that the local authorities deal appropriately with safeguarding and its systems, not just in relation to teaching staff but for other staff as well. Amendment 308 would add a requirement for inspections to include a look at safeguarding arrangements. Amendment 332 sets out that the inspection plan would have to consider how inspections would be used to monitor safeguarding.

Ross Greer: I agree with the principle behind all the amendments in the group. My only concern is that, although amendment 308 talks about safeguarding requirements in general, others in the group—amendment 332, the cabinet secretary's amendment 88 and Miles Briggs's amendments—talk specifically about children and young people. Although I agree that specific arrangements are needed for children and young people, a wider safeguarding responsibility exists, particularly when it comes to vulnerable adults.

I should declare at this point that I have membership of the protecting vulnerable groups scheme.

If we agree to the principle of the amendments, is there perhaps a way to come back at stage 3 to make it clear that there are specific safeguarding duties in relation to children and young people but there are also wider safeguarding responsibilities towards everyone who is involved in or on the premises of an educational establishment—in particular, vulnerable adults?

Willie Rennie: That is a very fair point, and we should consider it in the discussions that I hope that the cabinet secretary will be prepared to have.

I move amendment 308.

Miles Briggs: First, I put on record Liz Smith's apologies, as she is unable to attend this evening's session and was also unable to attend this morning.

Amendment 24, in her name, is an important amendment that I support, especially as a Lothian MSP. Members will recall the tragic incident that occurred in April 2014, when Keane Wallis-Bennett died while changing for a physical education class, as a result of a prefabricated wall collapsing at Liberton high school here in the capital. That was despite repeated warnings about the instability of the wall for several months before the fatal accident.

We all understand that there are situations when freak accidents—storms, for example—can cause unforeseen damage to a school building. That happened at Oxgangs primary school in 2016, when a cavity leaf wall collapsed. Notwithstanding that, there are other situations that naturally give parents and carers cause for concern.

In 2018, my colleague Liz Smith made a freedom of information request to all 32 local authorities, which brought out that 150 safety incidents had been reported in our schools. Since then, we have had the reinforced autoclaved aerated concrete situation in schools, including the worrying incident at Queen Victoria school in Dunblane.

To be fair to the Scottish Government, it has put in place measures to ensure that there are additional checks on school buildings. I suggest, however, that parent, pupil and teacher anxiety remains, especially in areas where some aspects of poor school estate still exist. I fully appreciate that local authorities have a statutory obligation to carry out building inspections of their school estate. That is right and proper, as Willie Rennie has outlined. It means that, for each school, there is certification of safety, or, if there are issues, the relevant local authority is obliged to take urgent action. In the independent sector, that would apply to the board of governors.

The key thing is to ensure that there is full transparency when it comes to the physical school

estate and school campus. Through her amendment 24, Liz Smith suggests that, when the results of the usual school inspection are published, currently by Education Scotland, accompanying certification should be signed off by an independent qualified building engineer professional to prove that the school campus has been declared—

Jackie Dunbar: Will the member take an intervention?

Miles Briggs: Yes.

Jackie Dunbar: I do not know whether Miles Briggs will be able to answer this in Liz Smith's absence, but health and safety is not a devolved matter, so how would that work in relation to the bill? I totally understand what you are saying, but that is my query.

Miles Briggs: That goes back to Willie Rennie's point about the local authority's responsibility around inspection. Through the wording of the amendment—I wait to hear what the cabinet secretary has to say on it—we could look towards that documentation being included. To go back to my earlier point, it is about transparency, so that we can see whether any concerns have been raised. I do not think that it should take a freedom of information request to find out that there have been 150 concerning incidents—as was the case back in 2018—and to get full transparency.

Ross Greer: I point out that, although health and safety is not devolved, building standards and building safety are. As much as I hope that the amendments are not moved at this stage, because there is still more work to do, I sympathise with their principle, particularly because of an incident a few years ago in the East Dunbartonshire Council area, when there were gas leaks in schools. It then emerged that the council could not locate the gas certificates for most of the primary schools in its estate.

There is a need for something more rigorous in the process to ensure that the safety of our school buildings is checked, although perhaps not through the mechanism that is proposed.

Miles Briggs: I take on board those points. The amendments would expand the new inspectorate regime to include what people want, which should be welcome. We know that there are on-going issues with the school estate, with RAAC being one of those issues. It is welcome that the vast majority of schools have now, I think, corrected that, but parents will want to be confident that there is an on-going inspection regime and that the certificates, which are sometimes provided by private companies, will not be lost, because they will be asked for when an inspection takes place.

I take the member's point, and given my colleague Stephen Kerr's point about when inspections take place, there might be a different or better framework for making that documentation available from local authorities. I understand that, and I am sure that Liz Smith will be open to discussing and developing that further.

As with Liz Smith's amendments, amendments 165 and 209 in my name are probing amendments to consider the opportunity to explore how we can improve child protection and safeguarding in educational establishments. Given what the cabinet secretary has said, I do not intend to move them.

The Convener: I call the cabinet secretary to speak to amendment 88 and other amendments in the group.

Jenny Gilruth: I welcome the intention behind amendments 308, 165 and 332, which look to address recent concerns regarding child protection and safeguarding processes in educational establishments and public bodies. Members will know that protecting children from harm is a key priority for the Government.

I want to talk to the existing practice. His Majesty's inspectors currently evaluate and report on quality and improvement in Scottish education using the "How good is our school?" framework, or HGIOS, which specifically includes child protection and safeguarding as a quality indicator. If inspectors are concerned about weaknesses in any establishment's approach to safeguarding, they can return to further evaluate the processes and determine whether that establishment has made improvements. In addition, as we have already discussed in relation to a previous group of amendments, ministers currently have the ability to request a special inspection when there are specific concerns, and that should be the case in the future.

Amendment 88, which I have lodged, looks to give an assurance to stakeholders and the wider system—I think that that is the point that Mr Greer has made—regarding the existing practice for inspecting child protection and safeguarding processes by providing in legislation that the chief inspector must have regard to the need for adequate safeguarding and child protection arrangements in the exercise of all their functions.

As inspectors are not on the ground except when carrying out an inspection, it appears to me that they are not well placed to provide any on-going oversight. The intention of my amendment is therefore not to give the chief inspector oversight of such arrangements, as would appear to be the case in Mr Briggs's amendment 165, which provides that inspectors would

"oversee the enforcement of child protection and safeguarding measures".

Notably, as is currently the case in Education Scotland, the chief inspector will have strong links with other audit bodies and inspectorates, and I believe in the importance of listening to children and young people and ensuring that those who deliver education understand the impact that it has. My amendment 88 looks to address both those points, and I strongly encourage all members to support it.

I hope that that clarifies the inspectorate's current role and that which the chief inspector will continue to have once the post is established, if my amendment is supported. In that context, I do not believe that amendments 308, 165 and 332 are strictly necessary.

More broadly, I note that the Children and Young People's Commissioner Scotland has indicated support for my amendment in preference to amendments 308 and 332. The commissioner has also indicated that they wish amendment 88 to be strengthened with reference to education authorities. I am pleased to be able to reassure the commissioner that the definition of relevant educational establishments in section 31(1) of the bill already includes education authorities as well as schools and others.

I appreciate that Ms Smith is not here this evening, so I will direct my commentary with regard to amendment 24, on the inspection of school building safety documentation, to Mr Briggs. I believe that the amendment goes beyond the remit of education inspection, although I accept some of the points and the rationale behind what he has said this evening.

HM inspectors are education professionals and would not necessarily have the experience or qualifications to assess the adequacy of building safety documentation. It is also worth noting that, as another member mentioned, health and safety is not devolved to the Scottish Parliament. When a local authority does not comply with regulations, it is for the health and safety executive to determine the severity of that breach and what enforcement action is appropriate. Therefore, I am not able to support those amendments.

Miles Briggs: I just caught the cabinet secretary at the end there. The matter goes back to conversations that the committee had following the tragedy at Liberton high school. It was then quite clear that, with regard to parliamentary scrutiny, there had to be an opportunity to at least review where that documentation is being held. My colleague Ross Greer referred to issues in another council area. Will the cabinet secretary be open—perhaps not as part of the bill—to consider what that will look like?

Having been a member of the Local Government, Housing and Planning Committee, I have specific concerns that a similar situation exists for social housing, specifically with regard to RAAC. However, I think that most people would expect that documentation to be held and viewed when inspections take place in our school estate. I do not know whether the cabinet secretary could at least review the matter, given that local authorities are the ones that currently hold that documentation. I have not seen a practice in place to provide public transparency on that.

Jenny Gilruth: I thank Miles Briggs for his interest in that point. He might recall that, in late August or early September 2023, not long after I was appointed, we had issues in relation to RAAC and the proposed closure of a number of buildings. It was an issue across the United Kingdom but, in Scotland, we worked at pace with the Scottish heads of property services—SHOPS—network to identify affected schools, provide reassurance and seek information from local authorities.

19:45

There are broader issues in relation to school buildings and who owns the documentation that Miles Briggs spoke about. We currently understand that that is local authorities but, sometimes, there can be attention at national level when there are very challenging incidents. RAAC is the example that Miles Briggs has provided and that I have experience of, but there have been much more challenging incidents in recent years, as he alluded to. I would be more than happy to speak to officials and to Miles Briggs on how we might be able to address some of the concerns that he has raised today, although I do not think that that is addressed by the bill that we are discussing this evening.

The Convener: I call Willie Rennie to wind up and to press or withdraw amendment 308.

Willie Rennie: I accept what the minister has said about the amendments not being strictly necessary—I think that those were the words that she used. However, sufficiently senior people in the education world have concerns that the issue is not getting sufficient focus from the inspectorate just now. Although it is possible to evaluate safeguarding, that is not necessarily happening consistently enough to satisfy those individuals.

Perhaps we do not have to put it into the bill, but I hope that the cabinet secretary takes away the fact that there needs to be a discussion with the inspectorate about the role that it plays in safeguarding and the resource and priority that it gives to safeguarding in inspections. After all, the people who have raised those concerns are not

insignificant. They are concerned that local authority systems—not at the child protection level but at the level below—are not sufficiently robust. I hope that the cabinet secretary takes away the fact that there are concerns out there and that priorities need to change.

Jenny Gilruth: I very much take on board Mr Rennie's points. I alluded to the situation as it stands, but he makes substantive points. I note that there will be a responsibility for the committee to respond to inspection reports, the laying of which will be part of the chief inspector's role. That will be an opportunity for members of the committee to challenge and provide feedback in regard to the evaluation of safeguarding and a variety of areas in the inspection report more broadly that might feel pertinent. Therefore, there will be an opportunity for MSPs to feed into that and to challenge it, which is important. However, I will take away the points that Mr Rennie has made today, because I accept the challenge in relation to the issues that he has raised.

Willie Rennie: I will conclude on that point. I do not intend to press or move my amendments.

Amendment 308, by agreement, withdrawn.

The Convener: I remind members that, if amendment 158, in the name of Sue Webber, is agreed to, I cannot call amendments 309, 310, 159, 311, 85 or 312, due to pre-emptions.

Amendments 158, 309, 310, 159, 311 and 85 not moved.

Amendment 312 moved—[Pam Duncan-Glancy]—and agreed to.

Amendment 160 not moved.

Section 30, as amended, agreed to.

After section 30

Amendments 24 and 313 not moved.

Section 31—Meaning of "relevant educational establishment" and "excepted establishment"

Amendment 161 not moved.

The Convener: I remind members that, if amendment 162, in the name of Sue Webber, is agreed to, I cannot call amendments 86 or 314, due to pre-emption.

Amendment 162 not moved.

Amendment 86 moved—[Jenny Gilruth]—and agreed to.

Amendment 314 not moved.

Section 31, as amended, agreed to.

Section 32 agreed to.

Section 33—The advisory function

Amendments 163 and 164 not moved.

Section 33 agreed to.

After section 33

The Convener: Amendment 87, in the name of the cabinet secretary, is grouped with amendments 317, 318, 169 and 350.

Jenny Gilruth: Amendment 87 would require the chief inspector to have regard to the desirability of working in collaboration with others where appropriate. I lodged the amendment to further strengthen effective communication and collaboration between national bodies and to support the chief inspector to work with others.

I agree with what I understand to be the intention of Mr Briggs's and Ms Duncan-Glancy's amendments, and it is clear that we have consensus on the critical role of collaborative working. However, I do not believe that the specificity provided by Ms Duncan-Glancy's amendments is either necessary or appropriate.

Ms Duncan-Glancy's amendment 317 requires the chief inspector to collaborate with Education Scotland. Amendment 87 will encompass that collaboration and further require the chief inspector to collaborate with other bodies where appropriate.

Pam Duncan-Glancy: Amendment 87 says:

"The Chief Inspector must have regard to the desirability of working in collaboration"

whereas amendment 317 says that they should work in collaboration. I take the point about specificity and referring to the named organisation. However, there is a slight difference in the amendments.

Jenny Gilruth: I take the member's point that there is a slight difference, but amendment 350 places a corresponding duty on Education Scotland to collaborate with the chief inspector. We discussed some of that last week, but in respect of both amendments, it is relevant that Education Scotland is an executive agency of Scottish ministers. As I have already highlighted in discussions on earlier groups, statutory duties cannot be conferred on such agencies, because they do not have a legal personality separate from that of Scottish ministers. In legal terms, strictly speaking, there is nothing on which that duty would operate.

Ms Duncan-Glancy's amendment 318 permits the chief inspector to work with educational establishments and local authorities to co-ordinate support for young people and their parents. That amendment extends the remit of the chief inspector significantly beyond inspecting to

support improvement and into the realm of co-ordinating support, including for individuals and their parents. As well as having a significant resourcing implication, it is not at all clear how it would operate with the primary responsibilities of local councils, and it would risk causing confusion. On that basis, I ask Ms Duncan-Glancy not to move those amendments.

Pam Duncan-Glancy: On the intention behind amendment 318, the cabinet secretary will say that this is the responsibility of local authorities or schools, and it is not something that the cabinet secretary or the Scottish Government can do something about. Indeed, everyone around the table today has heard that quite a bit. The amendment therefore attempts to provide some sort of oversight so that somebody is at least looking at those establishments and asking them to work together for the improvement of education across Scotland.

Jenny Gilruth: I accept what the member has just said, and I recognise the challenge. I am just not sure that we get to that place via an amendment such as amendment 318, which could interact with legislation stipulating that the statutory responsibility for education rests with local authorities. That is the point that I was making in relation to confusion between the role of the chief inspector and the role of local authorities.

There is a broader challenge, as the member mentioned, and it is an issue that I often discuss with the committee and in the chamber in relation to my responsibilities and those of local government. I am not sure that that can be addressed via a pretty narrow amendment and the proposal in relation to the co-ordination of support that we are discussing this evening.

Amendment 169 would require the chief inspector to have regard to the statutory roles and responsibilities of the persons and bodies that they work with. There is already an obligation on all public bodies to ensure that they exercise their functions appropriately, and that is something that they do by necessity. Making express provision for that is perhaps unnecessary, and the problem that it seeks to address is not entirely clear. Perhaps Mr Briggs can set that out when he speaks to the amendments in the group, but, as it stands, I ask him not to move amendment 169 if he is content with my explanation. However, I will not stand in the way of the amendment if Mr Briggs decides to move it.

I move amendment 87.

Pam Duncan-Glancy: I am grateful to the cabinet secretary for taking my earlier intervention.

My amendment 317 would require the chief inspector to collaborate with Education Scotland in the exercise of their functions, which could help build a more coherent and collaborative education and learning system, as was called for by a range of stakeholders in the consultation on the bill. I take the cabinet secretary's point about specificity and whether there is something on which to hang the duty, so, given the concerns about the specific mention of Education Scotland, I will not move amendment 317.

However, I still think that there needs to be coherence in the system and that the current lack of coherence should be addressed. That is why I think that my amendment 318 is really important, as it would require the chief inspector to work with relevant establishments and local authorities to

"support children, young people and their parents in those establishments"

with regard to inspections. We have already debated the purpose of inspections, and given that my position on that is on the record, I will not restate it, in the interests of time.

Amendment 318 is an important amendment. It would add to what the cabinet secretary is trying to do by suggesting that there should be collaboration, instead of simply indicating that the chief inspector must have regard to it.

I take the point about this statutory responsibility falling within the responsibility of local authorities—I agree that that is a fact. However, I am not sure that it precludes the chief inspector from working with local authorities and other bodies collaboratively to seek improvement. I am unconvinced that amendment 318 should not be tested in committee.

Ross Greer: I acknowledge that amendments 317 and 350 will not be moved, because of the drafting issue, but my broader concern about all the amendments in the group is that they go against the direction of travel in the bill. Although, in certain circumstances, collaboration is not just desirable but is what the OECD has told us that we need more of in Scottish education, what we are seeking to do here is to split the inspectorate from Education Scotland, because of the inherent conflict of interest.

I worry about the language in amendment 317, which is that the chief inspector

"must ... work in collaboration with Education Scotland"

on any matters to which their functions relate. However, that will relate to most of their functions, as they are both education bodies. Does that not go against what we are trying to do in the bill, which is to create a degree of separation that we hope will allow the inspectorate to be more robust in its feedback and observations about the system?

Pam Duncan-Glancy: The text of amendment 318 is that

"The Chief Inspector may work with relevant educational establishments and local authorities to coordinate the support provided to children, young people and their parents in those establishments."

That is quite clear, and I think that it takes us a step further than the wording in amendment 87, which is that the chief inspector should

"have regard to the desirability of"

collaborative working, because it is a little bit more directive.

Amendment 318 also says that

"The Chief Inspector may prepare and publish guidance on the exercise"

of their functions under this section of the bill. I think that there is scope to provide the flexibility that is needed, as well as to ask or expect the chief inspector to support education authorities and others in the sector as part of their function, which is to improve schools.

Ross Greer: I apologise—I was not being clear. I was talking about amendments 317 and 350 in relation to the work with Education Scotland.

My concern about amendment 318 is similar to that of the cabinet secretary. I think that there is another conflict of interest, in that the effect of the amendment would be to move the inspectorate towards being a body involved in the delivery of the system. That would create a conflict of interest similar to what the bill is trying to resolve. I do not think those involved in co-ordinating the delivery of a service would be sufficiently independent to inspect how the service was being delivered.

Pam Duncan-Glancy: Amendment 318 says that the chief inspector would "coordinate the support provided" instead of delivering the change. Once schools get their inspection reports, which, at the minute, are one word long—or, at least, are fairly short—they can be left without much support or advice on how to improve, and my amendment aims to add to the inspectorate's work the function of trying to help schools collaborate with others to get as much information and support as they might need in order to make the improvements that the inspection report suggests that they need to make. If members support that principle, I would be prepared to bring the issue back at stage 3, but that is the intention behind the amendment. I would hope that I could get some support for giving the inspectorate that type of collaborative, supportive function at stage 3.

20:00

I will not be moving my amendment 350, for the reasons that the cabinet secretary and Ross Greer have highlighted with regard to Education Scotland being named specifically. Again, however, I would note that I lodged my amendments in this group, because I felt that it was important for us to understand that the system needs to be coherent and that all the parts need to work together. Teachers on the front line and people who work in schools need to feel closer to the decisions around the improvement function in respect of how they can improve the delivery of education to the young people in their establishments. That is what these amendments were intended to do.

Miles Briggs: On amendment 169, our preference was for an independent inspectorate, and the amendment outlines our expectation in the form of a requirement on the inspectorate to have regard to

"the statutory roles and responsibilities of any persons or bodies"

that it works with. We heard from Pam Duncan-Glancy that it is important to include a range of stakeholders—I hope that that answers the question in that regard.

Amendment 169 is my only amendment in the group, and in the interests of getting something out of tonight's session, I will be moving it.

Jenny Gilruth: I thank all members for their contributions on this group of amendments. It is clear that we all agree on the importance of effective collaboration and working among national organisations across the education system. Indeed, that has been a central aspect of our education reform programme as it relates to our national education infrastructure.

My amendment 87 seeks to emphasise the importance of that while not being overly prescriptive, and allowing for future developments. I see Mr Briggs's amendment 169 as unnecessary, given the existing obligations on all public bodies, to which I have alluded. However, as I have said, I will not stand in the way of the amendment if he chooses to move it, as I think that he will.

However, I am not able to agree with Ms Duncan-Glancy's amendments. As I mentioned previously, amendments 317 and 350 relate inappropriately to an executive agency of Government and do not take account of the fact that that might change over time. I see amendment 318 as more problematic, as it would take the chief inspector into an area in which they would have no role—that is, the co-ordination of support for individuals. I think that Ross Greer made that point, too.

I ask members to support amendments 87 and 169, and I ask Ms Duncan-Glancy not to move her amendments 317, 350 and 318.

Amendment 87 agreed to.

Amendments 165 to 167 and 315 to 318 not moved.

Section 34—Duty when exercising functions

The Convener: Amendment 319, in the name of Stephen Kerr, is grouped with amendments 168, 170, 321, 322, 89, 90, 323, 171 and 358. I remind members that amendment 322 is pre-empted by amendment 88, which was previously debated in the group on safeguarding: people and buildings.

Stephen Kerr: I will speak only to my amendment 319 and in support of amendment 170, in the name of Sue Webber. These are short but significant amendments that seek to align the operation of the new inspection system with the highest standards of transparency, inclusion and responsiveness. They sit pretty comfortably with the debate that we have just had on the previous group.

Amendment 319 would require the chief inspector, in exercising any of their functions, to do so in a way that ensures effective communication and engagement with all stakeholders in the education system, including learners, parents, carers, educators, education authorities and national bodies, on the foundational principle that those who are affected by public service delivery should have the opportunity to engage meaningfully with how those services are scrutinised and improved. The amendment would bring that principle into the heart of the chief inspector's statutory duties.

Amendment 170, which I support, complements that by requiring the chief inspector to

"consider all areas of work by the educational establishment"

and to

"consider outcomes for persons undertaking qualifications in the educational establishment".

I refer to the OECD review of the curriculum for excellence, which noted that stakeholders in Scotland often feel disconnected from national agencies in decision making. It recommended stronger consultation, co-construction and dialogue, and the amendments would operationalise that vision. Similarly, the Muir review made it clear that national bodies must engage more directly and transparently with schools and communities, that that engagement must be structured and not ad hoc, and that it must be part of how the chief inspector operates and not a box-ticking exercise. That is what amendment 319 would achieve.

Ross Greer: On amendment 319, I agree that the inspectorate should set high standards in relation to education governance, but my issue with that is about upholding standards. It is surely for the establishments that are being inspected to uphold those standards, rather than for the inspectorate. I am not sure how it would be empowered to do so.

Stephen Kerr: The upholding of high standards in that context would be in relation to the standard against which the inspector would operate rather than any kind of action that would rest on the inspector as a result of the inspection. I hope that that makes sense.

As I was about to say, it is worth noting that public trust in inspection is heavily influenced by whether people feel that they have been heard. When parents understand how the process works and feel that their concerns matter, they are more likely to view inspection reports as credible. Likewise, when teachers know that their views and concerns are taken seriously, they are more likely to act on inspection feedback and, when learners see their experience reflected in the findings, they gain a greater sense of ownership of their education.

Amendments 319 and 170 form part of a wider reform agenda that seeks to put participation, inclusion and trust at the heart of the education system. They ask very little in legislative terms but will deliver a great deal in terms of impact. I urge the committee to support the amendments.

I move amendment 319.

Miles Briggs: Amendment 168 would expand the list of matters that the chief inspector must have regard to when exercising their functions. As I have outlined in regard to previous amendments, those include safeguarding children's rights and welfare, specifically in relation to issues raised by the children's commissioner and in relation to the views and satisfaction levels of "relevant persons".

My amendment 171 provides the definition of "relevant persons". Given the previous conversation on child protection and, I hope, constructive discussion going forward, I will not move amendments 168 or 171.

Sue Webber (Lothian) (Con): I thank Stephen Kerr for explaining the purpose of amendment 170. I want to reflect a bit on what the committee spoke about earlier in relation to the frequency of inspections, the culture of inspections and how they are perceived by the teaching establishment. We are trying to shift the dial and allow people to have a much more positive view of inspections, so that they see the opportunity that inspections can

present to everyone and so that there is, as the amendment states,

"the desirability of carrying out inspections that ... are detailed"

and

"consider all areas of work".

The amendment is about considering how an inspection affects the quality of learning, teaching, assessment, leadership, support for learning and ethos of a school. Ultimately, that will impact on every learner in a school. The amendment aims to shift the dial so that inspections are viewed and presented in a much more positive manner.

Pam Duncan-Glancy: My amendment 321 would place a duty on the chief inspector in the exercise of their functions to take account of

"the priorities of the Scottish Ministers in relation to education"

and of recommendations made by bodies, including committees of the Scottish Parliament, whose remit includes matters relating to education policy.

My amendment 322 would place a duty on the chief inspector in the exercise of their functions to have regard for people who use British Sign Language, have protected characteristics under the Equality Act 2010 or have additional support needs. Given the circumstances in schools for pupils with additional support needs and the extensive information that we heard in advance of stage 2 about the importance of BSL and people with other protected characteristics, amendment 322 sets out what I think are particularly important aspects that the chief inspector must have regard to when carrying out their functions.

Amendment 323 provides regulation-making powers for ministers to say who is included as a specified body, and amendment 358, which is consequential on that, confirms that any regulations will be made under the affirmative procedure.

Jenny Gilruth: I found this group of amendments to be very thought provoking and helpful, and I thank members for their constructive approach and for giving more information this evening about the intention behind each of their amendments.

The upholding of high standards in educational governance and accountability is fundamental to our education system, and Mr Kerr's amendment 319 helpfully brings that to the fore. I am therefore happy to support the amendment, which will ensure that high standards are not only front of mind for the chief inspector—which I know will be the case—but set out in legislation, too.

As Mr Briggs is not going to move amendment 168, I will move on to amendment 170. I am not of the view that it is quite necessary, on the basis that inspection can—and does—take lots of different forms. Under the current provisions in the bill, the chief inspector will hold autonomy over the types of models to be used in carrying out inspection, including the degree of any inspection. That will be subject to significant consultation—including, quite rightly, with the Parliament.

Furthermore, although the amendment would not require every inspection to be detailed and to cover every aspect of the establishment's work, the fact is that, in practice, requiring the chief inspector to have regard to the "desirability" of all inspections being "detailed" and all-encompassing might have the unintended consequence of limiting the chief inspector in putting models in place, including those that are agile, proportionate and efficient, and which are based on particular circumstances. For example, the amendment might be unhelpful when it comes to carrying out a special inspection, where ministers have requested the chief inspector to secure the inspection of an establishment in relation to specific issues, when there will be a need to focus specifically on areas of concern.

Sue Webber: I understand where you are coming from, cabinet secretary, but I point out that the key word in the amendment is "desirability". We want inspections that are ultimately of use to the establishment and, indeed, the teachers, so that they can learn from them and improve the school or the educational establishment in question. Will you comment on that?

Jenny Gilruth: I take the point that Sue Webber has made and the aspiration that she sets out, but my concern is that, as currently drafted, the amendment might limit the chief inspector's functions. I am happy to have further discussions with Ms Webber ahead of stage 3, if that would be helpful.

I see merit in Ms Duncan-Glancy's amendments 321, 323 and 358, but my view is that the bill already contains provisions that will ensure that the chief inspector takes account of views and priorities that are vital to the education system—for example, through the views of the advisory council. I have specific concerns about the part of amendment 321 that would require the chief inspector to have regard to the views of the Scottish Parliament's education committee. We discussed that issue extensively in the debate on group 11, when the views that Mr Mason and Mr Whitfield shared led to Mr Greer not moving amendment 60. Although it is reasonable to assume that the chief inspector would already have regard to the committee's views, I believe that setting out a direct requirement in legislation

would set an unhelpful precedent. We have all been concerned to ensure that the chief inspector is suitably independent—quite rightly so—and I believe that such a move risks undermining that independence.

Ross Greer: I take the cabinet secretary's point in relation to the cross-over between amendment 321 and the one that I did not move in an earlier group. However, when it comes to how I will vote on amendment 321, if it is moved, it would certainly give me some comfort if the cabinet secretary were able to jump ahead a little bit and indicate the Government's position on my amendment in a later group—that is, amendment 92, which relates to consultation with the Parliament in preparing the inspection plan and would require the chief inspector to lay a draft of the plan before Parliament for 60 days. If the Government were to agree to that, it would build in direct engagement between the chief inspector and the Parliament without getting entangled in the issues that we explored in relation to my amendment 60.

Jenny Gilruth: I can give Ross Greer some comfort: I will be supportive of the approach that he has set out, which provides another opportunity for the Parliament, and this committee, to provide scrutiny. Of course, the committee will also have opportunities to scrutinise, for example, the chief inspector; indeed, I am sure that it will regularly call the chief inspector to give evidence, and quite rightly so. For those reasons, I cannot support amendment 321 as it stands.

However, I agree with some of Pam Duncan-Glancy's other intentions and am keen to explore with her how the chief inspector might be required to take account of relevant national priorities in education. I therefore encourage her not to move amendment 321 and, instead, to work with me to find an agreeable position ahead of stage 3.

20:15

The intent of Pam Duncan-Glancy's amendment 322 is commendable; however, that amendment partly overlaps with my amendments 89 and 90, which would require the chief inspector to have regard to the needs and interests of persons who are receiving British Sign Language education. On the other aspects of amendment 322, the requirement to have regard to the needs of those who have protected characteristics under the Equality Act 2010 is unnecessary, as the operations of the chief inspector will already be subject to the relevant requirements of that act and to the relevant public sector equality duty.

As we discussed last week, there is a further difficulty in that, for example, age is a protected characteristic, so the amendment would require the chief inspector to have regard to anyone who has an age.

As the matters that are raised in Ms Duncan-Glancy's amendment 322 will be addressed by my amendments 89 and 90 and the existing legal position in relation to the Equality Act 2010, I cannot support amendment 322, and I ask her not to move it.

Pam Duncan-Glancy: Does the cabinet secretary accept that, in discussing a previous amendment—my colleague Stephen Kerr's, I think—on the purposes of inspection, we talked about whether we would set out in those purposes specifics such as the experience of pupils with ASN in schools. Amendment 322 could be a bit of a compromise on that because, at the least, it would require that, in carrying out their function, the chief inspector must consider pupils with additional support needs.

On the point about protected characteristics under the 2010 act, I do not think that there is any reason not to reiterate those protections in the bill.

Jenny Gilruth: I disagree in relation to the point on protected characteristics. We had that discussion last week, and I am advised that those are already covered by the Equality Act 2010 and the public sector duty. We need to be mindful about the way in which the proposals would interact. For example, when it comes to protected characteristics, I am not sure that having the chief inspector have regard to anyone who has an age would have the effect that Pam Duncan-Glancy seeks to deliver.

As already discussed, amendments 89 and 90, taken together, will insert requirements for the chief inspector to have regard to the needs and interests of persons who are receiving, or who wish to receive, British Sign Language learner education, British Sign Language-medium education or the teaching of British Sign Language in the provision of further education by an education authority. Those important changes respond directly to requests from stakeholders and the committee, and I encourage members to support them.

The Convener: I call Stephen Kerr to wind up and to press or withdraw amendment 319.

Stephen Kerr: There has been a useful debate, and I think that, among the members who are present and who have participated, there is a great degree of unanimity on what the amendments seek to do, which is to reinforce the idea that inspection is not something that is done to schools or to learners; that it should be a collaborative and developmental process; and that, if we are to win trust in the new system from the education workforce and the wider public,

engagement and voice must be built in from the start. I therefore press amendment 319.

Amendment 319 agreed to.

Amendment 168 not moved.

Amendment 169 moved—[Miles Briggs]—and agreed to.

Amendment 170 not moved.

The Convener: Amendment 320, in the name of Pam Duncan-Glancy, is grouped with amendments 344 and 353.

Pam Duncan-Glancy: This group of my amendments seek to address a gap that has been identified in inspection in relation to secure care and education. Amendment 320 would create a duty on the chief inspector, in the exercise of their function, to consider the use of restraint and seclusion in education settings in secure accommodation in Scotland. Although the chief inspector inspected the educational aspect of secure accommodation, the Care Inspectorate covers other aspects. That is considered to be a gap. The purpose of the amendment is to introduce the function of inspecting the use of restraint and seclusion in secure accommodation. The effect is to provide for that role and responsibility to be exercised by the chief inspector.

Amendment 344 would expand the chief inspector's remit to monitor the use of restraint and seclusion in education settings in secure care services, through the existing joint inspection framework with the Care Inspectorate applicable to those services. It aims to ensure that all use of restraint and seclusion in such services is appropriately recorded, reported and monitored as part of the joint inspection process between the Care Inspectorate and the chief inspector, thereby ensuring compliance with article 37 of the United Nations Convention on the Rights of the Child and articles 3 and 5 of the European convention on human rights.

Amendment 353 would provide the necessary definitions to support the joint inspection duty that is specified by amendment 344. Since lodging my amendments, I have had correspondence from various individuals who have been working with us on these issues to acknowledge that some movement has been made with the Government. I therefore intend not to move the amendments tonight, but I seek assurance that they could be brought back at stage 3 if the conclusion of that work has not delivered what was expected with regard to addressing the gap in inspection. Although I do not intend to move the amendments, it is important that we identify that there has been a gap. Since I lodged the amendments, some activity seems to have been encouraged, which is an important aspect of what the process is about.

Joe FitzPatrick: I wonder whether the amendments would fit better in Daniel Johnson's Restraint and Seclusion in Schools (Scotland) Bill. Would the member perhaps see that bill as a better opportunity and a more fitting location?

Pam Duncan-Glancy: I thank the member for that intervention and I encourage him, and his party and Government, to support my colleague Daniel Johnson's bill. However, we have this bill in front of us, and there is an opportunity to look at restraint and seclusion. As I have put on the record, the issue is incredibly important, and I am pleased that Joe FitzPatrick thinks that it is important to include it in Daniel Johnson's member's bill. Given that I am sure that he supports what my amendments seek to do, I hope that he will also support that bill.

I move amendment 320.

Jenny Gilruth: I very much recognise that there are calls for further legislation in this area. However, although the amendments are obviously very well intentioned, I am not able to support them. We accept, of course, that there needs to be a robust system in place to monitor restraint where there is education provision in secure centres, but the amendments do not recognise the unique set-up of those centres or, in particular, the difficulties in distinguishing between care and education providers.

Notably, the Care Inspectorate has a vital role in undertaking the inspection of secure accommodation. I have, therefore, lodged my own amendment 88, which was debated in a previous group, to require the chief inspector to have regard to

"the need for relevant educational establishments to have adequate arrangements in place to safeguard and promote the welfare of children and young people".

That flexible provision is intended to cover the use of restraint.

Miles Briggs: I think that the cabinet secretary has met with Beth Morrison about her Calum's law campaign. I do not know whether Daniel Johnson's bill will time out in the current parliamentary session, but it seeks to improve data collection, the recording of incidents and the training of individuals. It does not look as though that is captured in amendment 88, so perhaps the cabinet secretary would look to lodge an amendment at stage 3 to include that.

Jenny Gilruth: I will come on to talk about Daniel Johnson's bill, because we need to be mindful that the bill before us is not focused on restraint, and I would be concerned about potential

adverse consequences of legislating for that aspect outwith Mr Johnson's bill.

Daniel Johnson's Restraint and Seclusion in Schools (Scotland) Bill will give all MSPs an opportunity to consider in the round how restraint is reported and monitored—which I think is the point that Mr Briggs rightly makes—across a variety of settings before reaching an agreement on whether further legislative change is needed. I am carefully considering the provisions in Daniel Johnson's bill. Mr Briggs mentioned my interaction with Beth Morrison, and I have engaged with a number of other parents in relation to concerns around restraint. I will continue to engage with Mr Johnson and with members on all sides of the chamber as his bill progresses. However, I ask members to resist supporting Ms Duncan-Glancy's amendments in this group, if she moves them, in order to allow this important issue to be considered holistically in the context of Daniel Johnson's bill. For those reasons, I ask Ms Duncan-Glancy not to move her amendments.

The Convener: I call Pam Duncan-Glancy to wind up and to press or withdraw amendment 320.

Amendment 320, by agreement, withdrawn.

Amendment 321 not moved.

The Convener: I remind members that if amendment 88 is agreed to, I cannot call amendment 322 due to pre-emption.

Amendment 88 moved—[Jenny Gilruth].

The Convener: The question is, that amendment 88 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)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Duncan-Glancy, Pam (Glasgow) (Lab)

The Convener: The result of the division on amendment 88 is: For 9, Against 1, Abstentions 0.

Amendment 88 agreed to.

Amendment 89 moved—[Jenny Gilruth].

The Convener: The question is, that amendment 89 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)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Duncan-Glancy, Pam (Glasgow) (Lab)

The Convener: The result of the division on amendment 89 is: For 9, Against 1, Abstentions 0.

Amendment 89 agreed to.

Amendment 90 moved—[Jenny Gilruth]—and agreed to.

Amendments 323 and 171 not moved.

Section 34, as amended, agreed to.

Section 35—Advisory council

Amendment 324 not moved.

Pam Duncan-Glancy: On a point of order, convener. Apologies, my vote on amendment 88 should have been yes, therefore my vote on amendment 89 should have been yes as well. I mixed up the amendments. I would have voted for amendment 89 in the cabinet secretary's name.

The Convener: I thank Ms Duncan-Glancy for her point of order. We cannot go backwards once we have approved a section, but the member's point is now recorded and confirmed in the *Official Report*.

Amendment 325 not moved.

Amendment 172 moved—[Miles Briggs].

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

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
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)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)

Abstentions

Duncan-Glancy, Pam (Glasgow) (Lab)

The Convener: The result of the division on amendment 172 is: For 3, Against 6, Abstentions 1.

Amendment 172 disagreed to.

Amendments 326 and 327 not moved.

Amendment 328 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 328 be agreed to. Are we agreed?

Members: No.

20:30

The Convener: There will be a division. Before we get to it, however, I understand if members want me to slow down a wee bit. I am rattling through the procedure and I do not want people to miss their notes. We are going through a lot of amendments, so please feel free to tell me to slow down slightly.

We come to the division on amendment 328.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)

Against

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

The Convener: The result of the division on amendment 328 is: For 2, Against 8, Abstentions 0.

Amendment 328 disagreed to.

Amendments 329, 330 and 91 not moved.

Section 35 agreed to.

After section 35

Amendment 173 not moved.

Section 36—Inspection plan

Amendment 174 not moved.

The Convener: We turn to the group entitled "Inspection plans: preparation and matters to be covered". Amendment 331, in the name of Pam Duncan-Glancy, is grouped with amendments 175, 25, 176, 177, 334, 38, 92, 92A, 92B and 39.

I point out that amendment 39 is pre-empted by amendment 179, which was previously debated in the group entitled "Independence of the chief inspector".

Pam Duncan-Glancy: Amendment 331 would require the inspection plan to specify

"how notice of an inspection will be given to an establishment in advance of that inspection",

and amendment 334 would require the inspection plan to specify

"how an assessment will be made about the mental and physical wellbeing support available in the establishment for ... persons undertaking education or training"

or

"persons providing teaching or training".

Given what we discussed earlier about the environment in classrooms, the experience of young people and staff in schools and in particular the rise in violence, that is an important aspect of the inspector's role.

Ross Greer: I agree entirely with the principle behind amendment 331. I agree with that behind amendment 334, too, but I am concerned that, as it is currently drafted, it would cover only students and teachers or lecturers, which would exclude support staff in the school and anybody else who might be involved. It would exclude all staff other than the educators.

Pam Duncan-Glancy: I take Mr Greer's point that amendment 334 could be read in that way. It could also be read in such a way that the people providing support are taking part in training and education, too, and support staff often tell us that that is what they are having to do. However, I would not want there to be any ambiguity in the drafting so, if the member has found that, it would be important for us to work together on the matter ahead of stage 3. The principle behind amendment 334 is an important one, and I hope that the member will consider it to be so.

My amendments in the group are crucial. We need to find a way to ensure that inspections pick up on what is happening as regards the wellbeing and experience of the pupils in schools and the people who work there. I realise that there have been behaviour plans, summits and other initiatives, but it would give a real focus to inspections if they were to include those factors. The mental and physical wellbeing of everyone in a school, whether they are working or being educated there, is incredibly important, which is why I lodged the amendments.

I move amendment 331.

Sue Webber: My two amendments in the group serve to make clear what an inspection plan should consider. Right now, it could be argued that it is as simple as whatever is in the "How Good is Our School?" document. However, that is now 10 years out of date, and we are looking for something that will bring a bit more rigour in the

standards against which establishments will be evaluated. That is why my amendment 175 seeks to add the words

"including indicators of quality and improvement".

That wording aims to bottom out the standards against which our establishments will be evaluated. We want there to be indicators of quality and improvement within an inspection framework against which an establishment's performance will be evaluated and then reported on.

In amendment 177, I have further expanded that with the addition of what I would like to make clear is what I define as a rigorous and evidence-based inspection. Members will note that it states what the type of inspection activities could include, so there could be other things, but we want there to be interviews, observation, data analysis and questionnaires with stakeholders. Importantly, we also want evidence to be provided that can be analysed, assessed and then triangulated to reach conclusions to form a report on the quality of the provision as determined by that inspection framework.

More importantly, using that sort of analysis will mean that we can also measure improvement from that. That is what my two amendments are here to do—to allow us to have a clear starting point and to measure progress and improvement in the establishments.

Miles Briggs: Colleagues will remember that the committee recently completed our evidence sessions on my colleague Liz Smith MSP's Schools (Residential Outdoor Education) (Scotland) Bill, which has now completed stage 1. The general principles of that bill have been supported by the Parliament. Amendment 25, in the name of Liz Smith, is designed to ensure that, where a relevant educational establishment provides outdoor education as part of its curricular or extracurricular programme, that provision will be part of the inspection process.

My amendment 176 seeks to improve how recommendations are made to a school and how that establishment can respond. My colleague Sue Webber eloquently outlined that it is about what we do with an inspection when it is delivered and what quality it provides. The bill presents an opportunity for teachers and the wider school community to have more understanding of where they can take recommendations forward as well as responding to them, so that we do not see inspections left hanging. I hope that that is a positive step forward.

For the many teachers and others who work in our schools that I have spoken to, an inspection could be a career-defining moment, but in some cases inspections are not providing that detail in what they offer parents, guardians and carers. My amendment therefore specifies what would be expected, how the independent inspections may be responded to, and a more constructive way of taking them forward.

I also support Sue Webber's amendments in the group.

Ross Greer: Amendments 38 and 39 are relatively simple amendments. Amendment 38 seeks to strengthen provisions in relation to the chief inspector and amendment 39 seeks to strengthen provisions in relation to the Scottish ministers. The amendments concern the range of groups that the chief inspector must consult in preparing the inspection plan and that the minister must consult when bringing forward the relevant regulations.

The wording that I have used in the amendments is

"such persons as the Chief Inspector considers representative of relevant educational establishments"—

that is, they should consult a representative range of schools in particular, although there are other establishments under the inspectorate's purview. I chose the wording to make it clear that the expectation is not that they must consult every school in Scotland before engaging in the process, but that they will consult a representative group thereof and organisations that represent their interests.

With amendment 92, I am trying to address some of the concerns and areas of really important disagreement in the committee and in Parliament on where the inspectorate should sit and who it should be accountable to. Without going back to the previous debate about the independence of the inspectorate, I note that the amendment will require the chief inspector to lay a draft inspection plan before Parliament for 60 days. Parliament can then give feedback on the plan, and the chief inspector must have regard to that feedback. The feedback will not be mandatory. We can be open and honest about the fact that Parliament is not always right, but our feedback should be taken seriously nonetheless, and any resolution that is passed by Parliament should be given due regard. The amendment is intended to address the concern about parliamentary oversight of the inspectorate and how it goes about its duties.

I urge committee members to oppose the cabinet secretary's amendments 92A and 92B, which seek to shorten the timescale from 60 to 40 days. We should all reflect on the capacity challenges that Parliament and committees face, and 60 days is my attempt at a compromise. Originally, I was more inclined towards 90 or 120 days. The inspection plan is not a document that

should ever be produced in a rush or with urgency. There should be time to consider it, and 60 days will strike the right balance. I recognise the concerns about having a period of 90 or 120 days, but 60 days strikes an appropriate balance, while 40 days would provide challenges to Parliament, particularly given that, as we are all aware, circumstances often dictate that we must turn our attention to other matters. The impact of the situation at the University of Dundee on this committee's work plan is an example.

For those reasons, I hope that members will support amendment 92, but I cannot support amendments 92A or 92B.

Jenny Gilruth: I thank members for lodging amendments 331, 175, 25, 177 and 334. I appreciate that members are looking for assurances about particular things that the inspection plan will cover, which is a familiar theme from the previous groups. However, it is my view at the current time that those amendments reflect operational-level decisions that are for the chief inspector to make, and I worry that the amendments would inhibit their independence in that regard. My view is that it would not be appropriate to prescribe that level of detail in legislation. I note that, in their evidence to the committee, both Professor Donaldson and Professor Muir highlighted the risk of hemming in the chief inspector with excessive strictures in legislation.

The inspection plan will, of course, have to be prepared in consultation with the advisory council and others. I will come to Mr Greer's amendment 92, which would guarantee the committee a voice in that consultation, in a moment. However, my view is that it is much more appropriate for the content to be set by the chief inspector in the light of that consultation, rather than being fixed now in a way that might not always remain appropriate.

For example, there could be a thematic inspection where evidence is sought from a range of schools about a particular aspect such as pupil attendance rates. If evidence was simply being sought from them by email, for example, it would not be an inspection where notice would need to be given in the usual way. However, amendment 331 would implicitly require that some notice of inspection was always given.

That is why we are best to take the view that, as long as the inspection plan is capable of covering all those matters, which it is, we should not set it in stone in primary legislation. I know from my discussions with the inspectorate that that view is supported by the FDA, the trade union representatives and Education Scotland, with whom I discussed the matter only yesterday. I therefore encourage members not to support those amendments.

Mr Briggs's amendment 176 proposes that we include in the inspection plan the process for making recommendations and also expectations regarding how they should be responded to. I cannot see that changing over time or inadvertently tying the chief inspector's hands, so I am happy to support that amendment.

I also believe that Mr Greer's amendments 38 and 39 are useful in making explicit the importance of consultation by both the chief inspector and Scottish ministers, as applicable, with those who might be considered to be representative of educational establishments. Although that might reasonably be assumed to be implicit in the existing provisions, I am happy to support those amendments. We will likely want to return at stage 3 to the mention in amendment 39 of the "Chief Inspector", which I suspect might be a typo, as I am not sure that it makes sense to have the chief inspector make a judgment call about consultees, given that ministers are the ones with the consultation duty under that provision. However, if Mr Greer wishes to press amendment 39 today, I will be content to support it, and it can be tidied up as necessary.

I move on to the amendments in the group that would require the draft inspection plans to be laid before Parliament. Although I support the principle of amendment 92, I strongly encourage members to support the Government amendments 92A and 92B, which seek to amend the one that Mr Greer has lodged. For operational purposes, 40 days is a much more manageable and proportionate time period. It is also in line with the time periods that are attached to numerous other plans such as the fuel poverty strategy, the national islands plan, the additional support for learning code of practice, the community empowerment national outcomes, the wildlife code of practice and the Scottish Parliament elections code of practice. If that period is sufficient for all those very important documents, I do not see a compelling case for making it significantly longer in the case of the inspection plan.

A 40-day period aligns with the period that the Parliament has to annul negative regulations and the period that the committee has for voting on affirmative ones. That includes regulations that are far longer and more complicated than I would expect the inspection plan to be.

20:45

I highlight that amendment 92 does not, in fact, confine the reports or resolutions of the Parliament to those that occur during the specified laying period. The amendment has a bit of latitude: as long as the plan is still in draft form at the time when the resolution is passed or the report is issued, it will have to be taken into account. I also

note that our working assumptions on commencement are that factoring in the timescale of 60 days excluding recess would leave it almost impossibly tight for the chief inspector to produce the first inspection plan.

As such, although I will remain supportive of the principle of amendment 92 if my amendments 92A and 92B are not agreed to today, I will, in light of the points that I have just made, look to bring the issue back at stage 3 for further consideration. However, I hope that members are willing to support my amendments today.

The Convener: I call Pam Duncan-Glancy to wind up and press or seek to withdraw amendment 331.

Pam Duncan-Glancy: I have listened to the points on whether the timescale should be 60 or 40 days, and I am erring towards Ross Greer's argument that it should be 60 days. It is important that the Parliament has as much time as possible to scrutinise the plan. Narrowing the period to 40 days could make it very tight. For example, if it was laid on the day before recess, we would have very few days left when we came back from recess to be able to do anything about it.

Jenny Gilruth: On that point, I note that parliamentary recesses are not counted in the stipulated 40 days.

Pam Duncan-Glancy: I still do not think that 40 days is enough, but I appreciate the clarification on recesses. It is incredibly important that we have 60 days—it could possibly be longer—because we need to have some time for scrutiny.

I do not see a particular form of parliamentary scrutiny set out in amendment 92, other than that the draft will be laid and members will be able to discuss it. My colleague Ross Greer might want to help me out on the intentions behind not adding a particular scrutiny process to the amendment.

Ross Greer: As much as I have views on the particular form that scrutiny should take, my general view is that one Parliament should not bind the next. It would be relatively unprecedented to put specific forms of scrutiny into primary legislation, and it would perhaps restrict our successors from adapting their approach to scrutiny in a way that is more appropriate to things that we cannot yet predict.

Ultimately, the decision would still rest with the Parliament, but I cannot assume that the form of scrutiny that I believe to be appropriate now will still be appropriate in five or 10 years' time. I would not want our successors to have to change primary legislation in order to change what could be quite minor elements of their approach.

Pam Duncan-Glancy: I thank Ross Greer for accepting my prompt to intervene and clarifying that. I understand and accept that point. Given that any other form of scrutiny of the plan is absent from the bill, his amendment 92 is useful.

I do not intend to move amendment 334, due to what my colleague Ross Greer said about other members of staff who are employed by the establishment. I did not intend to exclude them and would rather that the provision was far more inclusive. I am sure that he appreciates that.

However, I press amendment 331.

The Convener: The question is, that amendment 331 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Rennie, Willie (North East Fife) (LD)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)

Abstentions

Briggs, Miles (Lothian) (Con)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 3, Against 5, Abstentions 2.

Amendment 331 disagreed to.

Amendment 175 not moved.

Amendment 25 moved—[Miles Briggs].

The Convener: The question is, that amendment 25 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)
Kidd, Bill (Glasgow Anniesland) (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 a tie, I will use my casting vote as convener in order for the committee to reach a decision. I vote in favour of amendment 25.

Amendment 25 agreed to.

Amendment 176 moved—[Miles Briggs]—and agreed to.

Amendment 177 not moved.

Amendments 332 to 335 not moved.

Amendment 38 moved—[Ross Greer]—and agreed to.

Amendment 92 moved—[Ross Greer].

Amendment 92A moved—[Jenny Gilruth].

The Convener: The question is, that amendment 92A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)

Against

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)

The Convener: The result of the division is: For 5, Against 5, Abstentions 0. As the outcome of the division is a tie, I will use my casting vote as convener in order for the committee to reach a decision. I vote against amendment 92A.

Amendment 92A disagreed to.

Amendment 92B not moved.

Amendment 92 agreed to.

Amendment 178 not moved.

The Convener: I remind members that, if amendment 179 is agreed to, I will be unable to call amendments 336 and 39 due to pre-emption.

Amendment 179 not moved.

Amendment 336 not moved.

Amendment 39 moved—[Ross Greer]—and agreed to.

Amendment 180 moved—[Sue Webber].

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

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
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)
Duncan-Glancy, Pam (Glasgow) (Lab)
FitzPatrick, Joe (Dundee City West) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)

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

Amendment 180 disagreed to.

Section 36, as amended, agreed to.

The Convener: We will take a comfort break. I suspend the meeting for 10 minutes.

20:54

Meeting suspended.

21:05

On resuming—

Section 37—Reports on inspections

The Convener: Welcome back. Amendment 181, in the name of Miles Briggs, is grouped with amendments 40, 11, 337 to 339 and 18 to 20.

Miles Briggs: As with my amendment 176, amendment 181 seeks to improve inspection reports by requiring the chief inspector's annual report not only to describe inspections and other activities but to cover any recommendations made as a result of those inspections. Allowing the public to see the wider role that the inspectorate plays would, as other members have outlined, add value, and such an approach would ensure that we highlight not just the inspectorate's role but what is covered in an inspection. I should say, too, that amendment 181 complements amendments that have already been agreed to.

I move amendment 181.

Ross Greer: Amendment 40 seeks to make accessible versions of inspection reports available to learners, but it would build in flexibility, too, as we are talking about learners at very different ages and stages and in various settings. It would give the chief inspector, where they consider it appropriate, the ability to ensure that inspection reports would be presented in accessible formats to learners at the establishments involved, which would generally be schools. Although some schools communicate inspection results to pupils, others do not; moreover, headteachers have raised with me the possibility of councils interfering with such communications. Empowering the chief inspector in that role would, I think, mitigate some of those concerns about potential interference.

In some cases, the first time that pupils become aware of the outcome of an inspection at their

school is when they see negative press coverage—if the result is negative—or hear hearsay and gossip in the local community. Placing such a requirement on the inspectorate itself would ensure consistency of approach, and it would remove the potential for spin on the part of the education authority or, indeed, the school management.

Amendment 40 would allow for flexibility, too. After all, it is clearly more appropriate to communicate inspection results directly to high school pupils than it is to do so to very young children in early learning and childcare settings. Given that it would build in that flexibility, I hope that members will be able to support amendment 40.

Amendment 11 would simply put into legislation something that happens in practice at the moment. The chief inspector currently sends a copy of a report to the establishment that has been inspected, before the report is published; however, there is nothing that says that they have to do so. It would be useful for us to set such practice as the minimum standard, in legislation, to ensure that it continues.

Amendment 18 is about ensuring that, in inspections, consideration is given to compliance with the United Nations Convention on the Rights of the Child under the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. Given the significant change in practice that is required across a number of areas as a result of that legislation, a consistent approach to checking on its implementation would be valuable, and it would catch many of the discussions that we have had so far on promoting the rights of children and young people in schools.

Amendment 20 is intended to ensure that valuable recommendations that are made by inspectors would be acted on, without ultimately requiring that to happen. These establishments—and we are talking about schools here—deserve a level of autonomy, but they should have regard to the reports; indeed, significant weight should be put on them. In that sense, amendment 20 pairs well with amendment 21.

In the interests of time, convener, I will finish there.

Stephen Kerr: As amendment 337 is consequential on my amendment 304, which I did not move, I will not be moving it, either.

Pam Duncan-Glancy: Amendment 338 would require that any report published by the chief inspector on an educational establishment fully sets out the reasons for the findings that have been made, and amendment 339 would require the chief inspector to

"have regard to any representations made"

by relevant stakeholders, including those

"representing the interests of registered teachers or college teaching staff"

of the

"inspected establishment."

In the interests of time, convener, I will leave the amendments there for members to decide on.

Jenny Gilruth: Although I appreciate the intention behind amendments 337 and 338, I have concerns about their impact on the independence of the chief inspector, if they are agreed to. I have always been clear about the importance of ensuring that the chief inspector is able to operate independently, set inspection priorities and be independent in their findings. The bill's current provisions give the chief inspector the power to decide on the format and content of each inspection report; indeed, the provisions have been specifically drafted that way to ensure that the chief inspector has the flexibility to report as they see fit.

It is also significant that, when Professor Muir gave evidence to the committee, he expressed concern that the inspector could become dominated by reporting, which is a risk that I believe these amendments could exacerbate. I also note that the chief inspector is highly likely to continue the practice of thematic inspections—which we have discussed in relation to other groups this evening—whereby a number of establishments might be inspected only on a particular aspect. Amendment 337, when taken with amendment 304 in group 26, would prevent that from being possible, as it would require every matter listed in amendment 304 to be covered in each inspection report. For example, discipline policies would always have to be reported on, as would the employment contracts held by teachers, even when those aspects were not relevant to the theme that the chief inspector wanted to examine.

On amendment 338, it is, of course, right that judgments in inspection reports should always be based on sound reasons, but insisting that "full reasons" be included in every report would risk bogging down the chief inspector in legalistic discussions about what "full reasons" would constitute, as well as limiting their ability to make judgments about what was important, rather than peripheral, to include in reporting. For those reasons, I ask members not to support amendments 337 and 338.

In relation to Mr Briggs's amendment 181, although I am supportive of the chief inspector making recommendations to strengthen areas for improvement, it might not always be appropriate to set out all the recommendations in a published

report. For example, there might be concerns that a specific recommendation could inadvertently lead to the identification of an individual child or young person in a small school. However, I believe that there is merit in looking at the issue further, and I ask the member to work with me on it ahead of stage 3.

Similarly, I see Ms Duncan-Glancy's amendment 339 as being useful. It would, of course, be right for the chief inspector to

"have regard to any representations made by"

staff in the establishment under inspection, and I am happy to support the inclusion of that in the bill.

On Mr Greer's amendment 40, which would require the chief inspector to publish child-friendly versions of all inspection reports and other accessible versions that are appropriate to those receiving education at the establishment in question, I appreciate the member's good intentions, although I am not sure how many children and young people currently engage with school inspection reports. As cabinet secretary, I read them regularly, and I do think that we will want to make them accessible.

More broadly, although that is my intention, I believe that amendment 40 is unnecessary and, importantly, its inclusion could accidentally weaken what is already covered in the bill. Section 49 already contains a requirement for the chief inspector to

"have regard"

when publishing documents

"to the importance of communicating in a way that best meets the needs of ... children and young people ... users of the Gaelic language"

and

"others affected by the exercise of the Chief Inspector's functions."

I am concerned that adding something bespoke in relation to inspection reports could inadvertently undermine section 49 by implying that it is not already suitably covered in all reports. On that basis, I ask Mr Greer not to move amendment 40.

On amendment 11, sending copies of inspection reports to establishments before they are published is already current practice in the existing inspectorate. Indeed, I further clarified that point yesterday when I met the trade union representatives from Education Scotland whom I mentioned earlier. That said, I do understand the member's desire to secure the practice in legislation.

There is a bit of a risk, though, in setting out such a level of operational detail in legislation, particularly for thematic inspections, where reports might cover many different establishments with a diverse range of needs. I therefore cannot support amendment 11. However, I ask Mr Greer to agree to work with me to find a more suitable alternative ahead of stage 3.

21:15

On amendments 18 and 19, I sympathise with Mr Greer's good intentions in seeking to ensure compliance with the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. However, I have some concerns about those amendments, the most significant of which is that asking the chief inspector to assess how UNCRC requirements are being met would essentially be asking them to perform what is, and must remain, a function of the courts.

There are also other issues with amendments 18 and 19, such as the fact that not every relevant educational establishment would be subject to UNCRC requirements. However, more significantly, there are important complexities in how the UNCRC act applies, given that, for the purposes of that act, a "relevant function" is one that is conferred in legislation by the Scottish Parliament.

Significant parts of the functions of education authorities are also conferred by the Education (Scotland) Act 1980. Those are not "relevant functions" under the UNCRC act, so the prohibition on public authorities acting incompatibly does not apply in relation to those functions. However, the UNCRC requirements apply to other functions of education authorities, including those conferred by the Standards in Scotland's Schools etc Act 2000 and the Education (Additional Support for Learning) (Scotland) Act 2004.

Amendments 18 and 19 would require the chief inspector to make complex and nuanced judgments as to which aspects of an educational establishment's service provision are done in pursuance of a "relevant function" in respect of those aspects to which a public authority's duty under section 6 of the UNCRC act applies, and those to which it does not apply. Those would be important judgments to get right, and amendments 18 and 19 would appear to add layers of legal risk to the chief inspector's inspection activities. That would be likely to require significant resources and might cause delays in the preparation and publication of inspection reports.

I therefore ask Mr Greer not to move amendments 18 and 19. However if he still wishes to do something in that space, I believe that setting out some specific requirements might be more likely in practice to have the effect that he

desires. I ask that he works with me on the drafting of such an amendment for stage 3.

On Mr Greer's amendment 20, it would not be proportionate or a good use of staff time to require every establishment to read and review every single inspection report when it is published. My current expectation is that there will be about 250 reports a year. There are just 260 weekdays in each year, and school holidays take that to 195 working days a year. Therefore, more than one report would have to be reviewed on each working day. I am conscious that the committee has given itself 60 days to review the chief inspector's report.

One purpose of the report on performance of education in Scotland will be to share key lessons that are of wider relevance, which will be sufficient to ensure that lessons are suitably drawn.

On that basis, I ask Mr Greer not to move amendment 20. However, I am supportive of the principle behind his amendment 21 in an upcoming group, which is confined to reports on the performance of education establishments.

Ross Greer: I appreciate the cabinet secretary's comments. I am happy not to move amendment 20. We will come to that later amendment on the reports that the inspector will publish on the wider system. I entirely take the cabinet secretary's point about the drafting of amendment 20. The intention was not to make relevant establishments have due regard to every report—that is, to include reports that are published on other establishments—but to ensure that an establishment would have due regard to any report that is published about itself. Does the cabinet secretary agree that there is perhaps space to agree something for stage 3 to ensure that a school gives due regard to any inspectorate report about that school?

Jenny Gilruth: As I have intimated, I will be happy to work with the member on that exact point ahead of stage 3.

The Convener: I call Miles Briggs to wind up and press or withdraw amendment 181.

Miles Briggs: Given the cabinet secretary's comments, I will not press amendment 181.

Amendment 181, by agreement, withdrawn.

Amendment 40 moved—[Ross Greer].

The Convener: The question is, that amendment 40 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)

Against

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

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

Amendment 40 disagreed to.

Amendments 11, 337 and 338 not moved.

Amendment 339 moved—[Pam Duncan-Glancy]—and agreed to.

Amendments 340, 182 and 18 to 20 not moved.

Section 37, as amended, agreed to.

Section 38—Annual report

The Convener: Amendment 341, in the name of Stephen Kerr, is in a group on its own.

Stephen Kerr: This is the first of three amendments in my name that relate to the chief inspector's annual report as a vehicle for ensuring transparency, scrutiny and public confidence in the inspection system. Together, the three amendments represent a way of ensuring that an annual report that is issued by the chief inspector is not simply a retrospective administrative document but a clear, accessible and purpose-driven statement of how the chief inspector has fulfilled their statutory functions and contributed to the continuous improvement of Scottish education.

Amendment 341 provides that the chief inspector must include

"the performance of relevant educational establishments during that financial year"

in their annual report. That would strengthen the current provisions in the bill by giving the annual report shape, focus and relevance, helping to move from passive reporting to active accountability. A robust annual report, laid before Parliament and scrutinised in public, is essential to the culture of transparency that we are trying to build across the education system. It is not enough to carry out inspections; the chief inspector must also explain what has been learned from them, how those lessons are being shared and what changes are being driven as a result.

Recent criticisms of Education Scotland have included concerns about the lack of responsiveness and clarity in how inspection findings are followed up and disseminated. Stakeholders, including teaching unions, parents and local authorities, have all called for a clearer and more meaningful inspection narrative.

Amendment 341 ensures that the annual report provides that narrative, offering the Parliament and the public a window into performance and improvement.

That is not only about data; it is about impact. A well-crafted annual report should allow us to understand trends, where practice is improving, where challenges persist and where further support or reform might be required. It provides an opportunity for the chief inspector to reflect, set priorities and help to shape the national conversation about education.

I would like to reference international comparators. In countries such as the Netherlands and New Zealand, the annual reports of school inspectorates are major public documents that contribute directly to education policy and reform. I believe that Scotland must aspire to the same standard, which is what amendment 341 would help to achieve.

The amendment also aligns with the broader expectations of the Muir review and the OECD findings, which highlighted the importance of transparency and public engagement in system governance. An annual report should not be an internal document; it should be a tool of national reflection and improvement.

Amendment 341 would turn the annual report from a statutory formality into a meaningful strategic instrument. It would support the integrity of the inspection system, empower stakeholders and strengthen the public's confidence in the quality and direction of Scottish education. I urge the committee to consider and support it.

I move amendment 341.

Jenny Gilruth: I cannot support amendment 341. It might be helpful to clarify that the chief inspector will have to produce two annual reports. The first annual report will be on the chief inspector's activities over the course of the preceding year, to which amendment 341 relates. The intention is to provide ministers, Parliament and the wider education system with an overview of the work that the chief inspector has undertaken.

The second annual report will be the report on the performance of Scottish education. It is in this report that the chief inspector will set out their views, based on the performance of individual establishments that have been inspected, on the overall performance of Scotland's education system.

I believe that Mr Kerr's amendment is unnecessary, as what he is looking for will already exist in the annual report on the performance of the education system. For that reason, I ask Mr Kerr not to press amendment 341.

Stephen Kerr: I have listened carefully to the cabinet secretary, and I will withdraw amendment 341 and focus on my next two amendments.

Amendment 341, by agreement, withdrawn.

Amendment 183 not moved.

Amendment 342 moved—[Pam Duncan-Glancy]—and agreed to.

Amendment 343 not moved.

Section 38, as amended, agreed to.

After section 38

Amendment 344 not moved.

Section 39—Report on performance of the Scottish education system

Amendment 184 not moved.

Amendment 345 moved—[Pam Duncan-Glancy]—and agreed to.

The Convener: Amendment 346, in the name of Stephen Kerr, is grouped with amendments 347, 21, 14 to 16, 93 and 112.

Stephen Kerr: I will restrict my remarks to amendments 346 and 347, both in my name.

I will again speak to the importance of robust and regular reporting on the overall performance of Scotland's education system. My amendments go to the heart of what accountability in education should mean. They are about ensuring that the new system of education governance established by the bill does not just monitor individual schools but keeps a watchful, transparent eye on the system as a whole.

Amendment 346 would place a duty on the chief inspector to publish a comprehensive national-level report every year, assessing the overall performance of the education system in Scotland. Those reports would have to include a summary of the findings of the inspections carried out during the reporting period in relation to the performance of the Scottish education system, an assessment of the aims of current education policy in Scotland, the implementation of current education policy in Scotland and any recommendations on education policy and its implementation.

The amendments are not about adding layers of bureaucracy; they are about anchoring our system in evidence, openness and long-term thinking. Without periodic national-level assessments of performance, we cannot claim to be running a genuinely accountable system.

The chief inspector will have privileged insight into what is happening across all sectors of education. They will have access to the full range of inspection data, thematic reviews, stakeholder

feedback and trends in quality assurance. That position carries a national responsibility, and the system must report not only on individual establishments, but on patterns, progress, gaps and risks.

As things stand, Education Scotland publishes an annual report, but it is often descriptive and selective. The new chief inspector, as established by the bill, must be required to go further. They must tell the full story of Scottish education—its strengths, its weaknesses and its trajectory. Amendment 346 would mandate that responsibility. That is entirely consistent with the wider vision laid out in the Muir review, which called for clearer structures, better accountability and a renewed focus on improvement across the system. It also aligns with recommendations from the OECD review of curriculum for excellence.

In short, our national education system must be able to see itself clearly. We must be able to measure where we are, track where we are going and reflect on how we are doing. Such a report would also allow Parliament to engage more constructively with education. Too often, debate about our schools is driven by newspaper headlines, isolated statistics or anecdote.

Amendment 346 would allow the chief inspector to include in their report such themes or areas of focus as they judged relevant. That is important, because education is a dynamic, evolving field, and new challenges emerge. For instance, digital learning, post-Covid recovery, additional support needs and regional disparities might all merit special attention at different times, and amendment 346 would give the chief inspector the flexibility to spotlight those issues in a national context.

As I mentioned a few moments ago, the proposal is not inconsistent; rather, it is in line with international comparators. In jurisdictions such as Ontario, New Zealand and Finland, regular system-wide reports are published by independent bodies, and those reports are used to inform strategy, promote transparency and support dialogue between Government, the profession and the public. I believe that Scotland should be no different.

21:30

Finally, I note that these amendments would be not just a technical improvement but a statement of intent. They would say that we believe in evidence over spin, in scrutiny over secrecy, and in the power of democratic accountability to drive improvement. They would say that we are not afraid to ask hard questions, to look honestly at performance and to act on what we learn. Amendments 346 and 347 are not just amendments to the bill; they are an invitation to build a culture of learning at every level of our education system, including the Government. They reflect the values of professionalism, honesty and service, and they would give the chief inspector a national role worthy of the trust that the public place in Scottish education. I urge the committee to support both amendments.

I move amendment 346.

Ross Greer: Amendment 21 covers what we have just discussed in relation to the previous group. My intention in this amendment and my amendment 20 in the previous group, which I agreed not to move but instead to work with the cabinet secretary on, is to ensure that the relevant establishments have due regard to any report about their own establishment and any relevant system-wide reports, thematic reports and so on. A high school should have regard to a report about itself, and it should also have due regard to any thematic review of numeracy, LGBT inclusion or whatever it may be.

Amendments 14 to 16 would simply change the time of the reporting period to align it with the academic year. My concern is that, if the reports do not align with the academic year, we will have a classic situation in which a report is published midway through the academic year and we then start to see creeping excuses such as, “We’re halfway through addressing that problem, so we can’t comment on it yet.” If we align the reports with the new full academic year, it will be harder to avoid the issues that are raised, and that would make a bit more practical sense.

That being said, I have lodged amendments 93 and 112 so that ministers may, by regulation in the future, modify the reporting period only after consultation with the chief inspector, the advisory council and anyone else they consider appropriate. That is because there can be unforeseen events—the pandemic was an obvious example of that. It would have been inconvenient, to say the least, to have had to produce an annual report at the height of the pandemic. However, in the subsequent year, I would not have wanted any requirements that limited the reports to 12 months, as that would have made it possible to write off months previous to that. One year may be missed because of a pandemic, for example, but I would want the subsequent report to cover and look back on an 18-month or 24-month period.

Amendments 93 and 112 are there simply to provide flexibility to change the reporting period in the future, with appropriate accountability.

Jenny Gilruth: I thank members for their explanations of the purposes of their amendments.

I understand and am sympathetic to the intentions behind Mr Kerr’s amendments 346 and

347, on reporting content. The provisions in the bill as introduced are intended to strengthen the independence of the chief inspector by giving them the flexibility to report on matters as they see fit.

Although Mr Kerr's amendments would, to an extent, risk limiting the flexibility of the chief inspector in that regard, it is likely that the chief inspector would include some reference to the topics that are set out in Mr Kerr's amendments in their report. However, I believe that we need to be careful to maintain the boundary between inspection and policy and not draw the chief inspector beyond their role of independent evaluation into policy making by default.

For example, if the Government adopted policy recommendations from the chief inspector, how could the chief inspector then be seen to evaluate them objectively? That would risk opening the door to charges of them marking their own homework. In any case, the amendments would not quite work in their current form, as the wording would need to be limited to education policy in Scotland in so far as it relates to the chief inspector's functions. I ask Mr Kerr not to press or move these amendments but to work with me ahead of stage 3 to address the points that his amendments attempt to cover.

On Mr Greer's amendment 21, I would very much expect establishments to have regard to the report on the performance of the Scottish education system in any case. The current wording of the amendment is somewhat problematic in that it would require establishments to have regard to all of the reports that had ever been published under section 39—even ones that had become out of date. I hope that Mr Greer is open to my suggestion that we work together on a reworded version of the amendment ahead of stage 3.

I agree that Mr Greer's amendments 14, 15 and 16 would be helpful in aligning the reporting cycle of the annual report with the academic year, and his amendments 93 and 112 would include a power enabling ministers to amend that cycle through regulations, should that be required in the future. I am therefore happy to support those amendments and I urge members to vote in favour of them.

Stephen Kerr: I have heard what the cabinet secretary has said and I assure her that my intention is to reinforce and empower the independence of the chief inspector rather than to curtail or limit it in any way. I have already said to her privately that my vision is of a powerful chief inspector who would be the equivalent of the Auditor General for Scotland: someone who would be willing to speak up and speak truth to Parliament—to power, in effect. I do not see their assessing the elements and implementation of current education policy in Scotland—as per my amendment 346—as marking their own homework. However, I look forward to discussing those matters further with the cabinet secretary, and I will not press the amendment at this time.

Amendment 346, by agreement, withdrawn.

Amendments 347 and 21 not moved.

Amendments 14 to 16 and 93 moved—[Ross Greer]—and agreed to.

Section 39, as amended, agreed to.

After section 39

Amendment 348 not moved.

Section 40—Other reports

Amendments 185 and 349 not moved.

Amendment 186 moved—[Sue Webber]—and agreed to.

Section 40, as amended, agreed to.

Sections 41 and 42 agreed to.

After section 42

Amendment 350 not moved.

Section 43—Powers of entry and inspection

Amendments 187 and 188 not moved.

Sections 43 to 45 agreed to.

Section 46—Necessary improvements: referral to Scottish Ministers

Amendment 189 not moved.

Section 46 agreed to.

Section 47—Preliminary notice of enforcement action

Amendments 190 to 195 not moved.

Section 47 agreed to.

Section 48—Enforcement direction

Amendments 196 to 205 not moved.

Section 48 agreed to.

Section 49—Publication of documents

Amendment 94 moved—[Jenny Gilruth]—and agreed to.

Amendment 22 moved—[Ross Greer].

The Convener: The question is, that amendment 22 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)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Duncan-Glancy, Pam (Glasgow) (Lab)

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

Amendment 22 agreed to.

Section 49, as amended, agreed to.

Section 50 agreed to.

Schedule 3—Transfer of staff, property etc to Qualifications Scotland

The Convener: Amendment 351, in the name of Pam Duncan-Glancy, is grouped with amendments 95 and 113.

Pam Duncan-Glancy: Amendment 351 would require the initial board of qualifications Scotland to be treated as a transitional arrangement only, by putting in place processes to reappoint all board members through an open process within six months of the board's establishment. It is an important amendment, as the new body cannot simply be seen as the Scottish Qualifications Authority with a new name. We have debated that issue at length in the committee and during this legislative process, so I will not cover it again. Suffice it to say that trust in the system is at an all-time low and anything that we can do to improve trust should be done. That is why amendment 351 is important.

By requiring a fresh appointments process, the amendment would ensure that the board of qualifications Scotland would be open to new voices and expertise. It would also help to tackle the cultural, structural and institutional problems that have made the SQA so remote, unaccountable and resistant to change.

The amendment would send a clear political message that reform means real change—that it means not just an organisation with a new name, but a change in leadership, governance and public trust. The proposed transitional approach would allow for continuity for existing learners while showing that we are serious about building a new qualifications body that reflects the needs and values of learners and other stakeholders.

The amendments to the accreditation function that we will debate again at stage 3 are among the amendments that would potentially restore trust in the system. Amendment 351 would be a good step in that direction, and I commend it to the committee.

I move amendment 351.

Jenny Gilruth: I thank Ms Duncan-Glancy for explaining the purpose of her amendment, but, for the reasons that I will set out, I cannot support it. I understand that the amendment stems from concerns that the leadership that has presided over the SQA would transfer to qualifications Scotland. I assure the member and other members that I remain committed to ensuring that we have the right leadership for qualifications Scotland.

That process has already started with the appointment of Shirley Rogers as the chair of the SQA. She has provided invaluable leadership and has ensured that the SQA is delivering its functions and embracing reform. I hope that members will agree that it is critical that we have continuity of leadership.

Building on that, we have also approved leadership changes in the form of the appointment, in autumn 2024, of five new board members to the SQA board. I made those appointments to bring additional teaching and college experience to the board, alongside other skills that are invaluable in supporting the transition. Those members were recruited on the basis that they, too, would become members of qualifications Scotland.

Amidst such progress to refresh the leadership, Ms Duncan-Glancy's amendment would risk bringing many practical challenges by requiring that board members who transfer to the new board would have their appointments terminated and would need to reapply. We would run the risk that some members might choose not to reapply, which would risk qualifications Scotland losing valuable skills and experience at a time when it needs them most. We also know that appointment rounds do not always yield the results that we hope for.

I am mindful, too, of the need, as we discussed previously, to ensure that the board is compliant with the minimum membership numbers and the criteria that the bill will establish, and of the need to ensure that it can function within the law.

21:45

Pam Duncan-Glancy: Will the cabinet secretary give way?

Ross Greer: Will the cabinet secretary give way?

Jenny Gilruth: I am not sure whom to give way to, convener, but I am happy to give way to both members respectively.

The Convener: We will go with Pam Duncan-Glancy first.

Pam Duncan-Glancy: Thank you, convener. I also thank Ross Greer and the cabinet secretary.

If the cabinet secretary is not supportive of amendment 351, can she tell us what other mechanism there is in the bill to ensure that there is not simply a process of transferring over the leadership of an existing organisation that does not have the trust or support of many stakeholders? What other mechanism is available to ensure that the leadership does not simply transfer without at least reapplying for appointment?

Jenny Gilruth: I highlight the fact that we will be appointing the chief executive, which will bring fresh leadership to the organisation. We have already had a partial refresh of the board, and there will be the upcoming refresh that I talked about in relation to the membership. I am quite clear that the leadership of the organisation has been transformed since late 2023, when Ms Rogers was appointed, so I am not necessarily sure that I would accept the member's point in that respect.

However, there are a number of risks in relation to board appointments, which we have discussed at length in previous evidence-taking sessions. Therefore, we need careful succession planning when considering such appointments, and I do not believe that Ms Duncan-Glancy's amendment supports effective and efficient public body governance.

Would Mr Greer like to come in now?

Ross Greer: I am grateful, cabinet secretary.

At this point, I should put on the record that I have previously called for every member of the SQA board to go. However, given that the recent changes to the board, particularly the appointment of Shirley Rogers as chair, have had a dramatic and positive impact on board culture, I think that it would be counterproductive to throw away that progress by agreeing to amendment 351. My worry is that that would send the wrong signal, given that the change of culture at the top that many of us have called for has begun to happen. Indeed, I would be disappointed if the Government waited until we had the new body before making those cultural changes via new board appointments.

Jenny Gilruth: I am happy to support Mr Greer's points.

I will move on to the amendments that I have lodged, both of which support the bill's implementation. Amendment 95 clarifies that the transitional provisions in the bill do not apply to the SQA's functions or services that it delivers, other

"than in or as regards Scotland."

Amendment 113 works along the same lines by providing that certain provisions in the bill concerning dissolution of the SQA may be commenced only once the SQA

"has no functions exercisable otherwise than in or as regards Scotland."

Those important technical changes are being made in recognition of the good work that we have undertaken with the UK Government on an order under section 104 of the Scotland Act 1998. Work is well under way on various provisions to support the bill's implementation, such as updating references to the SQA in reserved legislation. In the light of the reach of the Education (Scotland) Act 1996, which established the SQA under an act of the UK Parliament, we are seeking to include in the order provisions that recognise that.

Under the amendments, the SQA will continue to be dissolved by the bill, but the amended provisions now reflect the order in which things are to take place. The amended provisions are designed to work in tandem with the provisions of the section 104 order to deliver our policy to replace the SQA with qualifications Scotland.

The Convener: I call Pam Duncan-Glancy to wind up and to press or withdraw amendment 351.

Pam Duncan-Glancy: I take the points that the cabinet secretary and Ross Greer have made about the current leadership and Shirley Rogers specifically, but I do not think that my amendment goes against retaining any leadership that can withstand the process. Having seen Shirley Rogers, I do not doubt her for a second. In any case, this should not be personal; it is about restoring trust in the system.

I do not doubt that a robust process could yield the right people, either by bringing people back in or by bringing new people into the system, if that were necessary. It would be helpful for us to have a mechanism that would allow us to have a refresh at this point. Everyone might return, but, at the very least, there would be an opportunity to ask the question.

Willie Rennie: On this occasion, I think that this is about people, because we are talking about short-term measures. We are considering the current board. I would not want there to be any period of uncertainty here. I think that Shirley Rogers is impressive—indeed, she was impressive when she came before the committee—and I would not like her to think that

her job might come to an end. I want her to crack on and make the changes that we want to see. If I had been asked the question a year ago, I might have agreed with you, but not now.

Pam Duncan-Glancy: I echo everything that Willie Rennie has said about Shirley Rogers, but the point before us is that there is a real lack of trust in the organisation and in some of its leadership, so the ability to refresh it is important.

Another important point is that the process of recruiting to qualifications Scotland has already started, before qualifications Scotland has been set up. We do not yet know what the bill will look like or what the full functions of the organisation will be, so we do not yet know what membership we will need to have on the board of qualifications Scotland. We will have an opportunity to reassess things at that moment in time, after the bill has gone through, if it is passed. We can see what qualifications Scotland's functions are and what is expected of it. We can then assess whether the board that is there is the board that should continue or whether it needs new membership.

Miles Briggs: Like other members, I am very sympathetic to what Pam Duncan-Glancy is trying to achieve. However, I am not quite sure where she has got the six-month period from. I do not know what the cabinet secretary will say in her closing remarks, but perhaps something could be considered on the time period for serving on the board or having a refresh. Given the need to move the new organisation forward, I am slightly concerned about the six-month period creating uncertainty.

The Convener: I should confirm that the cabinet secretary will not be closing on this group; she has spoken. Ms Duncan-Glancy is winding up the debate.

Pam Duncan-Glancy: I thank Miles Briggs for his intervention.

I suggested the period of six months because of the urgency of establishing trust in the organisation from as early a point as possible. That could include continuing or refreshing the membership. Amendment 351 merely seeks to provide an opportunity to look at it again within six months.

If the cabinet secretary wishes to intervene to indicate whether there could be a slightly longer period—although I think that the full term of a board member would be too long—I would be prepared to consider that.

It seems that the cabinet secretary is not prepared to consider any alternative period of time for refreshing the board.

Jenny Gilruth: In my comments to Ms Duncan-Glancy, I have talked about some of the substantive changes that have happened at the SQA in recent months. I hope that the member will at least recognise that. I am not convinced of the need for all members of the current board to reapply six months after the organisation comes into being. That would create a real challenge for the stability of the organisation. It is stepping up and responding to the challenges that we all know exist in relation to our qualifications system. It has to get on with the job, and it has to be ready to do that. I am just not convinced of the proposal in amendment 351, and I am not sure that Ms Duncan-Glancy will convince me that a different timescale would help.

Pam Duncan-Glancy: I thank the cabinet secretary for that intervention, and I hope that that helps my colleague Miles Briggs with his deliberations.

Miles Briggs: I am not sure that I can get the cabinet secretary to make another intervention on Pam Duncan-Glancy, but I think that it is important that there is an opportunity for a refresh. I wonder whether the member, along with the cabinet secretary, could go away and think about a suitable amendment for stage 3. We all want confidence to be rebuilt in the new organisation, and I am sympathetic to what the member is trying to achieve. I do not know whether the Scottish Government needs to be a bit more flexible on what the transitional arrangements look like. Where people are not performing, we need to build in opportunities for a review to take place.

Pam Duncan-Glancy: We should remember that the six-month period is not the period for which some of the board members will have been in post. They will have been in post for quite a bit longer than six months, and that includes those who are being recruited to the new organisation, which has not yet been set up.

I do not think that six months is too short a period. I am sympathetic to Miles Briggs's point about considering whether the period could be a little bit longer, but I do not hear much movement from the cabinet secretary or any indication that she is prepared to negotiate on the issue at stage 3—unless I am detecting that now.

Today, we are faced with the option that, after six months, we should examine the process and consider whether we need to refresh the board. Given that the Government has begun to recruit to a board that does not yet exist for an organisation that has not yet been established, with functions that have not yet been agreed in legislation, it is important that we have an opportunity to do that.

Jenny Gilruth: On a point of clarification—

The Convener: I am sorry, cabinet secretary—do you have a point of order, or are you intervening on Ms Duncan-Glancy?

Jenny Gilruth: I am simply seeking to intervene on Ms Duncan-Glancy.

The Convener: Is that okay, Ms Duncan-Glancy?

Pam Duncan-Glancy: That is absolutely fine.

Jenny Gilruth: The Government has not begun any recruitment to qualifications Scotland, because that organisation does not exist yet. We have recruited to the SQA. I just wanted to put that on the record.

Pam Duncan-Glancy: I thank the cabinet secretary for that. However, there was a discussion in the chamber about recruiting to the board of qualifications Scotland, during which I said that I thought it unusual that we were being asked to vote to begin the recruitment process for qualifications Scotland. It is that point that I was referring to—

The Convener: Will Ms Duncan-Glancy take an intervention?

Pam Duncan-Glancy: I am happy to.

The Convener: If my memory is correct—perhaps the cabinet secretary can confirm this—the committee had a substantial debate about that in relation to a Scottish statutory instrument, which I think that the cabinet secretary spoke to. Indeed, some of us abstained in that vote, because we were concerned about an appointments process that would appoint people to a board or an organisation that did not exist. There have been quite robust debates about the matter in the committee and in the chamber.

Pam Duncan-Glancy: I thank the convener for that intervention. Considering that it is nearly 10 pm, any clarification on anything that we have discussed at any point is helpful.

I maintain my concern that, without amendment 351, we would not have a mechanism. Even if it were a short process, I believe that we need something to ensure that we can be confident and comfortable that the people who are at the top of the organisation that will be set up by the bill, should it be passed, have the skills and integrity, and the confidence of the public, to take forward the qualifications body in the way that we need them to, given what we have all been through.

On that basis, I am not yet convinced that I should withdraw the amendment.

The Convener: Are you pressing it, therefore?

Pam Duncan-Glancy: I press amendment 351.

The Convener: The question is, that amendment 351 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)
Kidd, Bill (Glasgow Anniesland) (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 351 disagreed to.

Schedule 3 agreed to.

Section 51 agreed to.

Section 52—Transitional provisions

Amendment 95 moved—[Jenny Gilruth].

The Convener: The question is, that amendment 95 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)
Kidd, Bill (Glasgow Anniesland) (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 95 agreed to.

Section 52, as amended, agreed to.

Section 53 agreed to.

Schedule 4—Consequential modifications

Amendment 96 to 107 not moved.

Schedule 4 agreed to.

Section 54—Interpretation

22:00

The Convener: I remind members that, if amendment 206 is agreed to, I will not be able to call amendment 207, due to pre-emption.

Amendment 206 not moved.

Amendments 207 and 352 not moved.

Amendment 108 moved—[Jenny Gilruth]—and agreed to.

Amendments 109, 110, 208 and 353 not moved.

Amendment 23 moved—[Ross Greer].

The Convener: The question is, that amendment 23 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)
Kidd, Bill (Glasgow Anniesland) (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 23 agreed to.

Amendment 354 not moved.

Section 54, as amended, agreed to.

Section 55—Regulation-making powers

Amendments 355 to 357, 111, 26, 209, 210 and 358 not moved.

Amendment 112 moved—[Ross Greer]—and agreed to.

Section 55, as amended, agreed to.

Section 56 agreed to.

Section 57—Commencement

Amendment 113 moved—[Jenny Gilruth].

The Convener: The question is, that amendment 113 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)
Kidd, Bill (Glasgow Anniesland) (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 113 agreed to.

Section 57, as amended, agreed to.

Section 58 agreed to.

Long Title

Amendment 114 moved—[Ross Greer].

The Convener: The question is, that amendment 114 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Miles Briggs: On a point of order, convener. My colleague Stephen Kerr had a lot to say on this amendment. I do not know whether it would be appropriate—[*Laughter*.]

The Convener: Sadly, I have called the division. If you had thought of mentioning that before I did so, we could perhaps have considered your request. I apologise to committee members, and I accept responsibility for not allowing Mr Kerr's views on the topic to be debated.

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)
Kidd, Bill (Glasgow Anniesland) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

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

Amendment 114 disagreed to.

Long title agreed to.

The Convener: That concludes our consideration of the bill at stage 2.

I thank the cabinet secretary, her officials, committee members and others who have lodged amendments and allowed us to debate the issues. I also make a special mention of broadcasting, the official report and others who have facilitated our long meetings well into the evening hours. I thank our clerks and the entire committee team for their work on the bill. Finally, we are also grateful to the legislation team, who, as I know from personal experience, take members' ideas and put them into a form that can be debated.

With those remarks, I close the meeting.

Meeting closed at 22:05.

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